

1 KENT R. ROBISON, ESQ., NSB No. 1167
2 SCOTT L. HERNANDEZ, ESQ., NSB No. 13147
3 ROBISON, BELAUSTEGUI, SHARP & LOW
4 71 Washington Street
5 Reno, Nevada 89503
6 Telephone: (775) 329-3151
7 Facsimile: (775) 329-7941
8 Attorneys for Appellant,
9 Coyote Springs Investment, LLC.

10 **BEFORE THE STATE OF NEVADA, STATE ENVIRONMENTAL COMMISSION**

11 In Re: *****

12 Appeal of Class I Permit to Operate a
13 Municipal Waste Area-Fill Disposal Site:
14 Permit No. SW1722REV00
15 Bedroc Limited, LLC.

16 **OPENING BRIEF ON APPEAL**

17 Appellant COYOTE SPRINGS INVESTMENT LLC's ("CSI") submits the following as
18 and for its Opening Brief on appeal:

19 **I. STATEMENT OF JURISDICTION AND STANDING**

20 The NEVADA STATE ENVIRONMENTAL COMMISSION (the "Commission") may
21 hear appeals of final decisions made by Respondent NEVADA DIVISION OF
22 ENVIRONMENTAL PROTECTION ("NDEP"), so long as (1) the appellant is a "person
23 aggrieved by a final decision" and (2) the appeal is filed "not later than 10 days after notice of the
24 action of the [NDEP]." NAC 445B.890(1). Under NAC 445B.890(2), an appellant with
25 standing may appeal NDEP's final decision "based upon one or more of the following grounds:"

- 26 (a) The final decision was in violation of any constitutional or statutory
27 provision;
- 28 (b) The final decision was in excess of the statutory authority of the
Department;
- (c) The final decision was made upon unlawful procedure;
- (d) The final decision was affected by other error of law;
- (e) The final decision was clearly erroneous in view of the reliable, probative
and substantial evidence on the whole record; or

1 (f) The final decision was arbitrary or capricious or characterized by abuse of
2 discretion.

3 On September 19, 2014, NDEP issued a Solid Waste Disposal Permit - Class I, Permit
4 No. SW1722REV00 (the "Class I Permit") to Intervener BEDROC LIMITED, LLC ("BedRoc").
5 The Class I Permit allows BedRoc to operate a landfill adjacent to the west side of U.S. Highway
6 93, at mile marker 8, in Lincoln County, Nevada. See Exhibit "1" (Class I Permit). The NDEP's
7 issuance of the Class I Permit was a final decision. However, the Class I Permit violates
8 Nevada's regulatory requirements for the operation of Class I solid waste disposal facilities.
9 Further, in issuing the Class I Permit, NDEP exceeded its authority, acted without substantial
10 evidence, and abused its discretion. As detailed below, NDEP's actions regarding the Class I
11 Permit were in violation of the law and were arbitrary and capricious.

12 Here, the issuance of the Class I Permit allows BedRoc to operate an extremely large
13 landfill in close proximity to (and across the street from) a master planned community owned
14 by CSI. The proposed location of BedRoc's Class I solid waste facility violates the development
15 agreement that CSI has with Lincoln County and, as a result, negatively impacts CSI's
16 investment expectations in the master planned community. Based on these facts, CSI is
17 "aggrieved" by the issuance of the Class I Permit. Cf. *Citizens for Cold Springs v. City of Reno*,
18 125 Nev. 625, 630-31, 218 P.3d 847, 851 (2009) (holding that, in order to have standing,
19 neighbors must make a showing that there are "adversely affected" by a government decision).
20 Accordingly, CSI has standing to appeal the issuance of the Class I Permit.

21 On September 29, 2014, CSI filed a timely appeal with the Commission. See NAC
22 445B.890(1); see Exhibit "2" (Appellant Form 3). Based on the foregoing, all jurisdictional and
23 standing requirements are met, and the Commission may hear and rule upon this appeal.

24 II. STATEMENT OF ISSUES

25 1. Whether the Class I Permit meets the necessary location restrictions set forth in
26 NAC 444.678(5) due to BedRoc's failure to acquire a valid special use permit from Lincoln
27 County, because (a) BedRoc failed to establish the Class I special use prior to the expiration of
28 the special use permit by operation of law, (b) BedRoc failed and continues to fail to satisfy the
conditions of the special use permit, and (c) the special use permit does not conform to Lincoln

1 County's master plan.

2 2. Whether the Class I Permit meets the necessary location restrictions set forth in
3 NAC 444.678(5) because the proposed height of the Class I landfill exceeds the maximum height
4 permitted by the applicable zoning ordinance.

5 3. Whether the Class I Permit meets the necessary location restrictions set forth in
6 NAC 444.678(9) based on the Class I site's proximity to the Pahranaagat Wash and NDEP's
7 failure to make the necessary findings as to the relationship between the Class I site and the
8 Pahranaagat Wash.

9 4. Whether the Class I Permit meets the necessary location restrictions set forth in
10 NAC 444.678(6) due to the Class I site's proximity to U.S. Highway 93 and the lack of evidence
11 supporting the necessary beautification plan.

12 5. Whether BedRoc has an adequate and appropriate water supply for operational
13 and dust control purposes pursuant to NAC 444.696(2).

14 III. STATEMENT OF THE CASE

15 In May 2003, Lincoln County granted a special use permit to BedRoc to operate a Class I
16 solid waste disposal facility. A special use permit was required because Lincoln County's zoning
17 ordinance prevented operation of waste disposal facilities on BedRoc's property without a special
18 use permit. Over the next ten (10) years, BedRoc did not seek any further entitlements regarding
19 this use, start construction, or otherwise establish the 2003 special use permit.

20 Belatedly, in 2013, BedRoc applied for the Class I Permit. During the application
21 process, NDEP conducted an investigation and opened the process to public comment. A host of
22 regulatory issues were raised during public comment, including: BedRoc's special use permit had
23 expired, the special use permit's conditions were unmet, BedRoc's site was too close to the
24 Pahranaagat Wash and U.S. Highway 93, and BedRoc did not have sufficient water rights to
25 conduct proper Class I operations. Despite the extensive analysis and evidence put on the record,
26 NDEP issued the Class I Permit without considering these regulatory problems.

27 The questions before the Honorable members of the Commission require no special
28 knowledge or expertise to resolve. The key issues are simple: does the Class I Permit comply

1 with the applicable regulations and did NDEP appropriately issue the Class I Permit? The
2 answer is an emphatic No. Aside from clear violations of the regulations—violations that need
3 not be analyzed by trained environmental scientists, hydrologists, and engineers—NDEP abused
4 its discretion, acted in an arbitrary and capricious manner, and exceeded its authority when
5 issuing the Class I Permit. Accordingly, the Class I Permit must be invalidated or withdrawn
6 pending BedRoc’s full and established compliance with the regulatory framework.

7 IV. STATEMENT OF FACTS

8 CSI owns and leases property situated in the Coyote Springs Valley known as the Coyote
9 Springs Master Planned Community (the “Community”). *See* Exhibit “3” (Development
10 Agreement). Located on nearly 43,000 acres in both Lincoln and Clark Counties, the
11 Community is home to the Coyote Springs Golf Club, a golf course designed by Jack Nicklaus,
12 and is the future site of over 150,000 homes. *See* Exh. 3.

13 The land in Lincoln County upon which the Community is located is subject to the
14 Coyote Springs Development Agreement, a bilateral contract between CSI and Lincoln County
15 (Development Agreement), and is zoned as a planned use development. *See* Exh. 3. The
16 western border of the Community is adjacent to U.S. Highway 93. *See* Exhibit “4” (Drawing 1 -
17 Site Location Map). Directly across Highway 93, and less than 1000 feet from the Community,
18 are certain parcels owned by BedRoc. *See* Exh. 4. BedRoc intends to build a Class I solid waste
19 disposal facility on these parcels (the “Class I Site”). Under the Development Agreement, any
20 trash facilities within 10 miles of the Community are prohibited. *See* Exh. 3, Development
21 Agreement, at § 4.07.

22 In May 2003, prior to the execution of the Development Agreement, Lincoln County
23 issued Special Use Permit No. 2003-5-2 (the “Special Use Permit”) to BedRoc. *See* Exhibit “5”
24 (Special Use Permit). In a letter of intent submitted to Lincoln County, BedRoc expressed an
25 intention to establish a solid waste facility on the Class I Site, stating:

26 BedRoc Inc., confirms that the Special Use Permit granted by the Lincoln
27 County Commission on May 19, 2003 is for the purpose of allowing BedRoc
28 Inc., to apply to the State of Nevada for a Class I Landfill Permit for this land,
and that if the Class I Permit is ultimately not issued by the State of Nevada,
that the Special Use Permit granted by the Lincoln County Commission will be
of no effect and will not run with the land.

1 See Exhibit "6" (Letter from V. Skaar to S. Hafen (May 19, 2003)). Accordingly, Lincoln
2 County issued the Special Use Permit in order for "BedRoc to pursue a Class 1 land fill
3 [sic] . . ." See Exh. 5, Special Use Permit. The Special Use Permit was approved by the Lincoln
4 County Planning Commission on April 28, 2003, and then approved by the Lincoln County
5 Commission on May 19, 2003. See Exh. 5. The record fails to demonstrate that BedRoc ever
6 attempted to establish a Class I solid waste disposal facility until the application for the Class I
7 Permit was submitted to NDEP.

8 In late 2013, BedRoc finally applied for a permit to construct and operate a Class I solid
9 waste disposal facility on the Class I Site. See Exhibit "7" (Letter from R. Williams to J. Taylor
10 (Oct. 24, 2013)). BedRoc's application was subject to a public comment period in which CSI
11 commented extensively. See Exhibit "8" (NDEP Response). During public comment, CSI
12 demonstrated several regulatory violations related to BedRoc's application. See Exh. 8.
13 Specifically, violations of NAC 444.678 and 444.696, among others, were identified. See Exh. 8;
14 see also discussion Part V, *infra*. Notably among the points made in public comment,
15 representatives of CSI informed NDEP that the Special Use Permit was invalid. See discussion
16 Part V.A, *infra*

17 Despite the clear regulatory violations, NDEP issued the Class I Permit on September 9,
18 2014. See Exh. 1, Class I Permit. This appeal to the Commission followed.

19 V. ARGUMENT

20 The Class I Permit is in obvious violation of Nevada regulations. NAC 444.678 provides
21 location requirements which all Class I solid waste sites must satisfy. Among these requirements
22 is conformance to local land use regulations. See NAC 444.678(5). However, BedRoc has failed
23 (and continues to fail) to conform the Class I Site to Lincoln County land use law and is
24 proceeding with its proposed Class I Facility without a valid special use permit. Moreover, even
25 if BedRoc's special use permit is valid (which it is not), BedRoc failed (and continues to fail) to
26 satisfy the conditions of the special use permit. Furthermore, in an effort to account for the fact
27 that BedRoc failed to satisfy the conditions of the Special Use Permit, NDEP issued a conditional
28 Class I Permit. However, issuing such a conditional Class I permit exceeded NDEP's authority

1 and was an abuse of discretion. Additionally, BedRoc's facility does not conform to Lincoln
2 County's master plan and exceeds the applicable zoning height. BedRoc's land use
3 "compliance" is in such haphazard at best and, as such, it was arbitrary and capricious for NDEP
4 to issue the Class I Permit in the first place.

5 Other aspects of the location requirement require decision making from NDEP. Under
6 NAC 444.678(9), NDEP must approve a Class I Site that is within 1,000 feet of surface water.
7 Similarly, NDEP must approve beautification efforts for any Class I Site located within 1,000
8 feet of a public highway. Here, based upon Class I Site's proximity to both the Pahrangat Wash
9 and U.S. Highway 93, NDEP is required to make specific approvals. Unfortunately, NDEP
10 approved the Class I Permit without proof of compliance or evidence that any measures were to
11 be taken to comply with these requirements.

12 Finally, BedRoc does not have adequate water rights to operate the Class I Site in
13 compliance with NAC 444.696(2). BedRoc's water rights are not permitted for commercial or
14 industrial purposes; instead, BedRoc's water rights were limited to seasonal irrigation purposes.

15 For each and every one of these reasons, the Class I Permit utterly fails to comply with
16 Nevada's regulatory framework. Moreover, NDEP exceeded its authority and abused its
17 discretion in issuing the Class I Permit. Further, NDEP's actions in approving the Class I Permit
18 were arbitrary and capricious.

19 **A. The Class I Site Fails to Meet Regulatory "Location" Requirements, Because the**
20 **Special Use Permit Is Invalid.**

21 Nevada regulations define the minimum requirements for a Class I site. *See* NAC
22 444.6769. Failure "to comply with these minimum requirements shall be deemed to be an open
23 dump for the purposes of solid waste planning and is prohibited." *See* NAC 444.6769. Among
24 the minimum requirements are specific "location" criteria. Under NAC 444.678, "[t]he location
25 of a Class I site must:"

- 26 . . .
- 27 5. Conform with land use planning of the area.
 - 28 6. Not be within . . . 1,000 feet of a public highway, unless special provisions for the
beautification of the site and the control of litter and vectors are included in the

1 design and approved by the solid waste management authority. . .

2 ...

3 9. Unless approved by the solid waste management authority, not be within 1,000 feet
4 of any surface water

5 Because of these minimum requirements, NDEP has a duty to find that each of the
6 location requirements is satisfied. NDEP's findings cannot be arbitrary and capricious and must
7 be supported by substantial evidence. *See, e.g., City of Reno v. Reno Police Protective Ass'n*, 118
8 Nev. 889, 899, 59 P.3d 1212, 1219 (2002) ("If [an] agency's decision lacks substantial
9 evidentiary support, the decision is unsustainable as being arbitrary or capricious."); *Tighe v. Las*
10 *Vegas Metro. Police Dep't*, 110 Nev. 632, 634, 877 P.2d 1032, 1034 (1994) ("A decision that
11 lacks support in the form of substantial evidence is arbitrary or capricious, and thus an abuse of
12 discretion that warrants reversal."); *State Indus. Ins. Sys. v. Christensen*, 106 Nev. 85, 88, 787
13 P.2d 408, 410 (1990) ("An agency ruling without substantial evidentiary support is arbitrary or
14 capricious and therefore unsustainable."). "Substantial evidence is evidence which a reasonable
15 mind might accept as adequate to support a conclusion." *Schepcoff v. State Indus. Ins. Sys.*, 109
16 Nev. 322, 325, 849 P.2d 271, 273 (1993); *see also City of Reno v. Reno Police Protective Ass'n*,
17 *supra*, 59 P.3d at 1219 ("Substantial evidence is evidence that a reasonable person would deem
18 adequate to support a decision.") Conversely, if NDEP made a finding based on evidence that a
19 reasonable person would deem *inadequate*, such a finding is unsupported by substantial
20 evidence. Therefore, if BedRoc's Class I Permit was issued pursuant to findings unsupported by
21 substantial evidence, the Class I Permit must be invalidated.

22 Here, NDEP's findings regarding compliance with the locations requirements related to
23 land use conformance, distance from public highways, and distance from surface water were
24 unsupported by any evidence, let alone substantial evidence. Instead, NDEP's apparent position
25 is to act in deference to other agencies and not perform any analysis at all. This is unacceptable.
26 Accordingly, the findings are arbitrary and capricious, and the action taken on those findings—
27 the issuance of the Class I Permit—must be invalidated.

1 **1. The Class I Site Must Comply with Lincoln County Land Use Regulations.**

2 As noted above, the Class I Site must meet the “location” requirement set forth in NAC
3 444.678(5). Pursuant to this requirement, the Class I Site must “[c]onform with land use
4 planning of the area.” Nevada’s power to regulate land use is delegated to the governing bodies
5 of cities and counties. *See* NRS 278.020(1). Accordingly, land use conformance under NAC
6 44.678(5) requires compliance with local zoning and planning ordinances. Here, the Class I Site
7 is located in Lincoln County; therefore, the Class I Site must conform to Lincoln County’s land
8 use ordinances, which are currently found in Title 13 of the Lincoln County Code.

9 For the reasons discussed below, the Class I Site fails to comply with Lincoln County’s
10 land use regulations and, therefore the Special Use Permit is invalid. First, BedRoc’s special use
11 permit, which allows solid waste disposal operations on the Class I Site, expired by operation of
12 law. Second, even if BedRoc’s special use permit was currently valid, the conditions of the
13 special use permit have yet to be satisfied. Third, BedRoc’s special use permit does not
14 expressly comply with Lincoln County’s master plan. Fourth, BedRoc’s proposed facility on the
15 Class I Site will exceed the height limitations of the applicable zoning regulations. Therefore,
16 NDEP was not authorized to issue the Class I Permit because there was no land use conformance,
17 and it must be invalidated.

18 **2. BedRoc’s Purported Special Use Permit Has Expired and Is Invalid.**

19 It is undisputed that BedRoc’s proposed landfill site is zoned as an “M2 heavy
20 manufacturing district.” *See* Exh. 8, NDEP Response, p. 8. Under the Lincoln County Code,
21 M2 zoning allows “[a]ny use permitted in the M1 light manufacturing district, except residential
22 uses” and “[a]ny of the following industrial, manufacturing, wholesale and storage uses,” *neither*
23 *of which permits* “landfill,” “refuse storage,” or any other similar use. *See* Lincoln County Code
24 (“LC Code”), § 13-5J-2; *see also* LC Code, § 13-5I-2 (enumerated list of M1 uses).¹ Lincoln
25 County requires a “special use permit” for a “dump and refuse disposal area” or “recycling
26 facilities and operations involving use, recovery or residue of hazardous materials and/or
27 wastes....” *See* LC Code, § 13-5J-3. In its Class I Permit application documents, BedRoc

28

¹All references to Title 13 of the Lincoln County Code are found in Exhibit “9.”

1 concedes that a valid special use permit is necessary to operate a Class I solid waste disposal at
2 the Class I Site. *See* Exhibit “10” (BedRoc Landfill & Waste Management Facility, Design
3 Report (Oct. 2013, rev. Feb. 2014 & May 2014), p.2)

4 While not expressly referenced in its application documents, BedRoc made its Class I
5 application in reliance upon Special Use Permit No. 2003-5-2. *See* Exh. 5, Special Use Permit.
6 In a letter of intent submitted to Lincoln County in 2003, BedRoc expressed an intention to
7 secure the Special Use Permit in order to establish a Class I solid waste facility, stating:

8 BedRoc Inc., confirms that the Special Use Permit granted by the Lincoln
9 County Commission on May 19, 2003 is for the purpose of allowing BedRoc
10 Inc., to apply to the State of Nevada for a Class I Landfill Permit for this land,
and that if the Class I Permit is ultimately not issued by the State of Nevada,
that the Special Use Permit granted by the Lincoln County Commission will be
of no effect and will not run with the land.

11 *See* Exh. 6, May 19, 2003 Letter from V. Skaar to S. Hafen. Accordingly, Lincoln County issued
12 the Special Use Permit in order for “BedRoc to pursue a Class 1 land fill [sic].” *See* Exh. 5,
13 Special Use Permit. The Special Use Permit was approved by the Lincoln County Planning
14 Commission on April 28, 2003 and then approved by the Lincoln County Commission on May
15 19, 2003. *See* Exh. 5.

16 Title 13 of the Lincoln County Code governs the issuance and expiration of special use
17 permits. Under Section 13-9-9 of the Lincoln County Code:

18 Each special use permit or variance authorized under the provisions of this
19 chapter which is not actually established or the actual construction commenced
20 on the buildings or structures within six (6) months from the date of the final
decision is null and void.

21 Because the Special Use Permit was issued on May 19, 2003, BedRoc had six months to
22 establish the special use—here, a Class I solid waste disposal facility—or begin construction
23 before November 19, 2003. *See* Exh. 5. BedRoc failed to establish the special use prior to the
24 expiration date; the Special Use Permit was null and void in 2013 when BedRoc submitted the
25 application for the Class I Permit. Thus, the Special Use Permit could not support NDEP’s
26 decision to issue the Class I permit, and the Class I Permit is invalid

27 a. Even Under the Former Lincoln County Code, the Special Use Permit Has
Expired and Is Invalid.

28 In CSI’s discussions with Lincoln County, it became apparent that there was confusion as

1 to whether Title 13 of the Lincoln County Code governed the Special Use Permit, since Title 13
2 was promulgated after the issuance of the Special Use Permit. Although prior provisions of the
3 Lincoln County Code may govern the Special Use Permit, the outcome is the same.

4 In May of 2003, the expiration of special use permits was governed by Title 17 of the
5 Lincoln County Code,² which provided that:

6 Each special use permit or variance authorized under the provisions of this
7 chapter which is not actually established or the actual construction
8 commended on the buildings or structures within six months from the date of
the final decision is null and void.

9 *See Former Lincoln County Code ("Former LC Code"), § 17.18.100.*

10 Section 17.18.100 was enacted in March 1990 as a part of Title 17, which was then
11 known as the "Lincoln County Development Code." *See Former LC Code, § 17.18.100.* Title
12 17—and by extension Section 17.18.100—remained in effect when Lincoln County overhauled
13 its entire code in 2003. *See Exhibit "12" (Lincoln County Ordinance 2003-01).* In fact, when the
14 2003 revisions to the Lincoln County Code were adopted, the Lincoln County Commission
15 explicitly retained Title 17, stating that "the old development code #17 dealing with land use and
16 zoning will be retained until further action by this Board." *See Exh. 12.* Therefore, Section
17 17.18.100 was in full force and effect when the Special Use Permit was approved on May, 19
18 2003.

19 In 2005, Lincoln County repealed Title 17 and replaced it with new Title 13. *See Exhibit*
20 *"13" (Lincoln County Ordinance 2005-10 (Excerpt)).* Under ordinance 2005-10, Section 13-12-9
21 was approved, which contained the same language as former Section 17.18.100 and maintained a
22 six-month expiration date for special use permits. *See Exh. 13, p. 51).* Section 13-12-9 was later
23 reorganized into current Section 13-9-9.

24 It is indisputable that Lincoln County has maintained the six-month expiration date for
25 special use permits for decades. Because BedRoc never established the Class I use provided
26 under the Special Use Permit, it is beyond dispute that Permit No. 2003-5-2 expired under the
27 provisions of former Section 17.18.100 and was null and void as of November 19, 2003. Thus,

28 ² All references to former Title 17 of the Lincoln County Code are found in Exhibit "11."

1 the Class I Permit is invalid.

2 b. By Relying on Lincoln County's Representation that the Special Use
3 Permit Was Valid, NDEP Acted Without Substantial Evidence.

4 Despite the fact that the Special Use Permit expired by operation of law, NDEP implicitly
5 found that the Special Use Permit was valid pursuant to representations made by the Lincoln
6 County Office of the District Attorney. See Exh. 8, NDEP Response, p. 12. Given the thorough
7 description of the governing law, above, it is apparent that NDEP's finding that the Special Use
8 Permit was sufficient could only have been based upon the mere contrary opinion of the Lincoln
9 County District Attorney. In fact, this conclusion is supported by correspondence between the
10 NDEP and Lincoln County. See Exhibit "14" (Email from J. Taylor to D. Hooge (Nov. 20,
11 2013)). NDEP's decision was not supported by substantial evidence. Moreover, other
12 representations made by Lincoln County officials further demonstrate that NDEP's acceptance of
13 the Special Use Permit was arbitrary and capricious.

14 Indeed, Lincoln County previously acknowledged that the Special Use Permit was
15 invalid for failure to establish the requisite special use. See Exhibit "15" (Letter from C. Lytle to
16 J. Taylor (July 11, 2013)). In a letter dated July 11, 2013, Cory Lytle, Director of the Lincoln
17 County Planning and Building Department, stated that he and the Lincoln County District
18 Attorney both concluded that the Special Use Permit was invalid. See Exh. 15. Providing
19 Lincoln County's official position regarding the Special Use Permit, Mr. Lytle's letter states in
20 relevant part, as follows:

21 I have reviewed the *Special Use Permit Number 2003-5-2* granted to Western
22 Elite, Inc.³ in 2003 by the Board of Lincoln County Commissioners. *After*
23 *reviewing the permit and discussing the matter with the District Attorney, we*
24 *have concluded that Western Elite must apply for and obtain a new special*
25 *use permit to operate a Class I site on the property.*

26 The Western Elite Property is currently zoned M2, which primarily consists of
27 uses related to heavy manufacturing. In an M2 Zone, "[d]umps and refuse
28 disposal areas," are allowed subject to the approval of a special use permit by
the Lincoln County Planning Commission.

Lincoln County granted Western Elite or its predecessor, a special use permit
subject to obtaining a Class I license through the State. After three years, the
County granted Recology, or its predecessor, an exclusive franchise to
dispose of waste within the County because Western Elite had not obtained a
Class I license. Thus, Western Elite currently has no special use permit for a

³ Western Elite, Inc. is BedRoc's corporate parent.

1 *Class I waste disposal site and with various concerns, such as public safety,*
2 *environmental issues, and the exclusive franchise rights held by Recology,*
3 *Lincoln County will require Western Elite to obtain a new special use permit*
4 *and follow the regular application process.*

5 See Exh. 15, Letter from C. Lytle to J. Taylor (July 11, 2013) (emphasis added).

6 In contradiction of Mr. Lytle's letter, Daniel M. Hooge, District Attorney for Lincoln,
7 issued a letter to NDEP on November 8, 2013, upon which NDEP relied to find that the Special
8 Use Permit was valid. See Exhibit "16" (Letter from D. Hooge to J. Taylor (Nov. 8, 2013)). Mr.
9 Hooge's letter states as follows:

10 I am writing this letter to clarify the status of the special use permit issued to
11 Western Elite, Inc. or BedRoc Limited, LLC (BedRoc) in Lincoln County.

12 Lincoln County issued Special Use Permit 2003-5-2 to BedRoc in 2003 with
13 conditions. BedRoc has not satisfied all of the conditions in the permit; however,
14 BedRoc has notified Lincoln County that it will appear before the Lincoln County
15 Planning Commission and the Lincoln County Commission soon to complete the
16 conditions.

17 I do not foresee any substantial impediment to completion for BedRoc and expect
18 BedRoc to meet the conditions to Lincoln County's satisfaction.

19 See Exh. 16. Mr. Hooge's letter does not reference the validity the Special Use Permit, only that
20 the conditions of the Special Use Permit were not met. Accordingly, Mr. Hooge's letter is a non
21 sequitur. Accordingly, NDEP's reliance upon Mr. Hooge's letter was unreasonable and not
22 supported by substantial evidence, particularly given Lincoln County's prior statements and
23 sound conclusion that the Special Use Permit expired by operation of law. NDEP's decision to
24 issue the Class I Permit was arbitrary and capricious, and the Class I Permit must be invalidated.

25 c. Even if the Special Use Permit Is Valid, the Conditions of the Special Use
26 Permit Have Not Been Satisfied.

27 Even if the Special Use Permit was valid, it is still conditioned upon actions and
28 approvals by Lincoln County that have yet to occur. The Special Use Permit provides as follows:

 A letter indicating the intent of BedRoc to pursue a Class 1 land fill has been
 submitted to the county. At the time the license is approved BedRoc will come
 back to the county and negotiate terms and conditions of operation, a use or
 tipping fee, proof of bonding, posting of an inspection bond, and annual or
 semi-annual review and report of progress. Failure to achieve the licensing
 through the state of Nevada nullifies this Special Use Permit.

 See Exh. 5, Special Use Permit. The letter of intent incorporated by referenced into the Special
 Use Permit is a letter dated May 19, 2003 from Victor B. Skaar to Lincoln County Commissioner

1 Spencer Hafen. *See* Exh. 6, Letter from V. Skaar to S. Hafen (May 19, 2003). Mr. Skaar's letter
2 provides the following additional conditions:

- 3 1. Upon the granting of a permit by the State of Nevada of a Class I
4 Permit, BedRoc Inc., will negotiate with Lincoln County a fee to be
5 paid to Lincoln County for materials placed in said landfill. Such fee
6 will be calculated per industry standards on a weight or volume
7 measurement.
- 8 2. BedRoc Inc., will comply with bonding requirements imposed with the
9 granting of a Class I permit as specified by the State of Nevada.
- 10 3. BedRoc Inc., shall provide periodic informational reviews for the
11 County Commission or the Planning Commission as deemed
12 necessary. It is suggested that annual reviews be the longest interval
13 between presentations. . .
- 14 . . .
- 15 5. BedRoc Inc., will file necessary parcel maps and or deeds to clarify any
16 question of ownership of the land, and to comply with all requirements
17 in effect as of May 19, 2003, imposed by state and county laws for land
18 divisions and parceling.

19 *See* Exh. 6.

20 Despite the conditions in the Special Use Permit being in place for almost twelve (12)
21 years, there is no evidence that BedRoc made any attempt to satisfy them. Indeed, during the
22 Class I application process, Lincoln County confirmed that that conditions in the Special Use
23 Permit were not satisfied. *See* Exh. 16, Letter from D. Hooge to J. Taylor (Nov. 8, 2013). Since
24 that time, BedRoc failed to appear at any open meeting before either the Lincoln County
25 Planning Commission or the Lincoln County Board of County Commissioners in order to fulfill
26 the conditions. Accordingly, the Class I Permit should not have issued for BedRoc's failure to
27 comply with NAC 444.678(5).

28 d. By Issuing the Class I Permit with Conditions, NDEP Abused Its Discretion.

Due to the unfulfilled conditions in the Special Use Permit, NDEP issued the Class I
Permit with conditions of its own. The Class I Permit contains the following condition:

Ninety (90) days prior to initiation of construction, the Permittee shall submit to
NDEP documentation from Lincoln County demonstrating that the conditions
required for the Special Use Permit (SUP) of May 19, 2003 have been met.

See Exh. 1, Class I Permit. However, there is no regulatory authority for NDEP to issue a

1 conditional waste disposal permit. *See* NAC 444.6425; NAC 444.643. Indeed, NDEP is only
2 empowered to either issue a permit or deny an application; no intermediate agency authority is
3 enumerated in the governing regulations. *See* NAC 444.6425.

4 “[A]n abuse of discretion necessarily involves at least two factors: (1) the authority to
5 exercise judgment or discretion in acting or refusing to act on a given matter; and (2) a lack of
6 justification for the act or inaction decided upon.” *Falline v. GNLV Corp.*, 107 Nev. 1004, 1009
7 n. 3, 823 P.2d 888, 892 n. 3 (1991). While NDEP may argue that it was justified in issuing a
8 conditional Class I Permit, NDEP still exceeded its authority to do so. Accordingly, NDEP’s
9 issuance of the Class I Permit on a conditional basis was an abuse of discretion, and the Class I
10 Permit should be invalidated.

11 e. The Special Use Permit Does Not Comply with the Master Plan.

12 Nevada law requires that zoning regulations and land use decisions, like issuing a special
13 use permit, must substantially comply with a county’s master plan. *See Nova Horizon, Inc. v.*
14 *City Council of the City of Reno*, 105 Nev. 92, 96-97, 769 P.2d 721, 723-724 (1989). Policy SW-
15 11 of the Lincoln County Master Plan (“Master Plan”) requires that “[a]ll solid waste facilities
16 should operate under a conditional⁴ use permit which is reviewed at least every 5 years.” *See*
17 Exhibit “18” (Master Plan, p. 62). Here, the Special Use Permit contains a condition for “annual
18 or semi-annual review and report of progress.” *See* Exh. 5, Special Use Permit. There are two
19 glaring issues with this review condition, which does not comply with the Master Plan.

20 First, there is nothing contained in the Special Use Permit which calls for an ongoing
21 mandatory review process during the life of the Special Use Permit. The Special Use Permit
22 contemplates operation of the Class I Facility into perpetuity without allowing the County to
23 penalize or rectify any unsatisfactory review of the Special Use Permit. Further, the Special Use
24 Permit’s review condition is ambiguous; it is unclear whether the Special Use Permit itself will
25 be reviewed annually or semi-annually or whether the progress of construction of the Class I
26 Facility will be reviewed. Because the review condition is vague and uncertain, the Special Use

27 ⁴ A “conditional use permit” is synonymous with a “special use permit.” *See* Exhibit “17” (“Conditional Use
28 Permit,” Black’s Law Dictionary (9th ed. 2009)).

1 Permit does not substantially comply with the Master Plan.

2 Second, even the meager requirements of the Special Use Permit's review condition have
3 not been satisfied. BedRoc and NDEP cannot demonstrate that the Special Use Permit has been
4 reviewed by Lincoln County in an open meeting since it was issued (and expired) in 2003. This
5 lack of compliance with the stated process demonstrates the failure to comply with the Master
6 Plan and proves, once again, that the Special Use Permit is invalid. The Class I Permit should be
7 invalidated for the failure of BedRoc to achieve land use conformance in violation of NAC
8 444.678(5).

9 The location of the Class I Site and solid waste disposal facility does not "[c]onform with
10 land use planning of the area" and violates NAC 444.678(5). The Special Use Permit has
11 expired by operation of law and is invalid. The conditions of the Special Use Permit are not
12 satisfied, and NDEP's issuance of a conditional Class I Permit was in excess of its authority and
13 an abuse of discretion. The Special Use Permit also does not satisfy the review requirements of
14 Lincoln County's Master Plan. Because the Special Use Permit fails to conform with Lincoln
15 County land use regulations, the Class I Permit should be invalidated and withdrawn.

16 **B. The Class I Site Fails to Meet Regulatory "Location" Requirements, Because**
17 **BedRoc's Proposed Facility Will Exceed Lincoln County's Height Limitation.**

18 Aside from BedRoc's wholly defective Special Use Permit, the Class I Site also violates
19 Lincoln County's land use regulations for exceeding the height limitations of the M2 zoning
20 district. As stated above, the Class I Site is within an M2 zoning district. See discussion Part
21 V.A.2, *supra*. Under the Lincoln Code, "building height" in an M2 zone cannot exceed 75 feet.
22 See LC Code, § 13-5J-4. Pursuant to Section 13-3-1 of Title 13, the term "building," as used in
23 Lincoln County's planning code, includes the term "structure." See LC Code, § 13-3-1.
24 "Structure" is defined as "any piece of work [1] artificially built up or composed of parts joined
25 together in some definite form which requires [2] location on the ground or is attached to
26 something having a location on the ground." See LC Code, § 13-3-2. This broad definition of
27 "structure" indisputably includes BedRoc's proposed Class I facility; the facility will be
28 artificially built up and it is located on the ground. Accordingly, the proposed Class I solid waste

1 disposal facility is a building, which cannot exceed 75 feet in height.

2 Despite this height limit, BedRoc's permit application stated that "[w]hen completed the
3 top of the landfill will be approximately 150 feet above existing grade." See Exh. 10, BedRoc
4 Landfill & Waste Management Facility, Design Report, p. 3-4. This is double the building
5 height allowed within the M2 zone. Thus, the Class I Permit is in gross non-compliance with
6 Lincoln County's land use regulations and does not conform to NAC 444.678(5).

7 Once again, the location of the Class I Site does not comply with Lincoln County's land
8 use law. See NAC 444.678(5). BedRoc's proposed Class I facility exceeds the height limitations
9 of the applicable zoning ordinance. For this reason alone, the Class I Permit must be invalidated.

10 **C. The Class I Site Fails to Meet Regulatory "Location" Requirements, Because NDEP**
11 **Approved the Permit Without Substantial Evidence, Even though the Class I Site Is**
12 **Within the Pahranaagat Wash.**

13 Another location requirement under NAC 444.678 demands that "[u]nless approved by
14 the solid waste management authority, [a Class I Site must] not be within 1,000 feet of any
15 surface water . . . if the site is approved after September 2, 1992." NAC 444.678(9). The Class I
16 Site is located adjacent to and within the Pahranaagat Wash. See Exhibit "19" (Map of
17 Pahranaagat Wash & Tributaries). The Pahranaagat Wash is a natural water flow channel that
18 flows through the Class I Site and is the main tributary to the Muddy River, which flows to the
19 Colorado River through Lake Mead. Around the Class I Site, "the Pahranaagat Wash is
20 approximately 1 mile wide with a gentle (approximately 0.5%) slope to the south-southwest."
21 See Exhibit "20" (BedRoc Landfill & Waste Management Facility, Groundwater Monitoring &
22 Reporting Plan, p. 1-2). In its application, BedRoc describes the Pahranaagat Wash as
23 "transect[ing] portions of the project area," and "[a]t the location of the proposed landfill, the
24 wash is approximately one mile wide, forming a relatively wide and flat floor of the valley." See
25 Exh. 10, BedRoc Landfill & Waste Management Facility, Design Report, p. 3.; see also Exh. 4,
26 Drawing 1 - Site Location Map. Moreover, BedRoc also concedes that "[t]he active channel for
27 the Pahranaagat Wash is located east of Lot 11 between the facility and Highway 93. See Exh. 20,
28 BedRoc Landfill & Waste Management Facility, Groundwater Monitoring & Reporting Plan, p.
1-2..

1 In light of BedRoc's statements in its application, there is no dispute that the Class I
2 Facility is located, at minimum, within 1,000 feet the Pahranaagat Wash, if not *directly* within the
3 Pahranaagat Wash. BedRoc further states that, "[s]urface drainage in the valley is provided by the
4 southward draining Pahranaagat Wash, which traverses the valley immediately east of the
5 proposed landfill site." See Exh. 20, BedRoc Landfill & Waste Management Facility,
6 Groundwater Monitoring & Reporting Plan, p. 1. Accordingly, the Class I Facility is
7 indisputably within 1,000 feet of "surface water" and within the purview of NAC 444.678(9).

8 Because the Class I Site is within NAC 444.678(9), the Class I Site only satisfies the
9 location requirement if it is "approved by the solid waste management authority." The "solid
10 waste management authority" in this case is NDEP itself. See NRS 444.495. Once again,
11 however, NDEP's findings on this issue must be supported by substantial evidence and cannot be
12 arbitrary and capricious. See discussion Part V.A, *supra*.

13 When the aforementioned issue was raised in public comment, NDEP stated that "the
14 Pahranaagat Wash is not considered a *surface water* since it experiences flow only in response to
15 precipitation events and is otherwise dry." See Exh. 8, NDEP Response, p. 28 (emphasis
16 added)). The term "surface water" is not defined in either NAC Chapter 444 or NRS Chapter
17 444. The water that flows through the Pahranaagat Wash is not groundwater; it is on the surface
18 and is therefore "surface water." See NAC 444.579 (defining "groundwater" as "all subsurface
19 water comprising the zone of saturation"). The plain meaning of "surface water" is just that –
20 water on the surface of the land. See *McGrath v. State Dep't of Pub. Safety*, 123 Nev. 120, 123,
21 159 P.3d 239, 241 (2007) ("When a statute's language is plain and unambiguous, we will give
22 that language its ordinary meaning. In interpreting the plain language of a statute, we presume
23 that the Legislature intended to use words in their usual and natural meaning.").

24 NDEP provides no explanation regarding how it reached this finding that Pahranaagat
25 Wash is *not* surface water. No authority is cited; no documents are referenced. There is
26 absolutely no evidence in the record to support NDEP's decision. Accordingly, NDEP acted
27 unreasonably and without substantial evidence, and its issuance of the Class I Permit was
28 arbitrary and capricious and is invalid. See *State Indus. Ins. Sys. v. Christensen*, 106 Nev. 85, 88,

1 787 P.2d 408, 409-10 (1990) (holding that agency determinations are reversible when there was
2 no evidence in the record to support the determination).

3 **D. The Class I Site Fails to Meet Regulatory "Location" Requirements, Because NDEP**
4 **Approved the Permit Without Substantial Evidence, Even though the Class I Site Is**
5 **Within 1,000 Feet of U.S. Highway 93.**

6 The location requirement under NAC 444.678 demands that Class I waste disposal sites
7 cannot "be within 1,000 feet of a public highway, unless special provisions for the beautification
8 of the site and the control of litter and vectors are included in the design and approved by the
9 solid waste management authority." NAC 444.678(6). There is no dispute that the Class I Site is
10 within 1,000 feet of Highway 93. See Exh. 4, Drawing 1 - Site Location Map. Therefore, the
11 Class I Site is within the purview NAC 444.678(6) and must be approved by NDEP in its
12 capacity as the solid waste management authority. See NRS 444.495.

13 The NDEP unreasonably states that BedRoc's plan to prevent "visual impacts" is
14 adequate. See Exh. 8, NDEP Response, p. 3. BedRoc's Beautification Plan involves
15 construction of a perimeter berm that will allegedly "provide visual screening of landfill
16 operations from U.S. Highway 93." See Exhibit "21" (BedRoc Landfill & Waste Management
17 Facility, Beautification Plan, p. 1). However, the Beautification Plan contains no evidence that
18 such a berm would be an effective beautification measure. Indeed, the Beautification Plan
19 provides no drawings or photographs to support its beautification proposal. Moreover, NDEP
20 did not consider the effect of the berm on native plant life, obstruction of existing views, and
21 inability to prevent the emanation of bad smells that would impact the overall experience of the
22 Highway 93 corridor. This lack of evidence demonstrates how NDEP's actions were
23 unreasonably taken without substantial evidence and are arbitrary and capricious. See discussion
24 Part V.A, *supra*; see also *State Indus. Ins. Sys. v. Christensen, supra*, 787 P.2d at 409. At a
25 minimum, NDEP should withdraw the Class I Permit until substantial evidence supporting the
26 purported beautification measures is provided. In the meantime, the requirements of NAC
27 444.678(6) remain unsatisfied.

28 **E. BedRoc Has Yet to Acquire the Necessary Water Rights to Operate the Proposed**
Class I Landfill.

In addition to the location requirements of NAC 444.678, there are other minimum

1 requirements necessary for a Class I waste disposal site. *See* NAC 444.6769. Another minimum
2 requirement for Class I sites is that “adequate water must be available at all times for dust control
3 and for compaction of cover material.” NAC 444.696(2). In its application, BedRoc concludes,
4 without explanation, that “[a]dequate water will be available at all times from an onsite well for
5 dust control and for compaction of cover material.” *See* Exhibit “22” (BedRoc Landfill & Waste
6 Management Facility, Class I Operating Plan, p. 12.). This conclusion is unsupported.

7 As was noted in public comment, the only valid water permit possessed by BedRoc
8 during the application period was limited to the use of “0.35 cubic feet per second for the
9 irrigation of 25 acres of land” from May 1 to August 31 of any given year. *See* Exhibit “23”
10 (Permit No. 70859). Such limited and seasonal water resources cannot be considered “adequate
11 water . . . available at all times.”

12 Additionally, BedRoc’s water rights were only designated for “irrigation.” Irrigation is
13 “the watering of land by artificial means to foster plant growth.” *See* Exhibit “24” (“Irrigation,”
14 Merriam-Webster, <http://www.merriam-webster.com/dictionary/irrigation> (last visited Jan. 14,
15 2015)); *see also See McGrath v. State Dep’t of Pub. Safety, supra*, 159 P.3d at 241 (holding that
16 plain language governs statutory interpretation). In Nevada law, there is an unbreakable nexus
17 between agriculture and the word “irrigation.” *See Twaddle v. Winters*, 29 Nev. 88, 85 P. 280,
18 284 (1906) *aff’d on reh’g*, 29 Nev. 88, 89 P. 289 (1907) (“Irrigation is the life of our important
19 and increasing agricultural interests . . .”); NAC 444.7642 (“‘Irrigation ditch’ means a channel
20 that is used to supply water to land used for ranching or farming.”); NAC 704.000863
21 (“‘Interruptible irrigation sales’ means the sale of electricity which is used for the sole purpose of
22 pumping water to irrigate land for agricultural purposes . . .”). Here, BedRoc does not purport to
23 use water for an agricultural purpose. It intends to use water to operate the Class I Facility,
24 which is a commercial purpose. Accordingly, BedRoc did not possess necessary water rights
25 when it applied for the Class I Permit and when the Class I Permit was issued.

26 Following NDEP’s issuance of the Class I Permit, BedRoc sought a change to its water
27 rights. On September 24, 2014, BedRoc entered into a settlement agreement with the Nevada
28 State Engineer and the State of Nevada Department of Conservation and Natural Resources. *See*

1 Exhibit "25" (See Settlement Agreement (Sept. 24, 2014)). Under the terms of the agreement,
2 BedRoc acquired the right to use water year round and increased the overall amount of water that
3 it could use. *See* Exh. 25. and Exhibit "26" (Permit 83044). However, BedRoc expressly agreed
4 that the manner of use for its water rights was still irrigation, and it withdrew any reference to
5 "commercial use" in its application for change of water rights. *See* Exh. 25, p. 2). The State
6 Engineer issued Permit 83044, which extinguished BedRoc's previous water rights permit.

7 Although BedRoc cured the problems created by its seasonal water rights, the water rights
8 under Permit 83044 are still limited to irrigation. As noted in this section, BedRoc does not
9 contemplate using any water for agricultural purposes. According, BedRoc has yet to
10 demonstrate that it has "adequate water . . . available at all times." BedRoc has failed to comply
11 with NAC 444.696(2). The NDEP therefore did not have the statutory authority to issue the
12 Class I Permit, which is invalid and should not have been issued.

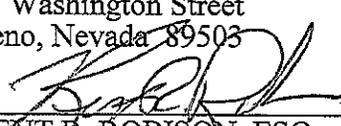
13 VI. CONCLUSION

14 NDEP issued the Class I Permit without the necessary regulatory compliance. The
15 Commission should not stand idly by and allow this flagrant disregard for state law to occur.
16 While it was perhaps inconvenient for NDEP to review the applicable regulations (even those
17 promulgated by other agencies and public entities), the regulatory framework demands that
18 NDEP ensures regulatory compliance on specific, enumerated issues. Failing to do so is an
19 abdication of NDEP's duties. Furthermore, it does not take any special expertise to determine
20 whether the regulations in question have been satisfied. Common sense and a review of the
21 NDEP's file dictates that they have not.

22 Aside from refusing to recognize that the Special Use Permit is invalid and that other land
23 use regulations were violated, NDEP took other unreasonable steps. NDEP acted without
24 substantial evidence when refusing to acknowledge that the Pahranaagat Wash is "surface water."
25 It also acted without substantial evidence when accepting BedRoc's Highway 93 beautification
26 plan, even though it contains no substantiation. BedRoc has inadequate water rights, and NDEP
27 knows it. For these and the other reasons stated above, the Commission should invalidate the
28 Class I Permit or, at minimum, withdraw the permit pending additional findings by NDEP.

1 DATED this 20th day of January, 2015.

2 ROBISON, BELAUSTEGUI, SHARP & LOW
3 A Professional Corporation
4 71 Washington Street
5 Reno, Nevada 89503


6 KENT R. ROBISON, ESQ.
7 SCOTT L. HERNANDEZ, ESQ.
8 Attorneys for Appellant,
9 Coyote Springs Investment, LLC.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, BELAUSTEGUI, SHARP & LOW, and that on this date I caused a true copy of OPENING BRIEF ON APPEAL to be served on all parties to this action by:

placing an original or true copy thereof in a sealed, postage prepaid, envelope in the United States mail at Reno, Nevada.

personal delivery/hand delivery

emailing an attached Adobe Acrobat PDF version of the document to the email addresses below/facsimile (fax) and/or E-Filing pursuant to Section IV of the District of Nevada Electronic Filing Procedures

Federal Express/UPS or other overnight delivery

Reno Carson Messenger Service

Leslie S. Godfrey, Esq.
Greenberg Traurig, LLP.
3773 Howard Hughes Pkwy, Ste. 400 North
Las Vegas, NV 89169
godfrey@gtlaw.com
Attorney for Intervenor, BedRoc Limited, LLC.

Cassandra Joseph, Esq.
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701
cjoseph@ag.nv.gov
Attorneys for the Nevada NDEP of Environmental Protection.

Belinda Suwe, Esq.
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701
bsuwe@ag.nv.gov

Valerie King, CPM
State Environmental Commission
901 S. Stewart Street
Carson City, NV 89701
vking@ndep.nv.gov

Dated: Jan 20, 2015.


Employee of Robison, Belaustegui,
Sharp & Low

EXHIBIT LIST

NO.	DESCRIPTION	PAGES
1	Class I Permit	6
2	Appellant Form 3	30
3	Development Agreement	42
4	Drawing 1 – Site Location Map	1
5	Special Use Permit	1
6	5/19/03 Letter from V. Skaar to S. Hafen	2
7	10/24/13 Letter from R. Williams to J. Taylor	2
8	NDEP Response	55
9	References to Title 13, Lincoln County Code	15
10	BedRoc Landfill & Waste Management Facility, Design Report	21
11	References to Title 17, Lincoln County Code	4
12	Lincoln County Ordinance 2003-01	1
13	Lincoln County Ordinance 2005-10 (Excerpt)	4
14	11/20/13 Email from J. Taylor to D. Hooge	1
15	7/11/13 Letter from C. Lytle to J. Taylor	1
16	11/8/ 13 Letter from D. Hooge to J. Taylor	1
17	Conditional Use Permit,” Black's Law Dictionary (9th ed. 2009)	1
18	Master Plan, p. 62	2
19	Map of Pahrnagat Wash & Tributaries	1
20	BedRoc Landfill & Waste Management Facility, Groundwater Monitoring & Reporting Plan	54
21	BedRoc Landfill & Waste Management Facility, Beautification Plan, p. 1	3
22	BedRoc Landfill & Waste Management Facility, Class I Operating Plan	18
23	Permit No. 70859	3
24	“Irrigation,” Merriam-Webster, http://www.merriam-webster.com/dictionary/irrigation (last visited Jan. 14, 2015)	2
25	Settlement Agreement (Sept. 24, 2014)	6
26	Permit 83044	4

Exhibit 1

1 FACILITY SUMMARY

The Bedroc Class I Landfill serves as a disposal site for portions of Southern Nevada generally including the counties adjacent to the facility location. Refuse will be delivered to the site by waste transport. The Bedroc Class I Landfill is located approximately 65 miles north of Las Vegas in Lincoln County and lies adjacent to Hwy 93. The facility is a Municipal Solid Waste area-fill disposal site. The site is authorized to accept Municipal Solid Waste as described in Section 4.1(1) below; no other waste is permitted for acceptance at this facility. The landfill will be constructed with a prescriptive liner and leachate collection system. Groundwater and methane monitoring will be conducted.

1.1 GENERAL DESCRIPTION

The Permit authorizes the construction and operation of a Class I disposal site, consisting of one municipal solid waste landfill unit, contiguous land, structures, and other appurtenances and improvements for the disposal of municipal solid waste as approved by the Nevada Division of Environmental Protection (Division). The Application provides that interim and final cover will be installed concurrently with ongoing operations. The Owner/Operator will perform groundwater-monitoring, closure, and post closure care in accordance with this Permit.

1.2 OWNER/OPERATOR

Bedroc Limited, LLC
 2745 N. Nellis Blvd
 Las Vegas, Nevada 89115

1.3 FACILITY LOCATION

The facility is located adjacent to U.S. Highway 93 (west side), at mile marker 8, in Lincoln County, approximately 65 miles north of Las Vegas. The property's legal description is within the East Half, and the East Half of the West Half, of Section 24, Township 11 South, Range 62 East, Mount Diablo Basin and Meridian.

1.4 FACILITY DESIGN

Permitted Design Summary

Table 1

	Rev 00	Rev 01		Rev 02		Rev 03	
		New	Total	New	Total	New	Total
Disposal Area (acres)	115						
Maximum Elevation (amsl)	2645						
Minimum Elevation (amsl)	2458						
Landfill Disposal Capacity (yds ³)	17,735,000						
Landfill Volume (yds ³)	18,300,000						

Notes: "ft amsl" = feet above mean sea level
 "yds³" = cubic yards

 <p>SOLID WASTE DISPOSAL SITE PERMIT CLASS I</p>	<p>PERMITTEE BEDROC LIMITED, LLC</p>	<p>PERMIT # SW1722REV00</p>
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2 GENERAL PERMIT CONDITIONS

2.1 DEFINITIONS

Unless the context otherwise requires, the definitions used in this Permit have the meanings ascribed to them in NAC 444.5701 to 444.631.

“Landfill volume” means the quantity of space contained above the bottom liner and including the final cover of a landfill design.

“Landfill disposal capacity” means the quantity of solid waste and daily cover, by volume, that can be placed in a landfill, given its landfill volume and plan of operations.

2.2 PERMIT ACTIONS (NAC 444.643)

This Permit is based upon the information submitted in the Permit Application, and as approved by the Division. This Permit may be modified by the Division, for cause, in accordance with NAC 444.643 or if there is a change in the statutes or regulations upon which the issuance of the Permit is based, or if a modification is otherwise necessary to protect public health, safety and the environment. This Permit may be revoked or suspended if written notice is given by the Division and the disposal site does not remain in compliance with the applicable statutes and regulations. The filing of a request by the Permittee for a Permit modification or termination, or a notification of planned changes or anticipated noncompliance, or termination of activities authorized in the Permit does not stay any Permit condition. The Permittee shall inform the Division of any deviation from or change in the operations as presented in the Application, which may affect the Permittee's ability to comply with applicable regulations or conditions of this Permit. This Permit may be transferred to a subsequent owner or operator only if the Division approves the transfer based on documentation of financial responsibility provided by the new owner or operator.

2.3 AVAILABILITY OF PERMIT DOCUMENTS

The Permittee shall keep, at the disposal site, a complete copy of this Permit and incorporated documents, as identified herein.

2.4 COMPLIANCE WITH STATUTES AND REGULATIONS

The Permittee shall comply with NRS 444.440 through 444.620, and NAC 444.570 through 444.7499, as applicable.

2.5 DUTY TO PROVIDE INFORMATION

The Permittee shall furnish to the Division, within a reasonable time, any relevant information which the Division may request to determine compliance with this Permit or to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit. The Permittee shall also furnish to the Division, upon request, copies of records required to be kept by this Permit.

2.6 INCIDENT REPORTING

The Permittee shall report incidents to the Division as provided in the Operating Plan. In addition, the Permittee shall report any noncompliance, imminent or existing hazard from a release of waste or hazardous constituents, or from a fire or explosion at the facility, which may endanger human health or the environment. Such information shall be reported by telephone to (888) 331-6337 within 24 hours from the

time the Permittee becomes aware of the circumstances. A written report shall be submitted within 15 days of the incident and shall include the following:

- i. Name and title of person making report;
- ii. Date, time, and type of incident;
- iii. Name and quantity of material(s) involved;
- iv. A complete description of the occurrence and its cause;
- v. The extent of injuries, if any;
- vi. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable;
- vii. Estimated quantity and disposition of recovered material that resulted from the incident; and
- viii. Actions taken by the Permittee in response to the incident.

2.7 REPORTING ANTICIPATED NON-COMPLIANCE

The Permittee shall give advance notice to the Division of any planned changes in the permitted facility or activity that may result in noncompliance with Permit requirements.

2.8 INSPECTION AND ENTRY

The Permittee shall allow the Division, or an authorized representative thereof, upon the presentation of credentials or other documents as may be required by law, to:

- i. Enter at reasonable times upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;
- ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- iii. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
- iv. Sample or monitor at reasonable times, for the purposes of assuring Permit compliance or as otherwise authorized, any substances or parameters at any location subject to the Permit.

2.9 CONSTRUCTION QUALITY ASSURANCE AND QUALITY CONTROL (NAC 444.645)

The Permittee shall:

- i. Develop and carry out a program for quality assurance and quality control for the construction of all liner systems required by NAC 444.681; and
- ii. Submit a summary of this program to the Division before commencement of construction of the disposal site.
 1. The Permittee shall conform to the Construction Quality Assurance Plan contained in Appendix VII of the Design Report

3 PERMIT DOCUMENTS

The following documents, as submitted by the Permittee and approved by the Division also describe and/or restrict the operation of this disposal site and are adopted herein as if set forth in this Permit:

1. Application for a Class I Facility, Revision of May 2014 (including the Operating Plan)

 SOLID WASTE DISPOSAL SITE PERMIT CLASS I	PERMITTEE BEDROC LIMITED, LLC	PERMIT # SW1722REV00
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4 WASTE ACCEPTANCE CRITERIA

The Permittee shall conform to the waste acceptance procedures in Section 9 of the Operating Plan

4.1 SOLID WASTES PERMITTED FOR DISPOSAL

1. Wastes identified in Sections 7 (Acceptable Wastes) and 8 (Special Wastes) of the Operating Plan
2. *Reserved*

4.2 PROHIBITED SOLID WASTES

The Permittee is prohibited from placing in the Class I landfill the following wastes:

1. Liquid waste as defined by NAC 444.692(4)
2. Hazardous waste, as defined by NAC 444.580 (NRS 459.430)
3. Septic tank pumpings and raw sewage as defined by NAC 444.654(2)
4. PCB waste, as defined by NAC 444.6665
5. *Reserved*

5 RECORDKEEPING

5.1 The Permittee shall maintain records at the site as described below.

1. Any demonstration of restrictions on location required by NAC 444.678 to 444.6795, inclusive;
2. Records of inspection, training procedures and procedures for notification required by NAC 444.6665;
3. Records of each incident of unauthorized waste refusal or acceptance as described in Section 9.6 of the Operating Plan included with the Application;
4. Results from the monitoring of gas and any remediation plans required by NAC 444.667;
5. Any documentation relating to the design of the municipal solid waste landfill unit for the placement of leachate or gas condensate in the unit as required by paragraph (b) of subsection 2 of NAC 444.692;
6. Any demonstration, certification, finding, monitoring, testing or analytical data from the program for monitoring ground water required by NAC 444.7481 to 444.7499, inclusive;
7. Plans for closure and postclosure and any monitoring, testing or analytical data required by NAC 444.6891 to 444.6896, inclusive; and
8. Any documentation of cost estimates and financial assurance required by NAC 444.685.

The owner or operator shall notify the solid waste management authority when the documentation has been placed in or added to the operating records. All information contained in the operating records must be furnished upon request to the solid waste management authority or be made available at all reasonable times for inspection by the solid waste management authority.

6 REPORTING

1. The operator of a Class I site shall submit quarterly to the Division a report of the solid waste received at the site. The report must be submitted on a form prescribed by the Division within 30 days following the end of each calendar year quarter; and
2. The Permittee shall by January 31st 2020 and at least once every 5 years thereafter until the site is closed; submit the Report required by NAC 444.702(7).

6.1 FINANCIAL ASSURANCE REPORTING

The Permittee shall:

1. Notify the Division of any adjustments made to the estimates for the amounts of closure and post-closure care in accordance with NAC 444.6851 and 444.68515; and
2. Each year within 30 days following the end of each calendar year of the issuance of this Permit, the Permittee shall submit the closure and post-closure cost estimates adjusted for inflation.

6.2 NOTIFICATION OF NEW CELL CONSTRUCTION

In accordance with NRS 444.556, the Permittee shall notify the Division in writing within 10 days following the commencement of construction of a new cell.

- 6.3** All reports, notifications, or other submissions which are required by this Permit must be submitted by the specified due date to:

Permitting Branch Supervisor
Bureau of Waste Management
Nevada Division of Environmental Protection
901 S Stewart Street, Suite 4001
Carson City, NV 89701-5249

7 GROUNDWATER MONITORING

Groundwater Monitoring shall be conducted in accordance with NAC 444.7481 through NAC 444.7498 and with the Groundwater Monitoring Plan in Appendix D of the Application.

- 7.1** Any deviation from the ground water monitoring plan must be approved in advance by the Division as a Permit modification in accordance with NAC 444.6435.

- 7.2** The monitoring wells are to remain continuously locked except during sampling, inspection, and repairs. Keys must be available at the landfill office at all times.

- 7.3** Groundwater Monitoring Reports shall be submitted to the Division as required by Section 6.3 by February 1st and August 1st of each calendar year. The reports shall be submitted in both hardcopy and electronic format.

8 MISCELLANEOUS CONDITIONS

The Permittee Shall:

1. Segregate and stockpile topsoil from landfill construction for use as growth medium for the final cover.
2. Maintain soil berms adjacent to the landfill area as required such that waste is not visible from U.S. Highway 93 if within 1000 feet of the roadway.
3. *Reserved*

9 COMPLIANCE SCHEDULE

1. Ninety (90) days prior to initiation of construction, the Permittee shall submit to the Division documentation from Lincoln County demonstrating that the conditions required for the Special Use Permit (SUP) of May 19, 2003 have been met.
2. The Permittee is responsible for obtaining, in a timely manner, all applicable permits and fulfilling legal and regulatory obligations from any and all local, State, and federal agencies with jurisdiction over various aspects of the construction and operation of a facility of this type in this location (collectively "Agencies"). Agencies having jurisdiction may include, but are not necessarily limited to, the following:

SOLID WASTE DISPOSAL SITE  PERMIT CLASS I	PERMITTEE BEDROC LIMITED, LLC	PERMIT # SW1722REV00
---	--	---------------------------------------

Nevada Department of Wildlife
 Nevada Department of Transportation
 Nevada Division of Water Resources
 Nevada Division of Environmental Protection – Bureau of Water Pollution Control
 Nevada Division of Environmental Protection – Bureau of Water Quality Planning
 Nevada Division of Environmental Protection – Bureau of Safe Drinking Water
 Nevada Division of Environmental Protection – Bureau of Air Pollution Control
 Unites States Army Corps of Engineers
 Unites States Fish and Wildlife Service
 United States Environmental Protection Agency
 Lincoln County (including solid waste agreements)
 Clark County (including solid waste agreements)

Note that in the event of non-compliance with any regulations administered by Agencies or bureaus other than the Nevada Division of Environmental Protection – Bureau of Waste Management, investigation and enforcement will be the responsibility of that other Agency or bureau.

3. *Reserved*

10 AUTHORIZATION

<i>Signature of Approving Officer</i>	<i>Name and Title of Approving Officer</i>	<i>Date of Issuance</i>
	R. Eric Noack, Chief Bureau of Waste Management	9/19/14 <i>Date</i>

File: 1722_peckert_09082014_10_PMT_BEDROC Permit REV00



Exhibit 2



State of Nevada
Dept. of Conservation & Natural Resources
State Environmental Commission SEC.nv.gov
901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

FORM 3: FORM FOR REQUESTING AN APPEAL HEARING
(Provide attachments as needed)

1. Name, address, telephone number, and signature of appellant:

Name: Coyote Springs Investment LLC

Physical Address: 3100 SR 168, PO Box 37010, Coyote Springs, Nevada 89037

E-mail Address: Emilia.cargill@coyotesprings.com

Telephone Number: (702) 422-1433

Signature: Emilia K. Cargill

Representative capacity (if applicable): Senior Vice President & General Counsel

2. Attach copy of Nevada Division of Environmental Protection final decision, such as permit or notice of alleged violation, being appealed.

3. Specify grounds of appeal: (check all that apply)

- Final decision in violation of constitutional or statutory provision;
- Final decision made upon unlawful procedure;
- Final decision was affected by other error of law;
- Final decision was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
- Final decision was arbitrary or capricious or characterized by abuse of discretion;

4. For each ground of appeal checked above, please list the constitutional, Nevada Revised Statute (NRS), and/or Nevada Administrative Code (NAC) provision allegedly violated. Also list the statutes and/or regulations that give the State Environmental Commission jurisdiction to hear the appeal.

SEE ATTACHED

5. For each ground of appeal checked above, provide a brief and concise statement of the facts which provide the basis for the appeal.

SEE ATTACHED

Date of Request: Sept. 29, 2014.

Send Form to: Executive Secretary, State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, NV 89701

4. Provision Violated and Jurisdiction of the State Environmental Commission.

Coyote Springs Investment LLC's ("CSI") grounds for appeal of the permit issued by the State of Nevada Department of Conservation & Natural Resources Division of Environmental Protection ("Division") in favor of BEDROC LIMITED, LLC ("BedRoc"), Permit # SW1722REV00 effective date September 19, 2014 (the "BedRoc Permit") are Nevada Administrative Code ("NAC") Sections 445B.890(2)(a) and 445B.890(2)(b).¹ The BedRoc Permit is in violation of, and in excess of the statutory authority granted to the Division in NAC Sections 444.678(5), 444.678.(6), 444.678(9), and 444.696(2). Therefore, pursuant to the jurisdiction and authority granted to the State Environmental Commission ("Commission") pursuant to NAC 445B.890(2)(a) and 445B.890(2)(b), and as a result of the statutory violations of NAC Sections 444.678(5), 444.678(6), 444.678(9), and 444.696(2), as described in this document, CSI, a public commenter and protestor of the BedRoc Permit during the application process, CSI has standing to bring this appeal, and this appeal is properly brought before the Commission.

¹ Statutory authority to promulgate NAC 444.678(5) and 444.678(9) is provided under NRS 444.560.

5. **Brief and Concise Statement of Appeal.**

a. **Grounds based on NAC 444.678(5).**

For several reasons, discussed below, BedRoc has not met the “location” requirement set forth in NAC 444.678(5). NAC 444.678 requires that the “location of a Class I [solid waste disposal] site must: ... (5) Conform with land use planning of the area” [emphasis added]. Land use conformance requires either an express designation in the zoning code/ordinance for the intended use or some other use approval, such as a special use permit. Here, BedRoc attempts to satisfy the requirements of NAC 444.678(5) by referencing a special use permit issued by Lincoln County in April/May 2003.

In light of these requirements, the BedRoc Permit is improper for failure to comply with Lincoln County’s land use regulations. First, BedRoc’s special use permit to allow solid waste disposal on the site has expired. Second, even if BedRoc’s special use permit was in force, the conditions of the special use permit have not been satisfied. Third, BedRoc’s purported special use permit does not substantially comply with Lincoln County’s master plan. Fourth, BedRoc’s proposed facility will exceed the height limitations of the applicable zoning regulations. Therefore, the Division was not authorized to issue the BedRoc Permit.

i. **BedRoc’s Purported Special Use Permit Has Expired and Is Invalid.**

In Lincoln County, BedRoc’s proposed landfill site is zoned “M2” and a special use permit is required. Approved permitted uses in an M2 / Heaving Manufacturing District site do not include “landfill” or “refuse storage”. *See* LC Title 13, Section 13-5J-2

(Attachment 1). Lincoln County requires a “special use permit” for a “dump and refuse disposal area” or a “recycling facilities and operations involving use, recovery or residue of hazardous materials and/or wastes....” *See* LC Title 13, Section 13-5J-3 (Attachment 2).

BedRoc’s purported special use permit issued in 2003 has expired and is void. Lincoln County’s planning code governs the process to grant a special use permit and its expiration. Pursuant to Lincoln County Title 13, Chapter 9, Section 13-9-9, a Special Use Permit expires six (6) months from the date of final decision if the approved special-use is not actually established, or if construction is not commenced within such 6-month period. *See* LC Title 13, Section 13-9-9 (Attachment 3). Thus, BedRoc’s special use permit expired in late 2003 and was null and void in 2013 when BedRoc submitted the application for the BedRoc Permit. Therefore, the requirements of NAC 444.678(5) are not met, and the BedRoc Permit must be invalidated.

The conditions imposed in the BedRoc Permit and described in the Division’s Response to Comments on the BedRoc Permit, which attempt to circumvent the invalid special use permit, exceed the Division’s statutory authority because NAC 444.678(5) states the “Class 1 Site must...” conform with Lincoln County’s land use regulations [emphasis added]. There is no provision for discretion or exception set forth in this regulation for land use conformance. Therefore, without a valid special use permit that can be relied upon to conduct the proposed use in this case, there is no land use conformance, and the requirements of NAC 444.678(5) have not been met.²

² Lincoln County’s Planning and Building Department further elaborated on the reasons BedRoc’s special use permit was invalid in a letter to the Division dated July 11, 2013 (Attachment 4).

ii. The Conditions of BedRoc's Purported Special Use Permit Have Not Been Satisfied.

Even if BedRoc's special use permit was valid, the BedRoc special use permit is still conditioned upon actions and approvals that have not occurred. Even assuming the special use permit would be valid "but for" conditions-to-be-met, because the conditions have not been met the special use permit is not valid. Thus, there is "no conformance with land use." Lincoln County's District Attorney Daniel Hooge confirmed in a letter to the Division dated November 8, 2013 (Attachment 5), that the conditions to BedRoc's special use permit were not satisfied. As such, the BedRoc Permit should be invalidated, because the location of the Class I site did not meet requirements of NAC 444.678(5).

Furthermore, the Division relied on Mr. Hooge's November 8th letter when issuing the BedRoc Permit and expressly recognized that the conditions of the special use permit were not yet satisfied. Knowingly issuing the BedRoc Permit without evidence of land use compliance demonstrates that the District's actions were clearly erroneous, arbitrary and capricious, and were an abuse of discretion, further invalidating the BedRoc Permit.

iii. BedRoc's Purported Special Use Permit Does Not Substantially Comply with Lincoln County's Master Plan.

Nevada law requires that zoning regulations and land use decisions, such as issuance of a special use permit, must substantially comply with a county's master plan. See Nova Horizon, Inc. v. City Council of the City of Reno, 105 Nev. 92, 96-97, 769 P.2d 721, 723-724 (1989). Policy SW-II of the Lincoln County Master Plan requires that "[a]ll solid waste

facilities should operate under a conditional³ use permit which is reviewed at least every 5 years.” *See* Excerpt from Lincoln County’s Master Plan (Attachment 6). Here, BedRoc’s special use permit does not provide for review every five years. Further, BedRoc’s permit application does not provide any procedure for review of the special use permit every five year. In fact, the BedRoc Permit and application contemplate operation of the solid waste facility in perpetuity without consideration of regular review of the special use permit. This glaring omission in the special use permit and the application documents does not substantially comply with the requirements of the Lincoln County Master Plan, which renders the BedRoc Permit noncompliant with NAC 444.678(5) and invalid.

iv. BedRoc Permit Exceeds the Height Limitation of M2 Zoning.

Under Lincoln County’s planning code, Section 13-5J-4, Chapter 8 of Lincoln County Title 13, “building height” in an M2 zone cannot exceed 75 feet. *See* LC Title 13, Section 13-5J-4 (Attachment 7). Pursuant to Section 13-3-1 of LC Title 13, the term “building,” as used in Lincoln County’s planning code, includes the term “structure.” *See* LC Title 13, Sections 13-3-1 and 13-3-2 (Attachment 8). “Structure” is defined as “any piece of work artificially built up or composed of parts joined together in some definite form which requires location on the ground or is attached to something having a location on the ground.” This broad definition certainly includes BedRoc’s proposed Class I landfill. As such, it cannot exceed 75 feet in height. However, the application for the BedRoc Permit, which is incorporated into the BedRoc Permit by reference, states that “[w]hen completed

³ A “conditional use permit” is synonymous with a “special use permit.” See “Conditional Use Permit,” Black’s Law Dictionary (9th ed. 2009).

the top of the landfill will be approximately 150 feet above existing grade,” which is double the height allowed on land zoned M2. Therefore, the BedRoc Permit does not conform to the Lincoln County’s zoning regulations and does not comply with NAC 444.678(5).

For this reason, and all of the other reasons discussed above, the location of BedRoc’s proposed site and solid waste disposal facility do not “[c]onform with land use planning of the area” and violate NAC 444.678(5). As such, the BedRoc Permit should be invalidated and withdrawn.

b. Grounds based on NAC 444.678(9).

NAC 444.678 requires that the “location of a Class I site must: ... (9) Unless approved by the solid waste management authority, not be within 1,000 feet of any surface water or 100 feet of the uppermost aquifer if the site is approved after September 2, 1992.” The location of the proposed BedRoc Class I landfill facility is not only within 1,000 feet of “any surface water,” its sited directly in the Pahrnagat Wash floodplain. The proposed landfill site is also transected by other dry desert washes all of which are subject to flooding and intermittent water flow. The Division’s Response to Comments on the BedRoc Permit states that “the Pahrnagat Wash is not considered a surface water since it experiences flow only in response to precipitation events and is otherwise dry.” The water that flows through the Pahrnagat Wash is not groundwater; it is on the surface and is therefore “surface water.”

The term “surface water” is not defined in NAC Chapter 444. As held by the Nevada Supreme Court in McGrath v. State Dep't of Pub. Safety, 123 Nev. 120, 123, 159 P.3d 239, 241 (2007) (“*When a statute's language is plain and unambiguous, we will give that language its ordinary meaning. In interpreting the plain language of a statute, we presume that the Legislature intended to use words in their usual and natural meaning.*”), statutes will be interpreted by their plain meaning. Therefore, in NAC 444.678(9), the plain meaning of “surface water” is just that – water on the surface of the land. Therefore, water running through the Pahrnagat Wash must be evaluated as “surface water” because the location of the proposed BedRoc Class I landfill is located within 1000 feet of the Pahrnagat Wash. Therefore, the Division did not comply with NAC 444.678(9) because it did not expressly approve a solid waste facility that may contaminate the surface water that flows through the Pahrnagat Wash. Instead, the Division sidestepped the issue, stating that the provisions of NAC 444.678(9) did not apply. This position is incorrect and may only be cured by the Division’s express approval of a Class I solid waste disposal facility within the community’s surface water system. Such an approval requires further study and consideration.

c. Additional Grounds for Appeal under NAC 444.

i. The proposed Class I landfill is within 1,000 feet of a public highway.

Pursuant to NAC 444.678(6), landfill facilities are prohibited within 1,000 feet of a public highway. The plans submitted by BedRoc to the Division specify that the proposed facility will be located within 1,000 feet of US Highway 93. The Division stated that a plan to prevent “visual impacts” was submitted with BedRoc’s application which, in the Division’s analysis was adequate. However, the idea that a “berm” “shielding the operating

face” can beautify the entirety of a 150 foot-tall landfill which is 113 acres at the base and 37 acres on its top, is far-fetched and has not been proven; the “beautification plans” submitted by BedRoc are not adequate to sufficiently obstruct the view of BedRoc’s proposed Class I landfill facility. Therefore, the Division did not comply with NAC 444.678(6) and the BedRoc Permit is invalid and should not have been issued.

- ii. BedRoc does not have a legal supply of water to operate the proposed Class I landfill.

Pursuant to NAC 444.696(2) “adequate water must be available at all times for dust control and for compaction of cover material.” BedRoc does not have a year-round supply of water for commercial operations. BedRoc’s application did not demonstrate that BedRoc held sufficient water rights to conduct the proposed Class I landfill operations. BedRoc’s water supply is limited to one permit for .35 cfs of irrigation water at a specified place of use 25 acres in size for an irrigation seasons of May 1 through August 31. BedRoc’s application did not demonstrate that it has “adequate water ... at all times” and therefore NAC 444.696(2) was not met, and the Division therefore did not have the statutory authority to issue the BedRoc permit. Therefore, the BedRoc Permit is invalid and should not have been issued.



COYOTE SPRINGS LAND

ATTACHMENT #1

CHAPTER 5

ZONING

ARTICLE J. M2 HEAVY MANUFACTURING DISTRICT

SECTION:

- 13-5J- 1: Purpose And Intent
- 13-5J- 2: Uses Permitted
- 13-5J- 3: Uses Permitted Subject To Special Use Permit
- 13-5J- 4: Building Height
- 13-5J- 5: Front Yard
- 13-5J- 6: Side Yard
- 13-5J- 7: Rear Yard
- 13-5J- 8: Lot Area And Width Requirements
- 13-5J- 9: Distance Between Buildings On Same Lot
- 13-5J-10: Uses Prohibited

13-5J-1: **PURPOSE AND INTENT:** The M2 heavy manufacturing district is intended to provide areas for the development and operation of industrial and manufacturing uses. (Ord. 2005-10, 1-3-2006)

13-5J-2: **USES PERMITTED:** In the M2 heavy manufacturing district, no building or structure shall be erected which is arranged, intended or designed to be used for other than one or more of the following uses:

Any use permitted in the M1 light manufacturing district, except residential uses.

Any of the following industrial, manufacturing, wholesale and storage uses:

Alcohol and alcoholic beverages manufacture.

Blast furnaces.

Boiler or tank works.

Brick, tile or terra cotta products manufacture.

Building materials manufacture.

Cement and lime manufacturing.

Creosote treatment or manufacture.

Feed mills.

Mining and mill operations.

Ore reduction.

Paints, oil, shellac, turpentine or varnish manufacture.

Paper manufacture.

Petroleum products manufacture.

Petroleum refining and reclaiming plants.

Plastic manufacture.

Quarry or stone mills.

Rock, sand and gravel excavating, crushing and distribution.

Rubber manufacture.

Sawmills.

Soap manufacture.

The accessory buildings and structures necessary to such permitted uses located on the same lot or parcel of land.

Other uses similar to the above which are determined by the planning commission to be consistent and compatible with the other uses permitted within the district. (Ord. 2005-10, 1-3-2006)



COYOTE SPRINGS LAND

ATTACHMENT #2

13-5J-3: USES PERMITTED SUBJECT TO SPECIAL USE PERMIT:

The following additional uses may be permitted subject to securing a special use permit in each case as provided for in chapter 8 of this title:

Acid manufacture.

Ammunition manufacture.

Chemical manufacture.

Commercial stockyards and animal slaughter.

Curing, tanning and storage of rawhides or skins.

Dumps and refuse disposal areas.

Explosives manufacture or storage.

Fat rendering.

Fertilizer manufacture.

Incinerators.

Junk, salvage or auto wrecking yard.

Recycling facilities and operations involving use, recovery or residue of hazardous materials and/or wastes.

Residential use, if occupied by an owner or employee acting as the manager or caretaker of the business.

Rocket fuel manufacture, testing and/or storage.

Sewer farms or sewage disposal plants. (Ord. 2005-10, 1-3-2006)

13-5J-4: BUILDING HEIGHT: Six (6) stories and not to exceed seventy five feet (75'). (Ord. 2005-10, 1-3-2006)

13-5J-5: FRONT YARD: There shall be no front yard required. (Ord. 2005-10, 1-3-2006)



COYOTE SPRINGS LAND

ATTACHMENT #3

the exterior boundary of the lot or parcel of land described in such application. If it is deemed advisable, the planning commission shall also cause the notice to be published once in a newspaper of general circulation in the county not less than ten (10) days nor more than thirty (30) days prior to the meeting. For the purpose of this section, "property owner" means that owner shown upon the latest assessment rolls of the county. (Ord. 2005-10, 1-3-2006)

13-9-6: ACTION OF PLANNING COMMISSION:

- A. At the conclusion of the hearing, the planning commission shall take such action thereon as it deems warranted under the circumstances and shall announce and record its action by formal resolution and such resolution shall recite the findings of the planning commission upon which it bases its decision. This decision shall be final, subject only to the appeals process. (Ord. 2005-10, 1-3-2006)

13-9-7: FINAL DECISION EFFECTIVE DATE: The decision of the planning commission shall not become final and effective until seven (7) days after the decision is entered in the minutes of the meeting. No permits shall be issued concerning the property in question until the decision becomes final. (Ord. 2005-10, 1-3-2006)

13-9-8: REAPPLICATION: No person, including the original applicant, shall reapply for a similar special use permit or variance on the same land, building or structure within a period of six (6) months from the date of the final decision by the planning commission of such previous application. (Ord. 2005-10, 1-3-2006)

13-9-9: PERMIT EXPIRATION: Each special use permit or variance authorized under the provisions of this chapter which is not actually established or the actual construction commenced on the buildings or structures within six (6) months from the date of the final decision is null and void. In the event some construction work is involved, it must actually commence within the stated period and be diligently prosecuted to completion. A lapse of work for a period of three (3) months will be sufficient to cause the invalidity of the permit; provided further, when any use of land, building, structure or premises established under the provisions of this chapter has been discontinued for a period of one year, it is unlawful to again use such land or building or premises for such discontinued use

13-9-9

13-9-10

unless a subsequent special use permit or variance is authorized. (Ord. 2005-10, 1-3-2006)

13-9-10: **PERMIT EXTENSION:** Extensions of time may be granted by the planning commission, if requested by the property owner of record not less than seven (7) days prior to the expiration date of the date of the final decision. (Ord. 2005-10, 1-3-2006)



COYOTE SPRINGS LAND

ATTACHMENT #4



Lincoln County Planning and Building Department
181 Main Street PO Box 329
Pioche, Nevada 89043

Phone 775 962 5165 Fax 775 962 5877

July 11, 2013

Mr. Jon Taylor
NDEP
Bureau of Waste Management
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249

RE: Western Elite, Inc, Permit #SW277REV06; Proposed Permit Modification and Lincoln County Land Use Clarification

Mr. Taylor,

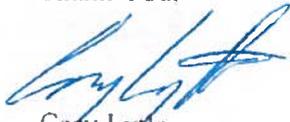
I have reviewed the Special Use Permit Number 2003-5-2 granted to Western Elite, Inc. in 2003 by the Board of Lincoln County Commissioners. After reviewing the permit and discussing the matter with the District Attorney, we have concluded that Western Elite must apply for and obtain a new special use permit to operate a Class I site on the property.

The Western Elite Property is currently zoned M2, which primarily consists of uses related to heavy manufacturing. In an M2 Zone, "[d]umps and refuse disposal areas," are allowed subject to the approval of a special use permit by the Lincoln County Planning Commission.

Lincoln County granted Western Elite or its predecessor, a special use permit subject to obtaining a Class I license through the State. After three years, the County granted Recology, or its predecessor, an exclusive franchise to dispose of waste within the County because Western Elite had not obtained a Class I license. Thus, Western Elite currently has no special use permit for a Class I waste disposal site and with various concerns, such as public safety, environmental issues, and the exclusive franchise rights held by Recology, Lincoln County will require Western Elite to obtain a new special use permit and follow the regular application process.

Please feel free to contact this office with questions or concerns.

Thank You,



Cory Lytle
Director



COYOTE SPRINGS LAND

ATTACHMENT #5

DANIEL M. HOOGE
State Bar #10620
District Attorney



MATTHEW D. CARLING
State Bar #7302
Deputy District Attorney

OFFICE OF THE DISTRICT ATTORNEY
LINCOLN COUNTY, NEVADA

November 8, 2013

Jon Taylor
PE CEM
NDEP Elite Solid Waste Branch
901 S. Stewart Street, Suite 4001
Carson City, NV 89701

Dear Mr. Taylor:

I am writing this letter to clarify the status of the special use permit issued to Western Elite, Inc. or BedRoc Limited, LLC (BedRoc) in Lincoln County.

Lincoln County issued Special Use Permit 2003-5-2 to BedRoc in 2003 with conditions. BedRoc has not satisfied all of the conditions in the permit; however, BedRoc has notified Lincoln County that it will appear before the Lincoln County Planning Commission and the Lincoln County Commission soon to complete the conditions.

I do not foresee any substantial impediment to completion for BedRoc and expect BedRoc to meet the conditions to Lincoln County's satisfaction.

If you have any questions please contact me at the number below.

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel M. Hooge".

Daniel M. Hooge
District Attorney for Lincoln County



COYOTE SPRINGS LAND

ATTACHMENT #6

3100 State Route 168 • P.O. Box 37010 • Coyote Springs, Nevada 89037
Telephone: (702) 422-1433 • Facsimile: (702) 422-1419

MASTER PLAN

FOR

LINCOLN COUNTY, NEVADA

Adopted on September 4th, 2007

***Proposed Amendments for public hearing were held on
August 6th and 20th 2007 for the
Lincoln County Board of Commissioners***

***Recommended for approval with modifications on
July 17th, 2007 by the Lincoln County Planning Commission***

Recommended on July 16th by the Alamo Town Board

- GOAL SW-1** **Increase the economic benefits to county residents from waste management activities in the county.**
- Policy SW-1A* *Lincoln County should explore methods of increasing revenues and services of the Crestline landfill.*
- Policy SW-1B* *Recycling, composting and yard debris plans should be developed within the county on a measured basis and based upon adequate material stream and market opportunity.*
- Policy SW-1C* *Innovative ideas should be explored to allow the county to collect and transport recyclables to markets in either Utah or Nevada locations.*
- Policy SW-1D* *Revenues from landfill operations should be used to offset trash collection fees for residents and for developing recycling programs county-wide.*
- Policy SW-1E* *Increased waste stream and associated revenue from outside sources should be utilized primary to improve waste management services, landfill, diversion and recycling efforts.*
- Policy SW-1F* *Value added industries should be explored by the county to utilize portions of the waste stream for fuel production, biomass, re-use of building materials or other waste stream materials. Any agreements related to solid waste disposal in the county should allow for small businesses to pursue these industries not being pursued by the landfill operators.*
- Policy SW-1G* *Lincoln County should pursue waste transfer locations as RPP lands from BLM for the transfer of waste and recyclable from new developments in the county.*
- Policy SW-1H* *The 2000 Lincoln County Solid Waste Management Plan should be revised and incorporated into the county master plan.*
- Policy SW-1I* *All solid waste facilities should operate under a conditional use permit which is reviewed at least every 5 years.*



COYOTE SPRINGS LAND

ATTACHMENT #7

13-5J-3

13-5J-5

13-5J-3: **USES PERMITTED SUBJECT TO SPECIAL USE PERMIT:**
The following additional uses may be permitted subject to securing a special use permit in each case as provided for in chapter 8 of this title:

Acid manufacture.

Ammunition manufacture.

Chemical manufacture.

Commercial stockyards and animal slaughter.

Curing, tanning and storage of rawhides or skins.

Dumps and refuse disposal areas.

Explosives manufacture or storage.

Fat rendering.

Fertilizer manufacture.

Incinerators.

Junk, salvage or auto wrecking yard.

Recycling facilities and operations involving use, recovery or residue of hazardous materials and/or wastes.

Residential use, if occupied by an owner or employee acting as the manager or caretaker of the business.

Rocket fuel manufacture, testing and/or storage.

Sewer farms or sewage disposal plants. (Ord. 2005-10, 1-3-2006)

13-5J-4: **BUILDING HEIGHT:** Six (6) stories and not to exceed seventy five feet (75'). (Ord. 2005-10, 1-3-2006)

13-5J-5: **FRONT YARD:** There shall be no front yard required. (Ord. 2005-10, 1-3-2006)



COYOTE SPRINGS LAND

ATTACHMENT #8

CHAPTER 3
DEFINITIONS

SECTION:

- 13-3-1: Generally
13-3-2: Specific Definitions

13-3-1: GENERALLY:

- A. For the purpose of this title, certain terms and words are defined as follows in this chapter.
- B. When consistent with the context:
1. Words used in the present tense include the future;
 2. Words in the singular number include those in the plural number and the plural the singular;
 3. The word "building" includes "structure";
 4. The word "shall" is mandatory, not directory;
 5. The word "person" includes "firm", "association", "corporation", "partnership " and "natural person";
 6. The word "used" includes the words "arranged", "designed" or "intended to be used";
 7. The word "construct" includes the words "erect", "reconstruct", "alter", "move in" and "move upon". (Ord. 2005-10, 1-3-2006)

13-3-2: SPECIFIC DEFINITIONS:

ACCESSORY
BUILDING:

A detached subordinate building clearly incidental to and located upon the same lot occupied

(excerpt, attached in part)

SANITARIUM:	A building or institution for the recuperation and treatment of persons with physical or mental disorders.
SIDEWALK:	A pedestrian walkway located between the curb and property line.
SIGN:	Any device and all parts thereof which are used to advertise products, goods, services or otherwise promote the sale of objects or identify objects for sale.
START OF CONSTRUCTION:	The first placement of concrete for permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.
STORY:	The space within a building included between the surface of any floor and the surface of the ceiling next above.
STREET:	A thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority, or a thoroughfare which has been made public by right of use and which affords the principal means of access to abutting property.
STRUCTURE:	Any building, fence, tower, edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite form which requires location on the ground or is attached to something having a location on the ground.
SUBDIVIDER:	Any individual, firm, association, syndicate, copartnership, corporation, trust or any other

Exhibit 3

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FILED FOR RECORDING
AT THE REQUEST OF

Lincoln County Clerk

2005 JUN 30 PM 3 24

LINCOLN COUNTY RECORDER
FEE *No Fee* DEP *on*
LESLIE BOUCHER

**THE COYOTE SPRINGS
DEVELOPMENT AGREEMENT**

Between

THE COUNTY OF LINCOLN

And

**COYOTE SPRINGS INVESTMENT, LLC
A Nevada Limited Liability Company**

For

**Coyote Springs
Master Planned Community**

**ORIGINAL DEVELOPMENT AGREEMENT
FOR COYOTE SPRINGS**

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THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this ^{16th} day of ^{June} ~~December~~, 2005~~2004~~ by and between the County of Lincoln, State of Nevada (herein referred to as the "County"), and Coyote Springs Investment LLC, a Nevada limited liability company (herein referred to as the "Owner"), the owner and lessee of the real property described on Exhibit A attached hereto and incorporated herein.

SECTION I

DEFINITIONS

1.01 Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

(a) "Agreement" this Agreement together with all addenda and exhibits incorporated by reference herein, all as now or hereafter amended.

(b) "Applicable Rules" means and refers to the following:

(i) The Coyote Springs PUD Code;

(ii) The Concurrent Approvals, if any;

(iii) The Coyote Springs General Improvement District Regulations Manual;

(iv) The Coyote Springs Fire District Regulations Manual;

(v) The Specific Code, Ordinances, Rules, Regulations and Official Policies of the County as adopted and in force on ~~December 20th, 2004~~ ^{June 16th, 2005}, except as modified by the Concurrent Approvals and this Agreement and as amended from time to time and set forth on Exhibit "B" shall be locked in for the Term of this Agreement, regarding planning; zoning; subdivisions; growth management; gaming enterprise districts; timing and phasing of development; permitted uses of the Subject Property; density; design and improvement standards; and specifications applicable to the Planned Community except as provided in Coyote Springs PUD Code, and excepting therefrom any fees or monetary payments prescribed by ordinance which are uniformly applied to all development and construction subject to County's jurisdiction, except as defined in Section 3.16 of this Agreement. Owner agrees to be subject to all such fees and monetary payments prescribed by ordinance as adopted or amended throughout the duration of this Agreement, except as defined in Section 3.16 of this Agreement, and

(vi) All applicable state and federal laws and regulations.

County agrees it will not adopt any ordinance, rule, regulation, policy or guideline that would have the effect of violating or abrogating any provision of this Agreement or evading or frustrating the clear intent of this Agreement.

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(c) "Best Efforts" means, in the case of any contingent obligation of County or Owner, that the party so obligated will make a good faith effort to accomplish the stated goal, task, project or promised performance; provided such term does not imply a legal obligation to take any specific action if:

(i) In the case of a County obligation, such action would, in the reasoned opinion of the County Commission be imprudent given competing public needs and projects, or;

(ii) In the case of an Owner obligation, such action would, in the reasoned opinion of the Owner, be commercially unreasonable. In either case, upon request, the responsible party shall give written notice to the other party that it has considered such contingent obligation and the reason for its decision not to perform.

(d) "Builder" means any person or entity that constructs final improvements (other than off-site improvements or infrastructure) with respect to a subdivision or parcel of the Subject Property.

(e) "Code" means the Coyote Springs Planned Unit Development Code (the "CSPUD Code"), including all rules, regulations, standards, criteria manuals and other references adopted therein.

(f) "County" means the County of Lincoln, State of Nevada, together with its successors and assigns.

(g) "County Commission" means the Board of County Commissioners of the County of Lincoln, State of Nevada.

(h) "County Master Plan" means the comprehensive plan adopted by the County Commission and all amendments thereto.

(i) "Coyote Springs Fire District" (also the "Fire District" or collectively the "Districts") means the general improvement district created pursuant to the ordinance adopted by the County for the purpose of providing fire protection and emergency medical services within the Coyote Springs Planned Community on lands lying within Lincoln County, Nevada as authorized under NRS Chapter 318.

(j) "Coyote Springs General Improvement District" (also the "District" or collectively the "Districts") means the general improvement district created pursuant to the ordinance adopted by the County for the public convenience and necessity of providing certain public services within the Coyote Springs Planned Community on lands lying within Lincoln County, Nevada as authorized under NRS Chapter 318.

(k) "CSPUD Code" means Lincoln County Code, Title 15, Coyote Springs Planned Unit Development Code, adopted by Ordinance No. 2004-04, which becomes effective on July 1, 2005, attached hereto as Exhibit C and incorporated herein.

(l) "Designated Builder" means a merchant homebuilder, apartment developer or other owner of real property within the Planned Community that is constructing any development subject to the residential construction tax if designated by Owner to County in writing.

(m) "Development Agreement Ordinance" means Ordinance No. 2004-02 effective July 1, 2004.

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(n) "Drainage Study" means a comprehensive drainage study prepared for a Tentative PUD Plan in a manner reasonably acceptable to the District that addresses specific impacts to the Community from flood events, and the need to construct those flood control facilities identified in the technical drainage study, which are necessary for the flood protection of the Planned Community or for mitigation of any downstream flood impacts caused by the development of the Planned Community.

(o) "Effective Date" means the date on which this Agreement, is approved by the County Commission and signed by both parties.

(p) "Final PUD Plan" means the final development plan for a phase of the Subject Property as required by and in accordance with the CSPUD Code and as more fully described in Chapter 5 of the CSPUD Code.

(q) "Flood Control Facility" means any facility or improvement as proposed in the any Drainage Study required by Owner and as approved by the District that must be constructed by Owner, Owner's successors or another entity associated with the Owner for the purposes of controlling flood events to downstream or areas adjacent to the facility or improvement within the Subject Property.

(r) "Flood Control Facility Impact Zone" means any area within a Tentative PUD Plan that is directly impacted by the construction of Flood Control Facilities required by any Drainage Study required by Owner and approved as a part of any Tentative PUD Plan submittal, and that specifically:

(i) Is located downstream and at a lower final elevation than that of said Flood Control Facility or:

(ii) Is located upstream from a Flood Control Facility but below the final elevation of any Flood Control Facility or finalized 100 Year Flood Plain as provided in a manner consistent with FEMA, and District standards.

(s) "Master Owners' Association" (also the "Association") means an association of owner's units within a "planned community," "condominium," or "cooperative" as such terms are used in NRS Chapter 116.

(t) "NRS" means the Nevada Revised Statutes.

(u) "Owner" means Coyote Springs Investment, LLC, a Nevada limited liability company, and its successors and assigns, if any, as Owners and Lessees of the land constituting the Subject Property.

(v) "PVD Zoning" means the Planned Village District zoning for the Planned Community approved through adoption of Lincoln County Code, Title 15, Coyote Springs Planned Unit Development Code, and all conditions thereto, a copy of which is attached hereto as Exhibit C.

(w) "Planned Community" means the Subject Property and the proposed development of the Subject Property described in the Agreement.

(x) "Qualified Parks, Recreational Facilities and Open Space" means programmable park space and facilities and non-programmed amenities, such as trail systems, trailheads, wash corridors or other

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natural or environmental areas of significance that are open and available for general public use on a non-discriminatory basis and can be programmed by either the Owner, the Districts, or the Association.

(y) "Residential Building Permit" means an official authorization by the County Building Official to commence construction of a residential dwelling, which may include single-family detached and attached dwellings, condominiums, townhouses, apartments, or other residential dwellings that may house families on a permanent basis. This term excludes timeshares, fractional, hotel rooms, or other permanent or temporary dwellings that expressly restrict full-time living arrangements as part of the property's restrictive covenants.

(z) "Streetscape Area" means the street medians and landscaping areas adjacent to the District roads within the Planned Community.

(aa) "Street Improvements" means public or private facilities that may include but are not limited to fire hydrants; sidewalks; curbs; gutters; pavement; gravel; aggregate base; streetlights; street name signs; traffic signals and signs; pavement markings; any other applicable traffic control devices; survey monuments; and flood control and drainage facilities which are permitted within public rights-of-way as required by District.

(bb) "Subject Property" means that certain real property located in the County and more particularly described on Exhibit "A" attached hereto.

(cc) "Tentative PUD Plan" means the tentative development plan for a phase of the Subject Property as required by and in accordance with the CSPUD Code and as more fully described in Chapter 5 of the CSPUD Code.

(dd) "Term" means the term of this Agreement together with any extension agreed upon pursuant to Section 12.03 hereof.

(ee) "Traffic Study" means a comprehensive transportation study prepared for a Tentative PUD Plan in a manner reasonably acceptable to the District that addresses specific impacts to the Major Street Segments and Major Intersections, the local street network and intersections related to that individual Village development, non-vehicular Village transportation improvements such as pedestrian and bike routes and bus stops, impacts outside of the Village and the need to construct access roads, or to increase the capacity of existing access roads to the Village, or to any of its individual developments. The study shall be consistent with the Master Traffic Study and with ITE principles and technologies.

SECTION 2

RECITAL OF PREMISES, PURPOSE AND INTENT

2.01 Recitals. This Agreement is predicated upon the following facts and findings:

(a) Statutory Authorization. County is authorized, pursuant to NRS Chapters 278.0201 through 278.0207 and 278.02591 through 278.02598, inclusive, to enter into binding Development Agreements with persons having a legal or equitable interest in real property, including, without limitation, real property that

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will be developed as a planned unit development under the provisions of NRS Chapter 278A, to establish long range plans for the development of such property.

(b) Ownership Interest. Owner represents that it has fee title ownership to that portion of the Subject Property described as Fee Lands in Exhibit "A", and is the Lessee, under a long-term lease, of that portion of the Subject Property described as Lease Lands in Exhibit "A". Owner will submit for County records a legal description that describes any changes to configuration of fee title ownership within the Subject Property within ninety (90) days of the authorization by the appropriate Federal Agency.

(c) County Authorization, Hearing and Ordinance. All preliminary processing with regard to the Planned Community has been duly completed in conformance with all applicable laws, rules and regulations including, without limitation, adoption of the CSPUD Code. The County Commission, having given notice as required by law, held a public hearing on Owner's application seeking approval of the form of this Agreement and the execution hereof by County. At the described meeting, the County Commission found that this Agreement is consistent with County's plans, policies and regulations, that the Agreement meets the requirements of the Code, and that execution hereof by and on behalf of the County is in the public interest and is lawful in all respects. On December 20, 2004, the County Commission adopted Ordinance No. 2004-03 approving this Agreement and authorizing the execution hereof by duly constituted officers of the County, subject to the addition of (i) a provision providing for a review period starting 180 days after December 20, 1994, and (ii) a provision providing interim funding to Lincoln County, which provision have now been added to this Agreement. Said Ordinance took effect on January 5, 2005. County agrees to record a certified copy of the ordinance as required by NRS Chapter 278.0207.

(d) County Intent. County has determined that the long term development of the Subject Property is appropriate to address in a development agreement and County desires to enter into this Agreement in conformity with the requirements of NRS and as otherwise permitted by law and this Agreement to provide for public services, public uses, and urban infrastructure to promote the health, safety and general welfare of County and its inhabitants, to minimize uncertainty in planning for and securing orderly development of the Planned Community and surrounding areas, to insure attainment of the maximum efficient utilization of resources within the County at the least economic cost to its citizens and otherwise achieve goals and purposes for which the State statute and County ordinance authorizing Development Agreements were enacted.

(e) Owner Intent. In accordance with the legislative intent evidenced by the Nevada State Statute authorizing Development Agreements and the intent of County in adopting an ordinance allowing Development Agreements, Owner wishes to obtain reasonable assurances that Owner may develop the Planned Community in accordance with the Applicable Rules subject to the conditions established in this Agreement. Owner acknowledges that there are insufficient public services, which include facilities and infrastructure, existing or planned at this time and in order to develop the Subject Property, Owner is willing to enter into this Development Agreement in order to pay Owner's share of the costs to provide certain public services, facilities and infrastructure in the area of this Planned Community. Owner further acknowledges that this Agreement was made a part of the County Record at the time of its approval by the County Commission and that the Owner agrees without protest to the requirements, limitations, or conditions imposed by this Agreement and the Concurrent Approvals.

(f) Acknowledgment of Uncertainties. The parties acknowledge that circumstances beyond the control of either party could defeat their mutual intent that the Planned Community be developed in the

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manner contemplated by this Agreement. Among such circumstances are the unavailability of water or other limited natural resources, federal regulation of air and water quality, and similar conditions. It is not the intent of the parties nor shall this Section be construed as excusing County of any obligation hereunder or depriving Owner of any right under this Agreement, which can be performed.

(g) Provision of Water and Sewer Service. Owner clearly understands and agrees that, among other requirements, water commitment and sanitary sewer system development approval must be obtained from the proper governmental entities. This Agreement or County does not guarantee the provision of water and sewer services.

2.02 Incorporation of Recitals. The foregoing recitals shall be deemed true and correct in all respects with regard to this Agreement and shall serve as the basis for the interpretation of this Agreement.

2.03 Permitted Uses, Density, Height, and Size of Structures. Pursuant to NRS Chapter 278.0201, this Agreement must set forth the maximum height and size of structures to be constructed on the Subject Property, the density of uses and the permitted uses of the land. County agrees the Planned Community may be developed pursuant to NRS 278A to the density and with the land uses set forth in the CSPUD Code and this Agreement.

SECTION 3

DEVELOPMENT OF THE PLANNED COMMUNITY

3.01 Time for Construction and Completion of the Planned Community. Subject to the terms of this Agreement and the Applicable Rules, Owner shall have complete discretion as to the time of commencement, construction, phasing, and completion of any and all development of the Planned Community. Nothing herein shall be construed to require the Owner to develop the Planned Community or any part thereof.

Notwithstanding any provision to the contrary contained in this Section 3.01, Owner will develop a receiving and storage area within the Subject Property for receiving materials for the project at the earliest practicable time after approval of the CSMSHCP (as defined in Section 3.15 below) and issuance of the Section 10(a)(1)(B) permit by USFWS (as defined in Section 3.15 below).

3.02 Planned Unit Development. The development of the Subject Property will occur in a series of Planned Unit Developments in accordance with the CSPUD Code.

3.03 Amendments to Development Agreement. County agrees that Owner may submit amendments to this Agreement during the course of development of the Planned Community and during the Term of this Agreement subject to the discretion of the Board of County Commissioners. Proposed amendments will be consistent with the terms of this Agreement and the Applicable Rules and will be processed and considered in accordance with the provisions for an amendment to a Development Agreement as prescribed in Ordinance No. 2004-02.

3.04 Reliance on the CSPUD Code. County hereby agrees the Subject Property may be used and developed during the Term hereof for the purposes and in the manner set forth in the CSPUD Code incorporated herein by reference, subject to the terms and conditions of this Agreement. The CSPUD Code sets forth broad categories of uses and generally defines densities allowed in the Planned Community.

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County shall approve land use zoning and densities through the tentative and Final PUD Plan approval process established by the CSPUD Code.

3.05 Reliance on Concurrent Approvals and Applicable Rules. County hereby agrees and assures Owner that Owner will be permitted to carry out and complete the entire Planned Community in accordance with the land use zones, uses and densities set forth in the CSPUD code, subject to the terms and conditions of this Agreement and the approval of tentative and Final PUD Plan submittals. Without limiting the foregoing, and subject to the conditions and requirements of the Applicable Rules and the Concurrent Approvals, County agrees:

(a) Pursuant to the CSPUD Code and this Agreement:

(i) The maximum quantity of residential dwelling units (including single-family and multiple-family dwelling units) that may be developed and constructed within the Planned Community shall be equal to 5.0 residential dwelling units per gross acre (or such lesser number as Owner may elect) multiplied by the total gross acreage of all Owner's fee acres within the Subject Property from time to time during the term of this Agreement:

(ii) Four thousand-five hundred (4,500) net acres (or such lesser number as Owner may elect) of the Planned Community may be developed and constructed with non-residential and/or commercial private uses:

(iii) The Planned Community may, subject to the water conservation conditions set forth in Section 5.04, contain golf courses having up to one-hundred and sixty-two (162) holes of golf and related facilities and up to an additional nine (9) holes of golf and related facilities for each group of two thousand (2,000) residential dwelling units developed or constructed if either:

(1) Treated effluent is primarily (the majority of the time) used to irrigate any of the additional holes or;

(2) Owner shows that water appropriation permits in addition to those described in this Agreement have been issued to Owner by the State Engineer and can adequately meet the irrigation needs of the golf course;

(iv) The Planned Community may be developed with the other land uses and facilities described in the CSPUD Code.

(v) Pursuant to the CSPUD Code and the terms of this Agreement, and upon approval of each Tentative PUD Plan submittal, Owner shall be entitled to develop the respective PUD in accordance with the approved Final PUD Plan submittals for all or a portion of the approved Tentative PUD Plan, the CSPUD Code and this Agreement.

(vi) Owner may develop or permit development of aggregate processing operations, and concrete and asphaltic concrete plants and sell the products of such operations within and outside the Planned Community;

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3.06 Modification of Applicable Rules. Subject to the provisions of Section 11.01 below, County and Owner acknowledge and agree the CSPUD Code, and the Concurrent Approvals are peculiar to the Planned Community and may not be amended, modified or changed without the express written consent of Owner, except as otherwise expressly provided in this Agreement. The sections of the CSPUD Code set forth in Exhibit "B" adopted December 20, 2004 (excepting therefrom any fees or monetary payments prescribed in Chapter 6 of the CSPUD Code as set forth in Exhibit "B" that apply uniformly to all development and construction subject to County's jurisdiction within the Subject Property), shall apply to the development of the Planned Community. Said sections of the CSPUD Code may be amended or modified by County in the future or new ordinances, rules or regulations may be added, but without impact on Owner or development of the Planned Community except in those limited circumstances as provided below:

(a) County agrees that any changes to the CSPUD Code or other applicable County Codes applicable to the Subject Property which are more restrictive than the those adopted in the CSPUD Code or other County Codes upon the Effective Date of this Agreement will not apply to the Planned Community, unless accepted through the express written consent of Owner.

(b) Notwithstanding the foregoing, should County adopt amended or new codes, ordinances, rules, regulations or policies, Owner shall have the option, in its sole discretion, subject to the limitations included in the CSPUD Code, of accepting such new or amended matters by giving County written notice of such acceptance.

3.07 Inclusion of Additional Lands. County specifically acknowledges that Owner may become the fee title owner or hold interest in lands other than those described in Exhibit A to this Agreement. County will consider supplemental Development Agreements in accordance with the provisions of this Agreement, if necessary. Supplemental Development Agreements will only be valid if approved and executed by both parties and processed and considered in accordance with NRS. The parties hereto agree to create a Supplemental Development Agreement addressing the additional lands provided:

(a) Owner obtains the necessary County approvals;

(b) The Supplemental Development Agreement conforms as nearly as practical to the terms and provisions of this Agreement including but not limited to requiring Owner to provide additional park facilities and dedicate additional school sites, if necessary, based on the formulas established in this Agreement.

3.08 Coyote Springs Design Standards. Owner will adopt, among other standards, architectural, landscape and lighting standards that will be incorporated into the "Coyote Springs Design Standards." The Coyote Springs Design Standards will be adopted by the Master Owners' Association and administered by a Design Review Committee (DRC). Upon adoption of the Coyote Springs Design Standards by the Master Owners' Association, Owner and the DRC will submit the Coyote Springs Design Standards to the Administrator. The County agrees to adopt the Coyote Springs Design Standard as the governing standards for the Planned Community promptly after the Administrator's receipt of the Coyote Springs Design Standards. Further, Owner and County acknowledge that the Coyote Springs Design Standards will impose restrictions on the use, parking and/or storage of Recreational Vehicles, Trucks, Trailers, and Boats within the Planned Community.

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3.09 County Processing of Tentative and Final PUD Plan Submittals. In order to facilitate the review and consideration process, the Administrator, as defined in the CSPUD Code, will process all tentative and Final PUD Plan submittals; technical plans and studies; off-site permits, and perform the zoning plan check process of building permits in a prompt, efficient and diligent manner. The Administrator will be funded through fees that Owner and Builders of the Planned Community are required to pay, as said fees may be reasonably amended, from time to time, by action of the County Commission, in accordance with Chapter 6 of the CSPUD Code. This review will be available for all developments within the Planned Community.

3.10 Processing of Submittals and Applications. County hereby agrees that it will accept from Owner and promptly review, process, and approve all submittals of tentative and Final PUD Plans, applications for permits and other authorizations for development of the Planned Community provided such applications are in accordance with the Applicable Codes and Rules. County will use its best efforts to assist in the coordination and timely processing of submittals, permits and applications for development of the Planned Community.

3.11 Digital Map Data. Owner will prepare and submit to County, a CAD disk, in the format prescribed by the County Assessor's Office, for all final subdivision maps of land within the Subject Property prior to the time the final map is released by County for recordation. Owner shall, by contract, require that any purchaser of the land who intends to further subdivide also provide such CAD disk for any final subdivision map prior to the time the final map is released by County for recordation.

3.12 Special Improvement Districts. One of the Applicable Rules relates to the creation of Special Improvement Districts pursuant to the Special Improvement District (SID) Guidelines. County agrees upon Owner's request to use its best efforts to assist Owner in the creation of one or more Special Improvement Districts in accordance with state law to finance those infrastructure improvements for the Planned Community as allowed by law:

3.13 General Improvement Districts. County hereby acknowledges that Owner may seek to create one or more General Improvement Districts (collectively "GIDs") under NRS Chapter 318 to provide certain improvements and long-term maintenance and operations. NRS Chapter 318 authorizes General Improvement Districts to acquire, construct, reconstruct, improve, extend and better lands, works, systems and facilities for electric light and power; streets and alleys; curbs, gutters and sidewalks; storm drainage and flood control; sewer; water; fire; emergency medical services; pest and weed abatement; endangered species protection; recreation such as swimming pools, golf courses, tennis courts, athletic fields, playgrounds, public parks, biological gardens and other recreational facilities; and other facilities and improvements which may be authorized under NRS Chapter 318. The GID's would further be authorized to establish a system of rates, fees and charges for the use or availability of use of such facilities and pledge such revenues for the payment of any indebtedness or special obligations resulting from such activities. As authorized under NRS 308.040(2) and NRS 318.050(3), County agrees, upon Owner's request, to use its best efforts to assist Owner in the formation of GID's covering Owner's entire land holdings in both Clark and Lincoln County, Nevada, or GID's that would be initially created to serve Owner's land holdings in either Clark or Lincoln County, Nevada. County acknowledges that the Lincoln County Board of Commissioners will have the jurisdiction, power and authority to create and supervise such GID's created to serve Owner's entire land holdings in both Clark and Lincoln County, Nevada or GID's created to serve only Owner's land holdings in Lincoln County.

3.14 Affordable Housing. County and Owner desire to encourage a wide range of housing opportunities within the Planned Community. Provision for a full range of housing opportunities is possible with careful

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planning. Incentive programs such as density bonuses, reduced impact fees and other measures should be used to provide a variety of affordable housing opportunities, including attached and detached, single family and multi-family, for-sale and for-rent units. Affordable housing should be designed appropriately and situated within the Planned Community in such a way as to provide a complete, diverse and balanced community and to avoid a concentration of affordable housing in any one area.

3.15 Coyote Springs Multi-Species Habitat Conservation Plan (CSMSHCP). County acknowledges that Owner, in coordination with the Bureau of Land Management (BLM) and the United States Fish and Wildlife Service (USFWS) pursuant to the Memorandum of Agreement (MOA) dated April 2001, is in the process of developing a Multi-Species Habitat Conservation Plan and Environmental Impact Statement for Coyote Springs that includes all of the Owner's landholdings within Lincoln County. As agreed upon by the three parties, the purpose of the MSHCP is the subsequent issuance of a Section 10(a)(1)(B) permit for the Planned Community under the Endangered Species Act. The existence of an MSHCP, under Section 10(a) of the Endangered Species Act, allows for the issuance by the USFWS of permits (known as Section 10(a) permits). This permit will allow the "incidental take" of threatened or endangered species on non-federal properties within the Subject Property. Owner acknowledges that CSMSHCP shall specifically cover all of Owner's landholdings in the County and County acknowledges that any requirements set forth by Federal Agencies as described in the CSMSHCP shall supersede coverage under any existing County MSHCP once Section 10(a) permits are issued. Upon issuance of the Section 10(a) permits, any necessary Owner compliance with requirements of the CSMSHCP will supersede County Code requirement for fee payment under and compliance with the requirements of any County MSHCP. County and Owner agree that at no time will any cost for any activity required by the CSMSHCP become an obligation of the County.

3.16 Dust Mitigation. Owner agrees to use its reasonable efforts to educate builders and contractors within the Planned Community of the applicable rules of the Nevada Division of Environmental Protection Bureau of Air Quality (BAQ) with respect to dust mitigation and to encourage compliance therewith.

3.17 Temporary Stormwater Construction Permit. Owner agrees to use its reasonable efforts to educate builders and contractors within the Planned Community on the requirements for a Temporary Stormwater Construction Permit issued by the Nevada Division of Environmental Protection (NDEP).

SECTION 4

PUBLIC FACILITIES

4.01 Fire and Emergency Medical Service. County and Owner agree that the Coyote Springs Fire District (Fire District) will provide Fire and Emergency Medical Services within the Subject Property. Owner agrees to enter into an agreement with the Fire District that will establish a plan for fire and emergency medical service provision that will meet the needs of the Subject Property. County and Owner agree that the Fire District Plan for fire and emergency medical service will not require resources greater than those that would be required for a similar area of development in Clark County, Nevada by the Clark County Fire Department. Owner acknowledges that this plan may require the owner to participate in funding necessary facilities, apparatus, and equipment. County will not approve any Tentative PUD Plan submittals, unless Owner and Fire District have executed and maintain such an agreement.

4.02 Sheriff Service.

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(a) Private Security Program. Owner agrees to implement a private security program within thirty (30) days of the issuance of the first building permit by the County. This program will, at a minimum, provide one (1) security guard patrol within the Coyote Springs community area twenty four (24) hours per day, seven (7) days per week. The Coyote Springs community area includes Owner's lands in both Lincoln and Clark Counties. Owner agrees to cooperate with the Sheriff in coordinating the private security program, including but not limited to patrol methods and communications procedures.

(b) Initial Provision of Service. Owner and County agree that initial Sheriff's patrol service for the Coyote Springs community will be provided through expansion of the existing Alamo area Sheriff's patrol program. Upon occupancy of the first residential dwelling unit within the Lincoln County portion of the Coyote Springs community:

(i) County agrees to hire two (2) additional deputies for assignment to the Alamo area Sheriff's patrol program. This will bring the total number of Alamo patrol deputies to five (5) deputies. County agrees to schedule the work hours of the Alamo patrol deputies in a manner that will provide a deputy on duty twenty four (24) hours per day, seven (7) days per week, within the Alamo patrol area. County agrees to have an Alamo assigned deputy patrol the Coyote Springs development at least three (3) times during each twenty four (24) hour period, unless emergency incidents occurring in other portions of the patrol area prevent such patrol.

(ii) County and owner agree that patrol activities within the Coyote Springs development may create the need for Sheriff to employ patrol deputies on an overtime basis to provide Alamo area patrol while regularly assigned deputies attend required training classes, transport prisoners, attend court sessions, or other emergency or unanticipated assignments.

(iii) Upon the month of occupancy of the first residential dwelling unit, Owner is obligated to subsidize the Sheriff's budget in the amount of two hundred and fifty thousand dollars (\$250,000.00) prorated on an annual basis until such time as the annual tax revenue generated within the Subject Property from all County tax sources allocated to the Sheriff's budget reaches five hundred thousand (\$500,000.00) (the "Subsidy Termination Date"). Annual tax revenue generated within the Subject Property shall be measured by totaling all County tax sources allocable to the Sheriff's budget and generated within the Subject Property minus the base tax sources generated within the Subject Property at the Effective Date of this Agreement. County shall provide a budget and a breakdown of the allocations from the Subject Property on an annual basis prior to the Owner's obligation to make first payment during that fiscal year. Funds will be prorated and paid as follows:

i. Upon the month of occupancy of the first residential dwelling unit and thereafter until the following June 30th within the same fiscal year, Owner agrees to provide twenty thousand eight hundred and thirty three dollars (\$20,833.00) per month to subsidize the Sheriff's budget until the Subsidy Termination Date occurs, if it occurs within the first fiscal year.

ii. Beginning on the July 1st following occupancy of the first residential dwelling unit and every July 1st thereafter, Owner shall subsidize the Sheriff's budget in the amount of two hundred and fifty thousand dollars (\$250,000.00) annually, to be prorated and paid quarterly during the first week of each quarter.

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(iv) County acknowledges and agrees that Owner's obligation to subsidize the Sheriff's budget as provided herein shall terminate on the date on which the amount of annual funds received exceed five hundred thousand dollars (\$500,000) as described in 4.02b(iii) (the "Subsidy Termination Date"). From and after the Subsidy Termination Date, Owner shall have no further obligation under this Agreement to subsidize the Sheriff's budget, and all such budget subsidies will fully terminate.

(c) Radio Communications Improvement. Owner realizes that reliable radio communications for sheriff's personnel that may serve the Coyote Springs community is necessary and important for both public and patrol deputy safety. Owner agrees to fund, upon issuance of the first residential building permit by Lincoln County, and in an amount not to exceed twenty two thousand four hundred dollars (\$22,400.00) the installation of vehicle radio "extenders" in all sheriff's department patrol vehicles.

4.03 Satellite Government Facility Site.

(a) Owner shall provide a temporary satellite government facility site of at least two and one half (2.5) acres for use by County, at no cost to the County, prior to issuance of the one thousandth (1000th) residential building permit. Owner shall provide all improved roads and utilities infrastructure necessary to serve the temporary site. The parties contemplate that County may utilize the temporary satellite government facility site for temporary facilities that may include:

- (i) A sheriff's substation and related facilities.
- (ii) Administrative offices for County and other governmental agencies and.
- (iii) A Justice Court facility.

County agrees to remove all temporary facilities placed upon the temporary satellite government facility site and return the site to Owner for use by owner prior to the issuance of the fifty thousandth (50,000th) residential building permit, unless Owner agrees to permanently transfer the site to County. Owner may transfer the temporary site to meet the portion of Owner's obligation to dedicate land for the permanent government facility site described in 4.03(b). County agrees that the site so transferred would be subject to a restriction in the instrument of conveyance prohibiting the land from being used for any private commercial or residential use, unless approved by Owner, and further providing that the land will be used solely for governmental office and administrative purposes (which may include a snack bar or vending machines to serve the needs of employees and customers) specifically excluding any storage yards, or other similarly noisy or unsightly uses.

(b) Owner shall dedicate and transfer to County ownership a permanent satellite government facility site of at least seven and one half (7.5) acres, at no cost to County, prior to issuance of the forty thousandth (40,000th) residential building permit. Owner shall provide all improved roads and utilities infrastructure necessary to serve the site. The parties contemplate that County may utilize the satellite government facility site for facilities which may include:

- (i) A sheriff's substation and related facilities,
- (ii) Administrative offices for County and other governmental agencies and,

- (iii) A Justice Court and potentially District Court facilities.

County agrees that the site so transferred to County ownership would be subject to a restriction in the instrument of conveyance prohibiting the site from being used for any private commercial or residential use and further providing that the site will be used solely for governmental office and administrative purposes, specifically excluding any storage yards, or other similarly noisy or unsightly uses.

4.04 Ownership and Control. Public facilities may be constructed and operated by Owner, an Association, or through special assessments or special districts and other political subdivisions of the state subsequently created under state law. Owner may, from time to time, upon request, consider funding and construction of public facilities through the following entities in accordance with NRS.

(a) Construction and/or Operations Funded by an Association. Owner may, from time to time, fund construction and operations of public facilities as required under this, Section 4 through special assessments to any Homeowner's Association formed under the provisions of NRS Chapter 116.

(b) Construction and/or Operations Funded by General Improvement Districts. County hereby acknowledges that one or more general improvement districts ("GIDs") may be formed under the provisions of NRS Chapter 318. Owner may, from time to time, fund construction and operations of public facilities as required under this, Section 4 through special assessments to any GID formed under the provisions of NRS Chapter 318.

4.05 Covote Springs Master Parks Plan. The location and timing of the development of Qualified Parks, Recreational Facilities, Open Space, and other public facilities will be addressed in tentative PUD submittals. Owner will submit to a GID having authority to provide recreational facilities a Master Parks Plan for the Subject Property as soon as practical, but not later than the time of submittal of the first Tentative PUD Plan for any portion of the Subject Property. Such plan shall include the preliminary location and timing or phasing of development of Qualified Parks, Recreational Facilities, and Open Space in addition to other requirements as may be described within this Agreement. In addition, a PUD Park Plan indicating type, nature of said public facilities, location and size will be submitted with each Tentative PUD Plan.

4.06 Construction Tax/Impact Fee. In the event that County adopts an ordinance for a construction tax or impact fee to provide for fire and/or sheriff facilities, which applies to new construction within the Planned Community, Owner shall, if allowed and provided for by ordinance, law or code, receive credit for the fire and/or sheriff facilities contributions, and the land they occupy in a manner similar to the credit received by Owner for the park residential construction tax for up to a period of ten years after the effective date of the ordinance. County shall use its best efforts to include a provision for such credit in any such ordinance.

4.07 Trash Transfer Site. County shall not construct, permit, maintain, or allow in any manner whatsoever the construction of a trash transfer site or similar facilities on the Subject Property or within a ten (10) mile radius of the Subject Property without Owner's prior written consent.

4.08 Design and Construction of Public Facilities. County acknowledges that the Master Owners' Association will create and establish uniform design guidelines for all construction and development within the Planned Community by use of recorded restrictive covenants or pursuant to contractual obligations binding on purchasers of property within the Planned Community. These design guidelines will become a

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part of any approved tentative or Final PUD Plan. County agrees to utilize the Master owners' Association design guidelines, adopted within a Tentative PUD Plan, in the construction of any County facility within the PUD plan area.

4.09 Compliance. Subject to Section 1.01 and any taxes hereafter enacted by County and not discriminatorily applied (County and Owner acknowledge that taxes enacted by the County on behalf of the GID or the Fire District will not be considered a discriminatory tax hereunder), Owner's compliance with the provisions of this Section 4 shall satisfy any and all impositions and requirements now and hereafter to be imposed by County upon Owners for the provision of public facilities within or pertaining to the lands encompassed by the Planned Community.

SECTION 5

WATER CONSERVATION, REUSE AND SANITATION

5.01 Water Conservation. Owner agrees to use its best efforts to encourage water conservation in the Planned Community. Landscaping within Streetscape Areas shall use drip type or other potable water conserving irrigation systems. Owner shall impose design criteria on all development within the Planned Community (by use of recorded restrictive covenants or pursuant to contractual obligations binding on purchasers of property) that will encourage water conservation in landscaping treatments by incorporating water conservation concepts and proven water conservation equipment, techniques and plant materials.

5.02 Owner's Existing Water Rights. Owner acknowledges that, on the Effective Date of this Agreement, Owner or an entity associated with Owner holds water right permits of approximately seven thousand one hundred (7,100) acre feet annually (AFA) and may be granted additional water right permits from the State Engineer through pending applications. In accordance with the CSPUD Code, County acknowledges that water for golf course irrigation may be provided:

(a) From Owner's own wells or appurtenant or transferred water rights which can be legally used to irrigate the property on which the golf course is developed or;

(b) By treated effluent generated from within the Planned Community, without being subject to any turf area restrictions that may be set forth in the Code from time to time.

5.03 Alternative Water Sources for Irrigation. Owner agrees, to the maximum extent practical, to design any golf course, park space and Streetscape Area in such a way as to minimize the use of potable water for irrigation purposes, especially during the summer months, subject to Owner's existing or pending water rights as outlined in the CSPUD Code. County acknowledges that it is necessary to periodically flush the build up of salts in the soil of the golf course with the use of potable water and that all greens, tees and grow-ins require potable water use. To the maximum extent practical, Owner agrees to use treated effluent for such irrigation purposes, but other sources of water, including, but not limited to, ground water recharge and shallow nuisance ground water, and potable water will also be considered. Further, County and Owner have entered into or will enter into a Treated Effluent Resuse Agreement which assigns certain rights and obligations to the County and the Owner concerning the construction and operation of the treated effluent reuse system and the right to reuse treated effluent within the Planned Community.

5.04 Golf Courses-Water Conservation. To the maximum extent practical, Owner agrees to use treated effluent to irrigate the golf courses, but other sources of water including but not limited to ground water recharge, surface water runoff, shallow nuisance ground water and potable water will also be considered. County acknowledges that treated effluent may not be available (or available in sufficient quantities) to serve golf courses within the Planned Community at the time construction of such golf courses commences. If it is determined that treated effluent should be used to irrigate a proposed golf course or courses and treated effluent is not available in sufficient quantities to irrigate same, County shall not take any action to prohibit the construction of such golf course or courses and the use of potable water on an interim basis; provided Owner shall

(a) Design and construct the golf course or courses to use treated effluent, and

(b) Convert any such golf course to the use of treated effluent as soon as reasonably possible following the availability of treated effluent on the terms set forth in Section 5.06.

5.05 Future Approvals of Golf Courses Outside the Planned Community. County acknowledges that Owner will incur substantial costs in complying with the terms of Section 5.04 above and that Owner has agreed to such conditions partially in reliance on County's representation that it does not intend to permit others to construct golf courses that rely solely or primarily on the use of potable water for irrigation purposes. County agrees; therefore, that it will not permit the development of a golf course within the unincorporated areas of Lincoln County except on terms substantially the same as those set forth in Section 5.04. In the event County does permit such other development, Owner shall have the right, in addition to any other remedy Owner may have hereunder, to design and construct future golf courses in the Planned Community with irrigation methods consistent with such other development.

5.06 Use of Treated Effluent and Conversion to Such Use. Owner agrees to design and construct any golf course, park space, and Streetscape Area to use treated effluent for all irrigation uses in accordance with this Section 5.06, if determined appropriate at the time of Tentative PUD Plan approval. In the event the approved tentative PUD plan provides for future use of treated effluent and treated effluent is not available at the time of construction, Owner agrees to design and construct such golf course, park space, and Streetscape Area in a manner that it may be converted (at Owner's expense) to use treated effluent in the future as soon as reasonably possible following the availability of treated effluent. The availability of sufficient treated effluent and the timing of conversion to such use will be reviewed at least annually by the GID providing water service and Owner. Treated effluent may become available from any of the sources described in this Section 5.

5.07 Ownership and Control: All sewage treatment facilities within the Planned Community will be constructed by Owner, or through special assessments or special districts and other political subdivisions of the state subsequently created under state law subject to this Section. Owner or any entity subject to this, Section 5, agrees to construct and maintain all sewage treatment facilities at no cost to County. Owner retains the rights to treated effluent in accordance with NRS. Owner may, from time to time, upon request, consider conveying any sewage treatment facilities to the following entities in accordance with NRS:

(a) Dedication to Water Reclamation District. Owner may dedicate, at no cost to County, any sewage treatment facility described in this, Section 5 provided:

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(i) Any sewage treatment facility must be completely constructed and acceptable to Water Reclamation District;

(ii) The land and improvements must be dedicated free of all liens, encumbrances, conditions, covenants and restrictions and in a manner acceptable to Water Reclamation District;

(iii) Prior to the dedication to a Water Reclamation District, Owner and Water Reclamation District will sign a Maintenance Agreement that covers the maintenance of said facilities.

(b) Transfer to or Construction by a General Improvement District. County hereby acknowledges that Owner may, from time to time, convey sewage treatment facilities to a General Improvement District ("GID") formed under the provisions of NRS Chapter 318 provided the conveyance is subject to the terms and conditions of NRS Chapter 318 and the GID Board acknowledges in writing that it accepts Owner's maintenance obligations for such sewage treatment facilities.

(c) Transfer to Any Entity Approved by the State of Nevada. Owner may convey sewage treatment facilities to any entity approved by the State of Nevada to provide, operate, and maintain sewage treatment facilities in accordance with NRS provided that the entity accepts Owner's maintenance obligations for such sewage treatment facility.

5.08 Package Treatment Plant. If determined to be appropriate at the time of Tentative PUD Plan approval, Owner may choose to purchase and install a package treatment plant for use in connection with any golf course in the Planned Community and convert the irrigation of such golf course to treated effluent promptly following notification from the District or any entity approved by the State of Nevada to provide, operate, and maintain sewer facilities in accordance with NRS, and that it will supply the necessary sewage effluent to Owner in an amount sufficient to assure proper irrigation of such golf course, or the maximum amount reasonably available for such purpose, whichever amount is less. Owner will, to the maximum extent practical, irrigate nearby park space and Streetscape Areas with the effluent from the package treatment plant. The package treatment plant, or plants, may be located anywhere within the Subject Property in order to provide the most efficient and economical operation.

5.09 Right of First Refusal on Use of Treated Effluent. Owner shall retain right of first refusal on the use of any treated effluent for the irrigation purposes outlined in this Section 5, for any sewage treatment facilities that are conveyed to any entity other than Owner in accordance with Section 5.07 of this Agreement.

5.10 Unavoidable Delay or Default, Extension of Time for Performance. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war; acts of terrorism; insurrection; strikes; walkouts; riots; floods; earthquakes; fires; casualties; acts of God; restrictions imposed or mandated by governmental entities; failure of governmental agencies (other than County) to perform acts or deeds necessary for the performance of this Agreement; enactment of conflicting state or federal laws or regulations; new or supplementary environmental regulations, and litigation or similar matters beyond the control of the parties. If written notice of any such delay is given to County within thirty (30) days after the commencement thereof, an automatic extension of time, unless otherwise objected to by County within ten (10) days of such written notice, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances or as may be subsequently agreed to between County and Owner.

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SECTION 6

PARKS, OPEN SPACES, AND SCHOOLS

6.01 Master Plan for Parks. If the County adopts a Residential Construction Tax for park construction in accordance with NRS, Owner will, within 180 days of adoption of a residential construction tax ordinance, submit to a GID having authority to provide recreational facilities a Master Parks Plan for the Subject Property. Such plan shall include the proposed location of the development of Qualified Parks, Recreational Facilities, and Open Space in accordance with Section 6.04 of this Agreement. In addition, if the County adopts a Residential Construction Tax for park construction, a PUD Park Plan indicating park type, nature of recreational facilities, location and size will be submitted with each tentative PUD plan.

6.02 Park Standards. Owner agrees at its sole cost and expense to develop and construct park sites subject to Section 6.08 through Section 6.11 of this Agreement and based on the following thresholds:

(a) Owner shall develop and complete a total of ten (10.0) acres of Qualified Parks, Recreational Facilities, and Open Space prior to the issuance of the permit for the thousandth (1,000th) residential unit, subject to Section 6.03.

(b) Owner shall develop and complete a total of fifty (50.0) acres of Qualified Parks, Recreational Facilities, and Open Space prior to the issuance of the permit for the five-thousandth (5,000th) residential unit, subject to Section 6.03.

(c) Owner shall develop and complete a total of one hundred (100.0) acres of Qualified Parks, Recreational Facilities, and Open Space prior to the issuance of the permit for the ten thousandth (10,000th) residential unit, subject to Section 6.03.

(d) Thereafter, Owner shall develop and complete a total of fifty (50.0) acres of Qualified Parks, Recreational Facilities, and Open Space prior to the issuance of the every permit for the five-thousandth (5,000th) successive residential unit, subject to Section 6.03.

(e) Owner shall develop and complete a public leisure pool and recreation center subject to County design approval, prior to the issuance of the permit for every twenty thousandth (20,000th) successive residential unit, subject to Section 6.03.

6.03 Park Design. Owner shall design and construct Qualified Parks, Recreational Facilities, and Open Spaces in accordance with the standards established in the District Regulations Manual. A detailed plan for any Park proposed to be a Qualified Park, Recreational Facility, or Open Space describing the nature and location of recreational facilities shall be submitted as a part of any Tentative PUD Plan. The District will approve the final design, construction specifications and amenities of each park site. Each Qualified Park, Recreational Facility, or Open Space shall include the amenities specified in the Master Plan for Parks including: turf areas; trees; irrigation; playground apparatus; playfields; play areas; picnic areas, and other recreational facilities and equipment designed to serve the residents.

6.04 Location of Parks. County agrees police and fire stations, schools and other public facilities may be located at joint use sites adjacent to Qualified Parks, Recreational Facilities, and Open Spaces or other public facilities where feasible. Owner shall have the right to construct Qualified Parks, Recreational

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Facilities, and Open Spaces within storm water detention basins, drainage channels, and floodways so long as such facilities meet District approval and subject to Tentative PUD Plan approval. The owner of each respective Qualified Park, Recreational Facility and Open Space shall be responsible for the maintenance, repair, reconstruction and replacement in the event of loss or damage.

6.05 Ownership and Control. Owner may, from time to time, convey any Qualified Park, Recreational Facility, or Open Space to the following entities in accordance with NRS, and such Qualified Park, Recreational Facility, or Open Space shall be counted towards Park requirement as described in Section 6.01 and Section 6.02 if it meets the following requirements:

(a) Transfer to or Construction by a General Improvement District. County hereby acknowledges that Owner may, from time to time, convey any Qualified Park, Recreational Facility or Open Space to a General Improvement District ("GID") formed under the provisions of NRS Chapter 318 (a "GID Park") provided the conveyance is subject to the terms and conditions of this Section 6 and the GID Board acknowledges in writing:

(i) That it is obligated to perform any unfulfilled terms and conditions of this Section 6, and;

(ii) That it accepts Owner's maintenance obligations for such Qualified Park, Recreational Facility, or Open Space.

With respect to any GID Park that may be considered as a Qualified Park, Recreational Facility, or Open Space, the GID, to which Owner conveys title, shall have the right to program and control the use thereof; provided, however, that in all circumstances that the general public shall have reasonable rights of access and use to the Qualified Park, Recreational Facility, or Open Space listed in Section 6.01 and 6.02 and in accordance with NRS Chapter 318

(b) Transfer to Homeowner's Association. Prior to any dedication to District, Owner may from time to time, convey any Qualified Park, Recreational Facility, or Open Space to any Association formed under the provisions of NRS Chapter 116, (an "HOA Park"), provided the conveyance is subject to the terms and conditions of this Section 6, and the Association acknowledges in writing:

(i) That it is obligated to perform any unfulfilled terms and conditions of this Section 6, and;

(ii) That it accepts Owner's maintenance obligations for such Qualified Park, Recreational Facility, or Open Space.

With respect to any HOA Park that may be considered as a Qualified Park, Recreational Facility, or Open Space, the Homeowner's Association, to which Owner conveys title, shall have the right to program and control the use thereof; provided, however, that in all circumstances that the general public shall have reasonable rights of access and use to the Qualified Park, Recreational Facility, or Open Space listed in Section 6.01 and 6.02.

6.06 Failure to Timely Construct or Equip. In addition to Section 9 of this Agreement, if Owner fails to timely construct or equip any of the park sites listed in Section 6.02 of this Agreement in accordance with

the provisions in Section 6.02, then at the time thereafter upon six (6) months written notice from District and unless Owner completes such construction and equipage within said six (6) months, District may cancel any pre-approved credit and construct or equip the uncompleted park using the Owner's credit security or performance bond. Any additional construction costs incurred by the District will be charged against available Residential Construction Tax revenues.

6.07 Termination of Maintenance Obligation. When Owner has dedicated any Qualified Park, Recreational Facility, or Open Space described in Section 6.01 and 6.02 to District in accordance with the provisions in 6.01 through Section 6.06 of this Agreement, Owner and any entity described herein shall be relieved of any further responsibility for maintenance of such Qualified Park, Recreational Facility, or Open Space, except where such Qualified Park, Recreational Facility, or Open Space, is covered by a Maintenance Agreement between District and Owner or any entity described in Section 6.05 of this Agreement.

6.08 Residential Construction Tax Revenues. In accordance with NRS Chapter 278.4983, the County may impose a "Residential Construction Tax" (RCT) upon the privilege of constructing apartment houses and residential dwelling units. If the County enacts an ordinance imposing a RCT upon the subject property, County agrees that, as RCT revenues become available from the created Park Revenue Management District, such funds will be applied for the development and construction of Qualified Parks, Recreational Facility, or Open Space, as described in Section 6.01 through Section 6.05 to the extent that funds are generated from within the Subject Property. County and Owner agree to produce an annual statement of funds generated by the RCT within the Subject Property for the created Park Revenue Management District and a plan for the use of such fees within the Subject Property agreeable to both parties.

6.09 Park Revenue Management District. If the County adopts a Residential Construction Tax for park construction in accordance with NRS, County shall designate the Planned Community as a Park Revenue Management District in accordance with NRS.

6.10 Joint Park Implementing Agreement. If the County enacts an ordinance imposing a RCT upon the subject property, County, District and Owner agree to develop a Joint Park Implementing Agreement that addresses:

(a) The use and allocation of RCT revenues and credits within the Planned Community in accordance with NRS Chapter 278;

(b) The maintenance of constructed Qualified Parks, Recreational Facilities, and Open Space and/or the establishment of a Maintenance Agreement between Owner and District for Qualified Parks, Recreational Facilities, and Open Space, and;

(c) The obligations of Owner and District regarding park implementation and maintenance.

6.11 Residential Construction Tax Credits. If the County enacts an ordinance imposing a RCT upon the subject property, Owner and any Designated Builder shall be entitled to a credit against such tax for any Qualified Park, Recreational Facility, or Open Space in accordance with NRS Chapter 278 as follows:

(a) Credit for Construction and Development of Park Facilities. County agrees and acknowledges that if Owner constructs and develops Qualified Park, Recreational Facility, or Open Space facilities on land to be dedicated in fee simple to Lincoln County or in manner consistent with Section 6.05

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of this Agreement, Owner shall be entitled to a credit against the RCT in an amount equal to the cost actually and reasonably incurred by Owner or the Designated Builder for the design and construction of such Park and for improvements or installation of facilities that would be a permissible use of residential construction tax revenues under NRS Chapter 278.4983. County further agrees and acknowledges that if Owner constructs and develops park facilities on land that will not be conveyed to County in fee simple or conveyed as described in Section 6.05 of this Agreement, Owner shall be entitled to a credit against the RCT in an amount equal to the actual cost of the park facilities developed and constructed as outlined herein only if the park site and all facilities are made available for use by the general public on a non-discriminatory basis and such requirement is expressly stated in an irrevocable easement acceptable to County and recorded against the land on which such facilities are located. The actual cost of the credit shall be determined by the County Administrator. Notwithstanding the above, Lincoln County shall not be required to reimburse or compensate Owner in excess of the total funds available through residential construction taxes collected within the Subject Property if the residential construction tax required from Owner and/or Designated Builder exceeds available funds.

(b) Credit for Value of Land Dedicated to County. With respect to any Qualified Park, Recreational Facility, or Open Space fully funded and constructed by Owner or a Designated Builder, the amount of the credit will include the "fair value" of the land on which such Qualified Park, Recreational Facility, or Open Space is built, as defined below. For purposes of this Agreement, fair value shall mean:

(i) An amount equal to the number of acres of land within the Park conveyed to County or other entity as outlined in Section 6.05 of this Agreement times the average price per acre of land received by Owner for land sold by Owner in such Village, or;

(ii) The appraised value of the land, whichever is less. The appraised value will be based on the highest and best use of the land notwithstanding its proposed use as a park. The cost of such an appraisal shall be paid for by Owner.

The County Commission shall determine, in their reasonable and good faith opinion the amount of construction costs that qualify for residential construction tax credit pursuant to the foregoing provisions after reviewing the design, location and costs of each proposed Qualified Park, Recreational Facility or Open Space.

(c) Transfer of Credits. In addition to the credits referred to above, any credits otherwise due for a Village may be applied at Owner's sole discretion to another Village so long as the residents or future residents of the new construction have the right to use such Park on an equal basis with all other users.

(d) Right to Limit Credit Transfer. Owner shall, from time to time, notify County in writing of the identity and the location of the residential units entitled to such credits. Owner may, in its discretion, limit the maximum amount of credits for which such Designated Builder is entitled pursuant to this Section 6.11. Credits will be applied only to building permits, which have not yet been issued.

6.12 Master Plan for Schools. Owner agrees to cooperate with the Lincoln County School District (the "School District") in developing a Master Plan for Schools in the Planned Community. Such plan shall include the proposed location and suggested timing or phasing of development of potential school sites, which may include elementary, middle, and high school sites. In addition, Owner agrees to utilize the Master plan for Schools for establishing school type, location and size that will be submitted as a part of each

tentative PUD plan. Owner agrees that School District, in order to meet its educational, design and construction requirements, has the right to approve all proposed school sites.

6.13 School Site Reservation and Dedication. Owner and School District will work together to create a system for school site reservations and dedications at appropriate thresholds as outlined in Section 6.14 of this Agreement and in conjunction with a long-term student yield-monitoring program. The reservation and dedication process in conjunction with the long-term monitoring program will provide Owner and School District with the flexibility to reserve locations for school sites initially and then either relocate or dedicate those reserved sites after sufficient monitoring. The reservation of school sites will be:

- (a) Acknowledged through a letter submitted by Owner to School District providing a legal description of the site and;
- (b) Indicated on the respective Tentative PUD Plan.

The dedication of school sites will be acknowledged through a legally binding agreement of transfer acceptable to Owner and School District.

6.14 School Sites. Owner shall provide, at no cost to School District, school sites acceptable to the School District at the following thresholds:

(a) Owner shall reserve a school site totaling fifteen (15.0) acres prior to approval by County of the first Tentative PUD Plan that includes residential units. The site shall remain reserved until such time as the site is dedicated or the site is relocated and/or released in accordance with Section 6.15 of this Agreement.

(b) Based upon a maximum projected student enrollment of approximately three hundred and fifty (350) students per school site, Owner shall reserve an elementary school site totaling ten (10.0) acres prior to the issuance of the building permit for the twelve hundredth (1,200th) residential unit. The site shall remain reserved until such time as the site is dedicated or the site is relocated and/or released in accordance with Section 6.15 of this Agreement.

(c) Thereafter, based upon a maximum projected student enrollment of approximately three hundred and fifty (350) students per school site, Owner shall reserve an elementary school site totaling ten (10.0) acres prior to the issuance of the building permit for each successive sixteen hundredth (1,600th) residential unit. Each site shall remain reserved until such time as the site is dedicated or the site is relocated and/or released in accordance with Section 6.15 of this Agreement.

(d) Based upon a maximum projected student enrollment of approximately five hundred and twenty five (525) students per school site, Owner shall reserve a middle school site totaling fifteen (15.0) acres prior to the issuance of the permit for the two thousandth (2,000th) residential unit. The site shall remain reserved until such time as the site is dedicated or the site is relocated and/or relinquished in accordance with Section 6.15 of this Agreement.

(e) Thereafter, based upon a maximum projected student enrollment of approximately five hundred and twenty five (525) students per school site, Owner shall reserve a middle school site totaling fifteen (15.0) acres prior to the issuance of the permit for each successive fifty three hundredth (5,300th)

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residential unit. Each site shall remain reserved until such time as the site is dedicated or the site is relocated and/or relinquished in accordance with Section 6.15 of this Agreement.

(f) Based upon a maximum projected student enrollment of approximately one thousand four hundred (1,400) students per school site, Owner shall reserve a high school site totaling thirty (30.0) acres prior to the issuance of the permit for the two-thousandth (2,000th) residential unit. The site shall remain reserved until such time as the site is dedicated or the site is relocated and/or released in accordance with Section 6.15 of this Agreement.

(g) Thereafter, based upon maximum projected student enrollment of approximately one thousand four hundred (1,400) students per school site, Owner shall reserve a high school site totaling thirty (30.0) acres prior to the issuance of the permit for each successive twelve thousand five hundredth (12,500th) residential unit. Each site shall remain reserved until such time as the site is dedicated or the site is relocated and/or released in accordance with Section 6.15 of this Agreement.

(h) School District and Owner realize that actual student enrollments per school site may be adjusted relative to the projected approximate enrollments shown above. In this event, School District and Owner will agree to negotiate in good faith to revise the requirements for school site dedications, including but not limited to revising thresholds for new school site reservations and revising school site acreage allocations, should projected enrollments or demographics for certain schools change.

6.15 School Site Relocation and/or Release. School sites will be reserved and dedicated as outlined in Section 6.14 of this Agreement until such time as said sites are either dedicated, relocated or released subject to a student yield monitoring program acceptable to Owner and School District and based on the following:

(a) Owner and School District will use their best efforts to develop a student yield monitoring program that:

(i) Analyzes demand for school facilities within regions of the Planned Community based on sales and household trends;

(ii) Estimates the current need for school facilities at all levels, and;

(iii) Forecasts the demand for and general location of future school facilities based on historic sales and household trends. Initially, Owner and School District may look to the historic sales and household trends of that portion of Coyote Springs Development located in Clark County and continue using such information until such time that historic sales and trends are generated for the Subject Property within Lincoln County.

In each twenty-four (24) month review of this Agreement with the County, Owner agrees to utilize the student yield monitoring program as a basis for their report to the County on the status of school facilities.

(b) Owner and School District will provide an on-going review of reserved and proposed school sites as outlined in Section 6.15 of this Agreement based on the student yield monitoring program. Upon review, Owner and School District may agree to release or relocate school sites at any time prior to dedication. The release or relocation of school sites will be:

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(i) Acknowledged through a letter submitted by Owner to School District providing a legal description of the relocation and/or released site and:

(ii) Considered in future Tentative PUD Plan approvals.

(c) At anytime after the fifth (5th) anniversary of the dedication of a school site, Owner may request in writing that School District release a school site. School District will provide in writing within ninety (90) days of receipt of letter requesting the release:

(i) Approval or disapproval of the release of lands and;

(ii) If disapproved, documentation to Owner of future plans for facilities on such site and schedule for their implementation.

(d) If the release is approved, School District shall provide Owner with acknowledgement of the release through a legally binding agreement of transfer in recordable form, acceptable to Owner and School District.

6.16 Initial School Facilities. Owner and School District agree that there will be a need for public education facilities upon occupancy of the first residential unit within the Coyote Springs development. School District agrees to address the initial K-12 classroom needs by:

(a) Seeking a satisfactory inter-district agreement with the Clark County School District pursuant to NRS 387.561 for available K-12 classroom seats in any facility within the Coyote Springs development;

(b) Executing an agreement with Owner for the use of all or part of an Owner constructed school facility meeting the design approval of the School District and having a designed capacity of approximately five hundred and twenty five (525) K-12 students. Owner agrees to begin construction of this school facility within thirty (30) days of the issuance of the first residential building permit by County. School District agrees that the Owner constructed facility may be developed in phases and in a manner that allows for expansion of the facility as student yield numbers indicate increased classroom demand. The design may also allow for private non-sectarian education activities to be co-located in an appropriately designed facility; or

(c) The School District and Owner may cooperatively develop, consider, and implement options other than those contained in (a) and (b) of this Section in providing the initial school facility within the Coyote Springs development. School District and Owner agree that any options cooperatively implemented will not delay the provision of the initial school facilities.

(d) School District agrees to acquire an owner constructed initial school facility from Owner, at the Owners' actual cost of construction and debt financing adjusted to inflation utilizing the Consumer Price Index, prior to the construction of the thirty thousandth (30,000) residential unit. Upon issuance of the fifteen thousandth (15,000) residential building permit by County, School District agrees to initiate purchase of the facility.

(e) Owner agrees to provide School District with credit toward the purchase of the owner constructed initial school facility for any land dedicated to School District, pursuant to 6.14, that School

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District finds is not needed for school purposes and is acceptable to owner. The credit value of the land will be the value established at the time of dedication to the School District. Credit will be given by owner upon conveyance of the acceptable land to owner by the School District.

6.17 Warehouse, Bus Storage and Maintenance Facilities. Owner shall dedicate up to a maximum of twenty (20) acres for use by School District for supply warehouse, school bus storage and maintenance facility purposes. Owner and School District agree where possible to co-locate such facilities with school sites in order to consolidate parking and service facilities. Owner and School District may agree to dedicate and co-locate up to five (5) acres as a part of the initial school facility site for use by School District for supply warehouse, school bus storage and maintenance facility purposes. Thereafter, Owner agrees to dedicate the remaining acreage as necessary to meet demand for supply warehouse, school bus storage and maintenance facilities. Owner and School District agree that such facilities may be co-located in five (5) acre increments with three other school sites, as described in Section 6.14 of this Agreement, for use by School District for supply warehouse, school bus storage and maintenance facility purposes. School District agrees to design and construct these facilities in accordance with Section 6.19 of this Agreement.

6.18 Non-Associated Facilities. Owner may consider or may be requested to consider the construction and development of school facilities that are not owned or operated by School District. Such facilities may include private or charter schools, denominational schools, or other school facilities not associated with School District. School District agrees to use its best efforts to plan reservations and dedications of School District sites and construction of School District facilities to complement such non-associated facilities. In addition, School District agrees that any students attending such non-associated facilities shall be recognized and subtracted from any facility demand analysis in conjunction with any student-yield monitoring program prepared by School District.

6.19 Design of School Facilities. School District acknowledges that the Association will create and establish uniform design guidelines for all construction and development within the Planned Community by use of recorded restrictive covenants or pursuant to contractual obligations binding on purchasers of property within the Planned Community. These design guidelines will become a part of any approved tentative or Final PUD Plan approved by County. County agrees to utilize the Association design guidelines, adopted within a Tentative PUD Plan, in the construction of any school facility within the particular PUD plan area.

6.20 Provisions for Utilities and Improvements. Owner will install to the property line, at no cost to the School District, all utility lines to allow acceptable connections meeting the capacity requirements for each school facility site. In addition, Owner will provide, at no cost to School District, all necessary roadway improvements adjacent to a proposed school site to meet access requirements for the school prior to school completion. It is anticipated that, to the extent lawful, grass fields and landscaped areas will utilize treated effluent for irrigation purposes, to the extent there is excess treated effluent remaining available for use after the golf facilities irrigation demands are satisfied.

6.21 Additional School Facilities. In the event that student-yields per household, as generated within the Subject Property and not subject to changing student yield factors as utilized for areas outside the Subject Property, mandate additional school facilities to maintain reasonable class sizes and educational opportunities, Owner shall provide, at no cost to School District, land as described in Section 6.14.

6.22 Compliance. Subject to Section 1.01 and any taxes hereafter enacted by County and not discriminatorily applied (County and Owner acknowledge that taxes enacted by the County on behalf of the

GID or the Fire District will not be considered a discriminatory tax hereunder), Owner's compliance with the provisions of this Section 6 shall satisfy any and all impositions and requirements now and hereafter to be imposed by County upon Owner for the provision of schools within or pertaining to the lands encompassed by the Planned Community.

SECTION 7

TRANSPORTATION

7.01 Traffic Studies. Owner will prepare and submit to the District and Nevada Department of Transportation (NDOT), as applicable, a Traffic Study acceptable to the District and NDOT for each Tentative PUD Plan submittal. Owner shall be responsible to provide (or agree to provide with adequate assurance of performance in accordance with District's standard practice), at no cost to District, On-Site Improvements (defined below) in conjunction with approval of each Final PUD Plan prior to issuance by County of any grading or building permits for the Final PUD Plan area. Owner shall be responsible to provide, at no cost to District, Off-Site Improvements in accordance with this Section 7. For the purposes of this, Section 7, the following terms shall have the following meanings.

(a) "Off-Site Improvements" means mitigation measures and improvements to the Major Intersections and roadways located outside of the Planned Community as described herein, except the Village Access Roads and improvements required for intersections and roadways immediately adjacent to the Planned Community.

(b) "On-Site Improvements" means mitigation measures and improvements to intersections and roadways located within the Planned Community, improvements required for intersections and roadways immediately adjacent to the Planned Community.

The need and timing of construction for On-Site Improvements and Off-Site Improvements will be established at the time of Tentative PUD Plan approval through a Village Traffic Study and implemented concurrently with development of a Village in order for community access roads to provide the minimum service level of as defined in Section 7.03(a) in accordance with the Highway Capacity Manual, Special Report Number 209, published by the Transportation Research Board, latest edition ("The Highway Capacity Manual"). The mitigation area for each Traffic Study will be established prior to initiation of the Traffic Study by agreement between District and Owner and will be limited to those major roadways as described in Sections 7.02 and 7.03. The Traffic Study shall, in a manner acceptable to District and NDOT:

(a) Identify impacts to the roadway network within the Planned Community including impacts to any Major Street Segment and any Major Intersection, and impacts to the transportation network which are outside of Planned Community, and;

(b) Display all related mitigation measures necessary to such Major Street Segments and at such Major Intersections together with the roadway access needs leading to the Planned Community.

The study shall be consistent with ITE principles and technologies. District may also require additional site-specific traffic studies as may be deemed necessary related to and prior to the construction of any commercial area, school, or other land use that may have time-sensitive traffic impacts or other significant impacts to adjacent traffic patterns. Traffic Studies and all other site-specific traffic studies

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required by a Tentative PUD Plan shall be performed in accordance with District regulations. All Traffic Studies shall identify the construction phasing anticipated for any and all phases of the PUD plan area together with access mitigation acceptable to District, NDOT, and as applicable.

7.02 Mitigation of Off-Site Traffic Impacts. Owner's obligation to improve any roads or construct intersections or other transportation improvements outside of the Planned Community shall be limited to those obligations described in this Section 7.02. County and Owner acknowledge that development within the Planned Community will impact only those rights-of-way owned and maintained by NDOT, including U.S. Route 93 ("US 93") as outlined in Section 7.02(c). County acknowledges that it has no obligation or right to assess an Off-Site Traffic Mitigation Fund Fee for facilities and improvements within these rights-of-way. Owner acknowledges that it has the responsibility for any necessary cost of improvements as required by District. Owner shall cooperate with both District and NDOT in the implementation of such required improvements as set forth in this Section 7.02. Except as expressly provided in this Agreement, Owner shall have no obligation to participate in, pay, contribute, or otherwise provide any further exactions to provide for off-site rights-of-way, facilities or improvements for the road and motor vehicular traffic system within County and District or for any facilities, equipment or physical improvements that are a substitute therefore.

(a) Minimum Traffic Service Level. To satisfy its obligations to provide Off-Site Improvements, Owner will be responsible for constructing and funding all Off-Site Improvements as required by County, in order to provide a minimum service level, as defined in The Highway Capacity Manual, for those Major Intersections and roadways as set forth herein. In order to provide and maintain a minimum service level as defined herein, Owner shall be:

(i) Required to implement those Off-Site Improvements required within a Tentative PUD Plan Traffic Study concurrently with development and/or phasing of construction within the associated Tentative PUD Plan area or:

(ii) Subject to District and/or NDOT review and inspection of existing service levels as set forth in Section 7.02(e) as follows:

(1) For any improvements to roadways, intersections or interchanges on US 93 as described in Section 7.04(c), Owner will be responsible for providing a minimum service level of "C" with a maximum service flow rate of 1,900 pc/h/ln (passenger cars per hour per lane).

(2) For any On-Site Improvements to roadways and intersections as described in Section 7.03, Owner will be responsible for providing a minimum service level of "D" as defined in The Highway Capacity Manual.

(b) Financing of Off-Site Improvements. County and Owner agree that Owner may use any lawful means necessary in accordance with county, state, or federal law to obtain such funds necessary to timely construct the Off-Site Improvements set forth within this Section 7.02, including but not limited to Owner financing, builder and/or property assessments or mitigation funds, state and/or federal highway funds and financing mechanisms, or any other reasonable financing mechanisms authorized under state law or otherwise. County shall use its best efforts to cooperate with Owner in securing any state or federal funds or other authorizations, which may be necessary in order to obtain financing from institutions other than County.

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(c) Owner's Limitation of Obligations. Owner's obligations to fund Off-Site Improvements are limited to the following traffic impacts associated with the Planned Community:

(i) Any traffic impacts directly associated with the Planned Community that result in improvements along US 93 from the southerly County Line to Owners northernmost property line intersecting US 93 as required by District and subject to each Tentative PUD Plan Traffic Study.

(ii) Any other roadway or interchange that may be required to achieve the minimum level of service as defined in Section 7.03(a).

(d) County agrees:

(i) That Owner will not be responsible for the cost of any Mitigation Project that has been constructed by County or others prior to the time Owner would be required to construct or improve such improvement as demonstrated by a Tentative PUD Plan Traffic Study, and;

(ii) To the extent allowed by law, County will not excuse or defer the requirement for any other development to mitigate its impacts on account of Owner's contingent responsibility for such improvement, provided Owner understands and agrees County may, in its discretion and in accordance with its standard practice, defer obligations of developers who commit contractually with District to contribute to mitigation of impacts at a later date when District determines such mitigation to be warranted or financially feasible.

(e) Review, Maintenance and Cure of Service Levels. Notwithstanding the construction and timing of Off-site Improvements as required by District and included within a Tentative PUD Plan Traffic Study, District and/or NDOT have the right at any time to review and inspect existing service levels at any Intersection or roadway set forth in Section 7.02(c). If District or NDOT find that minimum service levels as set forth in Section 7.02(a) are not being met, Owner shall be required to submit traffic mitigation plans in coordination with NDOT and District within one-hundred-twenty (120) days showing how Owner shall meet minimum service levels as required herein. Such traffic mitigation plans shall provide:

(i) Design and specifications as necessary to bring Off-site Improvements to minimum service levels and;

(ii) A schedule for when required Off-site Improvements will be implemented.

Owner is then required to complete the Off-Site Improvements in accordance with the schedule provided within the traffic mitigation plan. If Owner does not meet the schedule for implementation of Off-Site Improvements as set forth in the traffic mitigation plan, County, in cooperation with the District, may take action in accordance with Section 9 of this Agreement.

(f) Data Collection, Sharing, and Use. Owner, County and District (and each party shall cooperate with and seek the cooperation of NDOT with all such data exchanges) shall provide copies of all actual traffic data collected by any such party to each other party and related to those Off-Site Improvements set forth in Section 7.02(c). County, District and Owner acknowledge the uniqueness of the uses proposed in the CSPUD Code, and that seasonal living and age characteristics within the Planned Community may have a significant impact on traffic and Off-site Improvements. County, District and Owner agree to

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minimize Off-Site Improvements while providing and maintaining the minimum service levels for Off-Site Improvements as defined in Section 7.02(a). County, District and Owner agree that any such actual traffic data collected on these Off-Site Improvements provides a valuable tool for estimating future traffic estimates and may be used by Owner and District as a model for generating any future traffic estimates, Tentative PUD Plan Traffic Studies and traffic mitigation plans.

7.03 Mitigation of On-Site Traffic Impacts. Owner acknowledges it shall be responsible for constructing all internal public and private roadway and funding all costs and expenses associated with their construction as set forth in Section 7.04, including, but not limited to: rights-of-way; drainage facilities; roadway construction; utility installations and modifications; noise attenuation devices; bridging structures; lighting; traffic control equipment and signage; aesthetic improvements; landscaping, and such other features customarily provided in such Planned Community. Except as expressly provided in this Agreement, Owner shall have no obligation to participate in, pay, contribute or otherwise provide any further exactions to provide for on-site rights-of-way, facilities or improvements for the road and motor vehicular traffic system within County and District or for any facilities, equipment or physical improvements that are a substitute therefore. Development of the Planned Community will not be interrupted as a result of any failure of necessary On-Site Improvements being in place so long as Owner has complied with the terms of this Section 7.

7.04 Ownership and Control of Internal Roadway Network. All roads within the Planned Community will be constructed and maintained by Owner, a homeowner's association, or through special assessments or special districts and other political subdivisions of the state subsequently created under state law. The hierarchy of roadways will be designed and constructed as applicable to meet AASHTO standards or ITE guidelines for roadway improvements. The final design of street configurations and intersections will be established within final PUD Plan approvals to be consistent with the CSPUD Code. Owner agrees to maintain streets, roads and rights-of-way within the Planned Community at no cost to County. Owner may, from time to time, convey any street or roadway to the following entities in accordance with NRS:

(a) Transfer to or Construction by a General Improvement District. County hereby acknowledges that Owner may, from time to time, convey any street or roadway to a General Improvement District ("District") formed under the provisions of NRS Chapter 318 provided the conveyance is subject to the terms and conditions of NRS Chapter 318 and the District Board acknowledges in writing that it accepts Owner's maintenance obligations for such streets and roadways. With respect to any street or roadway, the GID, to which Owner conveys title, shall have the exclusive right to program and maintain the use thereof in accordance with NRS Chapter 318.

(b) Transfer to Homeowner's Association. Owner may, from time to time, convey any street or roadway to any Association formed under the provisions of NRS Chapter 116 provided that the Association accepts Owner's maintenance obligations for such street or roadway. The Association, to which Owner conveys title, shall have the exclusive right to program and maintain the use thereof.

7.05 Acquisition of Offsite Rights-of-Way. With respect to rights-of-way outside the boundaries of the Planned Community but necessary for development of the roadways, utilities, or flood control facilities for the Planned Community, County shall use its best efforts to assist (except financially) Owner in obtaining such necessary rights-of-way through acquisition from the Bureau of Land Management or by power of condemnation where authorized by law. With respect to acquisitions requested by Owner which involve consideration or payments of fair market value or just compensation, Owner acknowledges it shall be

responsible for all such expenses and cost of condemnation, including, but not limited to, severance damages and reasonable attorneys fees; provided, in no event shall Owner be responsible for the cost of acquisition of any right-of-way beyond a one hundred (100) foot wide corridor, unless additional portions of property must be acquired in order to obtain the intended one hundred (100) foot wide corridor. Owner acknowledges County has authority to settle all condemnations entered into at the request of County.

7.06 Jobs-Housing Balance. Owner will use best efforts to develop employment creating land uses in conjunction with residential development in an effort to reduce the length of vehicle trips and enhance air quality.

7.07 Streetscapes. County acknowledges Owner will retain ownership of Streetscape Areas subject to Section 7.06 of this Agreement to allow Owner to maintain landscaping in the Streetscape Areas. Owner or any entity outlined in Section 7.04 of this Agreement shall establish an adequate reserve account to fund the maintenance, removal and replacement of the landscape and irrigation materials within Streetscape improvements.

7.08 Underground Conduit Rights-of-Way Dedicated to the County. If any facility is dedicated to District in accordance with Section 7.04 of this Agreement, District agrees to authorize Owner the right to install underground conduit that shall be under Owner's exclusive ownership and control in all public roadways and rights-of-way in the Planned Community, at Owner's sole cost and expense, for the purpose of the provision of cable TV, video, computer, communication, telephone and similar electronic or communication uses of any kind. The use of such underground conduit by any entity, including Owner, shall at all times be subject to all applicable regulatory and franchising provisions of the County, state and federal government.

SECTION 8

FLOOD CONTROL

8.01 Technical Drainage Studies. Owner shall prepare and submit a technical drainage study reasonably acceptable to the District for each Tentative PUD Plan submittal. Owner shall construct those flood control facilities identified in the technical drainage study, which are necessary for the flood protection of the Planned Community or for mitigation of any downstream flood impacts caused by the development of the Planned Community.

8.02 Flood Control Facilities. All flood control facilities within the Planned Community will be constructed by Owner, an Association, or through special assessments or Special Funding Districts subject to Section 8.06 of this Section. Owner or any entity, subject to this, Section 8, agree to construct and maintain such flood control and drainage facilities identified in the drainage study which are necessary for the flood protection of the Subject Property or for the mitigation of any downstream flood impacts caused by the development of the Subject Property. Each facility must be built in the manner consistent with the District Regulations Manual on or before the facility completion date set forth in the approved Drainage Study for each respective Tentative PUD Plan. Notwithstanding any provisions to the contrary in this Section 8, no building permit (other than construction permits for grading, roadways, utilities, and other improvements or public facilities that are permitted by FEMA and Lincoln County standards within such areas), shall be issued for any structure within a portion of Final PUD Plan within a Flood Control Facility Impact Zone ("Impact Zone") as described herein, until such facilities protecting said Impact Zone are completed as identified in the approved Drainage Study. Owner may obtain building permits at any time for

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facilities and structures to be built in any phase of an area covered by a Final PUD Plan that is located outside areas qualified as Impact Zones. Owner agrees to cooperate with District in the design and treatment of local and regional flood control facilities including, but not limited to, the construction of recreational or other multiple use facilities located within said flood control facility, if approved by District. Owner and the District agree in principle to implement a series of safeguards in order to control floods while minimizing the impact of flood facilities and naturalizing the Pahrnagat Wash Corridor and summarized as follows:

(a) To the maximum extent practical, Owner shall preserve and maintain the first (1st) flow channel within the Pahrnagat Wash. Owner may, from time to time, propose facilities and improvements that do not hinder the flow of frequent storm events (10-year storms or less) within the first flow channel.

(b) To the maximum extent practical, Owner will avoid routing stormwater from the rest of the development into the existing first flow channel to minimize offsite runoff. Owner will design additional flood storage and conveyance facilities within a secondary system of naturalized low flow channels located within the 100-year flood plain. Owner and District agree that additional flow capacities may be carried within a series of appropriately-sized flood control lakes and created wetlands that may be built in conjunction with an Aquifer Recharge Program as described in NRS Chapter 534 to control excess flood flows from the north, west and east, and the backflow condition from the south of the Planned Community. The flood control lakes will be designed with a minimal, yet appropriate, level of free board to allow tertiary storage and conveyance for peak events.

8.03 Additional Flood Control and Development Requirements. Residential and non-residential development within the 100-year floodplain will only occur in Floodway Fringe locations in accordance with FEMA Standards. All onsite facilities and development will be constructed as required to reduce runoff in a manner consistent with FEMA and District regulations.

8.04 Ownership and Control. Owner may, from time to time, upon request, consider conveying any flood control facilities to the following entities in accordance with the Nevada Revised Statutes:

(a) Transfer to Homeowner's Association. Owner may, from time to time, convey flood control facilities to any Association formed under the provisions of NRS Chapter 116 provided that the Association accepts Owner's maintenance obligations for such flood control facilities. The Association, to which Owner conveys title, shall have the exclusive right to program and maintain the use thereof.

(b) Transfer to or Construction by a General Improvement District. County hereby acknowledges that Owner may, from time to time, convey flood control facilities to a General Improvement District ("GID") formed under the provisions of NRS Chapter 318 provided the conveyance is subject to the terms and conditions of NRS Chapter 318 and the General Improvement District Board acknowledges in writing that it accepts Owner's maintenance obligations for such flood control facilities. With respect to flood control facility, the GID, to which Owner conveys title, shall have the exclusive right to program and maintain the use thereof in accordance with NRS Chapter 318.

(c) Transfer to a Political Subdivision of the United States or State of Nevada. Owner may convey flood control facilities to any political subdivision of the State of Nevada or United States provided that the political subdivision accepts Owner's maintenance obligations for such flood control facilities. The political subdivision, to which Owner conveys title, shall have the exclusive right to program and maintain the use thereof.

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(d) Transfer to a Water District. Owner may convey flood control facilities to any Water District formed under the provisions of NRS provided that the Water District accepts Owner's maintenance obligations for such flood control facilities. The Water District, to which Owner conveys title, shall have the exclusive right to program and maintain the use thereof.

(e) Transfer to an Irrigation District. Owner may convey flood control facilities to any Irrigation District formed under the provisions of NRS Chapter 539 provided that the Irrigation District accepts Owner's maintenance obligations for such flood control facilities. The Irrigation District, to which Owner conveys title, shall have the exclusive right to program and maintain the use thereof.

SECTION 9

REVIEW AND DEFAULT

9.01 Frequency of Reviews. As required by NRS Chapter 278.0205 and the Development Agreement Ordinance, at least once every twenty-four (24) months during the Term of this Agreement, Owner shall provide and County shall review in good faith, a report submitted by Owner documenting the extent of Owner's and County's material compliance with the terms of this Agreement during the preceding twenty-four (24) months. County shall not charge any expense, fee or cost with respect to such review except as provided in the CSPUD Code. If, at the time of review, an issue not previously identified in writing is required to be addressed, the review at the request of either party shall be continued to afford sufficient time or response. County and Owner shall be permitted an opportunity to be heard before the County Commission regarding their performance under this Agreement in a manner set forth in the Development Agreement Ordinance.

Notwithstanding any provision to the contrary contained in this Section 9.01, Owner and County acknowledge and agree that an initial review of this Agreement shall occur during the period commencing 180 days after the effective date hereof and ending on the day occurring 240 days after the effective date hereof. The purpose of this initial review is to allow County the opportunity to identify and present to Owner any new matter that the County believes has not been addressed in this Agreement and that should be added to this Agreement by amendment. County and Owner shall, in good faith, discuss the matter and seek mutual agreement on satisfactory terms and provisions to address any such matter. In the event County and Owner are unable to mutually agree on a resolution of the matter within 90-days after the expiration of the review period, this Agreement shall terminate and shall be of no further force and effect.

9.02 Procedures in the Event of Noncompliance. In the event of any noncompliance with any provision of this Agreement, the party alleging such noncompliance shall deliver to the other in writing a courtesy notice stating the reason for noncompliance and any action necessary to correct the noncompliance. Courtesy notices must be delivered in accordance with the provisions of Section 12.08. If after thirty days (30) of the date the courtesy notice is sent the compliance is not corrected to the satisfaction of the complaining party, the party alleging noncompliance may deliver in writing a notice of default. The time of notice shall be measured in accordance with Section 12.08. The notice of default shall include the section of this agreement alleged to be violated, the nature of the alleged default, and, where appropriate, the manner and period of time in which it may be satisfactorily corrected. During the period of time the notice of default letter is pending the party alleged to be in default shall not be considered in default for the purposes of termination or institution of legal proceedings. If the default is corrected, then no default shall exist and the noticing party shall take no further action. If the default is not corrected after thirty days, the following procedures shall apply:

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(a) County Procedures

(i) Intent to Remedy Noncompliance. After proper notice and the expiration of the above-referenced periods for correcting the alleged default, the County, or designee, may do one or both of the following options:

(1) Immediately direct County staff to recommend that all future Final PUD Plan approvals within the Planned Community be conditioned so that the building permits to be issued as a result of those approvals shall not be issued until the default is corrected; or

(2) Issue a letter providing notice of County's intent to set the matter for hearing before the County Commission. The letter shall notify Owner of the action taken. In the event County selects option two (2), County shall give Owner at least seven (7) business day's notice to correct the default before the matter is scheduled for a hearing. The letter notifying the Owner of the hearing shall contain the intended hearing date. The seven (7) business days are measured from the date of delivery of the notice in accordance with Section 12.03.

(ii) Hearing Scheduled. If default is not corrected within the time specified above, the matter shall be scheduled and noticed as required by law for consideration and review by the County Commission during their next regularly scheduled Commission meeting.

(iii) Review by County Commission. Following consideration of the evidence presented before the County Commission and a finding based on substantial evidence that a default has occurred by Owner and the default remains uncorrected, the County Commission may authorize the suspension of building permits within the Planned Community or may amend or terminate this Agreement. Termination shall not in any manner rescind, modify, or terminate any Vested Right in favor of Owner existing or received as of the date of the termination. Owner shall have twenty-five (25) days after the date noticed of the County Commission's decision is filed with the Lincoln County Clerk, to institute legal action pursuant to Section 9.04 hereof, to determine whether the County Commission abused its discretion in determining whether a default existed and remain uncorrected.

(b) Owner Procedures.

(i) After proper notice and the expiration of the above-referenced periods for correcting the alleged default, Owner may issue a letter requesting a hearing before the County Commission for review of the alleged default. Upon receipt of the letter, the County Clerk shall schedule an agenda item to consider the alleged default during the next regularly, and available, scheduled Commission meeting.

(ii) Review by County Commission. Following consideration of the evidence presented before the County Commission and a finding based on substantial evidence that a default has occurred by County and remains uncorrected, the County Commission shall direct County staff to correct the default. Owner shall have twenty-five (25) days after the date notice of the County Commission's decision is filed with the Lincoln County Clerk, to institute legal action pursuant to this Section 9.04 hereof, to determine whether the County Commission abused its discretion in determining whether a default existed and remain uncorrected.

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(c) Waiver. Failure or delay in giving any notice provided for herein shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies in respect to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive such party of its right to institute and maintain any actions of proceedings which it may deem necessary to protect, assert, or enforce any of its rights or remedies.

(d) Notices. All notices provided for herein shall be sent to the address provided in Section 12 of this Agreement.

9.03 Unavoidable Delay or Default, Extension of Time for Performance. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war; acts of terrorism; insurrection; strikes; walkouts; riots; floods; earthquakes; fires; casualties; acts of God; restrictions imposed or mandated by governmental entities; failure of governmental agencies (other than County) to perform acts or deeds necessary for the performance of this Agreement; enactment of conflicting state or federal laws or regulations; new or supplementary environmental regulations, and litigation or similar matters beyond the control of the parties. If written notice of any such delay is given to County within thirty (30) days after the commencement thereof, an automatic extension of time, unless otherwise objected to by County within ten (10) days of such written notice, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances or as may be subsequently agreed to between County and Owner.

9.04 Institution of Legal Action. County and Owner agree that neither would have entered into this Agreement if either party were liable for, or could be liable for, damages under or with respect to this Agreement. Accordingly, County and Owner may pursue any remedy at law or equity available for breach, except that neither Owner nor County shall be liable to the other or to any other person or entity for any monetary damages whatsoever. Any judicial review of the County Commission's decision or any legal action taken pursuant to this Agreement will be heard by a Court under the standard review appropriate for the review of zoning actions. Judicial review of the decision of the County Commission shall be limited to the evidence presented to the County Commission at the public hearing as described in this Section 9. If a party desires to present new or additional evidence to the Court, they may petition the Court to remand the matter to the County Commission to consider the additional or new evidence. Jurisdiction for judicial review or any judicial action under this Agreement shall rest exclusively with the Seventh Judicial District Court, State of Nevada.

9.05 Applicable Laws. This Agreement shall be construed and enforced in accordance with the law of the State of Nevada.

9.06 Adjustments for Inflation. In the event there is a delay of more than one (1) year in the payment of a contribution required in this Agreement, the amount of the contribution may be adjusted for inflation. If the parties are unable to agree to the adjusted amount, the matter may be set for a hearing before the County Commission, after notice is provided to Owner. After the County Commission conducts a public hearing and considers the evidence presented, it may adjust the amount of the contribution to account for inflation.

SECTION 10

FINANCING

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10.01 County Cooperation in Financing. County expressly acknowledges and agrees that Owner may be required to finance a part of its obligations through private financing in addition to the financing and reimbursement provisions contemplated by this Agreement. County agrees to cooperate with Owner with respect to any such private financing. County will execute and deliver written documentation to any lender or other interested person such documents as may be reasonably requested to acknowledge:

(a) That County has no lien on the Subject Property as a direct result of this Agreement, and;

(b) That County shall recognize and allow a lender, which has foreclosed or acquired a portion of the Planned Community from Owner to inure to the rights and benefits of this Agreement as to such property.

County and Owner acknowledge, however, that if a Special Improvement District or General Improvement District is created as contemplated by Section 3.12, such District will constitute or create a lien to secure repayment of the bonds. Nothing herein shall be deemed to relieve Owner of its obligations under this Agreement or its liability for failure to perform its obligations under this Agreement.

10.02 Funding Allocation. County reasonably believes that sufficient funds can be obtained to meet its obligations under this Agreement. In the event, however, that County fails to allocate funds sufficient to meet such obligations, County's obligations to fund, construct or otherwise perform the specifically non-funded obligation shall be excused. In such an event Owner will have the right to terminate this Agreement and all executory obligations of Owner hereunder by written notice to County.

SECTION 11

CONFLICTING LAWS

11.01 Conflicting State or Federal Rules. In the event that any conflicting state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by County, this Agreement shall remain in full force and effect as to those provisions not affected, the conflicting laws or regulations shall not be applied retroactively, and:

(a) Notice and Copies. Either party, upon learning of any such matter, will provide the other party with written notice thereof and provide a copy of any such law, regulation or policy or an account of any such action or inaction together with a statement of how any such matter conflicts with the provisions of this Agreement; and;

(b) Modification Conferences. The parties shall, within thirty (30) days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement or create a Supplemental development agreement to bring it into compliance with any such federal or state law or regulation, or accommodate any such action or inaction.

11.02 County Commission Hearings. In the event County believes that an amendment to this Agreement is necessary pursuant to this, Section 11 due to the effect of any federal or state law or regulation, the proposed amendment shall be scheduled for hearing before the County Commission. The County

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Commission shall determine the exact nature of the amendment of suspension necessitated by such federal or state law or regulation or action or inaction. Owner shall have the right to offer oral and written testimony at the hearing. Any suspension or modification ordered by the County Commission pursuant to such hearing is subject to judicial review as set forth in Section 9.

11.03 Cooperation in Securing Permits. County shall use its best efforts to cooperate with Owner in securing any County permits, licenses or other authorizations, which may be required as a result of any, amendment or suspension resulting from actions indicated under this Section 11. Owner will be responsible to pay all applicable fees in connection with securing of the permits.

SECTION 12

GENERAL PROVISIONS

12.01 Enforcement and Binding Effect. Subject to the limitations of NRS Chapter 278 (and NRS Chapter 278A), this Agreement is enforceable by either party in accordance with its terms notwithstanding any change (which, except for this Agreement would otherwise be applicable) in any of the Applicable Rules. Nothing in this Agreement shall prevent the County from increasing "Cost Based Fees" which are deemed to be administrative fees for issuance of Land Use Approvals, building permits, plan checks, or inspections which are based upon actual costs to the County and which are specified in Chapter 6 of the CSPUD Code.

12.02 Interim Funding. Owner shall provide funding to County in an amount that is equal to the property taxes paid by Owner during each tax year (which amount is in addition to the property tax paid) commencing with the tax year in which this Agreement becomes effective and continuing each tax year thereafter until the tax year in which the first building permit is issued for a structure within the Subject Property. The initial payment shall be due on July 1, 2005, and each annual payment thereafter shall be due on each successive anniversary date until this funding obligation terminates.

12.03 Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the fortieth (40th) anniversary of the Effective Date, unless extended by written Agreement executed by County and Owner.

12.04 Assignment.

(a) Agreement Transfer. This Agreement, including the terms and conditions thereof and except as described in Section 12.04(b) of this Agreement, may be freely transferred or assigned by Owner provided that the County consents in writing to the assignment or transfer, and the County is satisfied that assignee or transferee is financially capable of fulfilling the terms and conditions of the Agreement, and such assignee or transferee assumes in writing all obligations of the Owner hereunder. Upon any such assignment hereunder, the Owner shall be relieved of all obligations and liabilities under or in connection with this Agreement.

(b) Transfer to an Affiliate of Owner. The rights of Owner under this Agreement may be freely transferred or assigned to any entity, partnership or corporation which Owner controls or in which Owner has a combined interest or which controls Owner, provided such entity shall assume in writing all obligations of Owner hereunder and is financially capable of fulfilling the terms and conditions of this Agreement. In

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connection with the transfer or assignment of any portion of the Subject Property to an affiliate of the Owner, Owner shall provide County with written notice of any transfer, conveyance or assignment.

(c) Transfer of Property Not to Relieve Owner of its Obligation. The Owner may assign or transfer lands in any portion of the Planned Community within a recorded subdivision map and such transferee and assignee shall not be subject to the obligations of the Owner as to the portion of the Planned Community so assigned or transferred except as expressly provided herein. Such assignment or transfer shall not relieve Owner of its obligations as to the assigned or transferred portion of the Planned Community unless Assignee assumes such obligation in writing and County consents.

(d) Restrictions on Building Permits. Notwithstanding the above, no successor, assigns and/or transferees will be entitled to the issuance of a building permit by the County if the County determines Owner is not in complete compliance with the Agreement and/or Owner has failed to construct improvements required by the Agreement in a manner satisfactory to the County. Owner agrees to obtain from any and all successors, assigns and transferees written acknowledgment and agreement to the building permit restriction set forth in this section.

(e) In Connection with Financing Transactions. Owner has full discretion and authority to transfer, assign or encumber the Planned Community or portions thereof in connection with financing transactions, without limitation on the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transactions at any time and from time to time without permission of or notice to County.

12.05 Amendment or Cancellation of Agreement. Except as otherwise permitted by NRS Chapter 278.0205 and Section 9 of this Agreement, this Agreement may be amended from time to time or canceled but only upon the mutual written consent of the parties hereto, which consent shall not unreasonably withheld or delayed by either party.

12.06 Indemnity; Hold Harmless. Except as expressly provided in this Agreement, Owner shall hold County, its officers, agents, employees, and representatives harmless from liability for damages or claims for damage for personal injury, including death and claims for property damage which may arise from the direct or indirect operations of Owner or those of its contractors, subcontractors, agents, employees, or other persons acting on Owner's behalf which relate to the development of the Planned Community. Owner agrees to and shall defend County and its officers, agents, employees and representatives from actions for damages cause or alleged to have been caused by reason of Owner's activities in connection with the development of the Planned Community. Owner agrees to indemnify, hold harmless, and provide and pay all costs and attorney's fees for a defense for County in any legal action filed in a court of competent jurisdiction by a third party challenging the validity of this Agreement. The provisions of this Section shall not apply to the extent such damage, liability, or action is proximately caused by the intentional or negligent act of County, its officers, agents, employees or representatives.

12.07 Binding Effect of Agreement. Subject to Section 12.03 hereof, the burdens of this Agreement bind and the benefits of this Agreement inure to the parties' respective successors in interest.

12.08 Relationship of Parties. It is understood that the contractual relationship between County and Owner is such that Owner is an independent contractor and not an agent of County for any purpose.

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12.09 Notices. All notices, demands and correspondences required or provided for under this Agreement shall be in writing and delivered in person or mailed by certified mail postage prepaid, return receipt requested. Notices shall be addressed as follows:

To County: Lincoln County
P.O. Box 90
Pioche, NV 89043
Attn: Planning Administrator

With a Copy to: Lincoln County, Office of the District Attorney
P.O. Box 60
Pioche, NV 89043

To Owner: Coyote Springs Investment, LLC
Bank of America Plaza
300 South 4th Street, Suite 1406
Las Vegas, NV 89101
Attn: Robert R. Derck

With a Copy to: Coyote Springs Investment, LLC
6600 North Wingfield Parkway
Sparks, Nevada 89436
Attn: Carl Savely

Either party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the manner described shall be deemed delivered on the date of personal delivery or the date delivery of the mail is first attempted.

12.10 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous Agreements between the parties with respect to all or any part of the subject matter hereof.

12.11 Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate officers of County or Owner, as the case may be.

12.12 Recording Amendments. Promptly after the Effective Date, an executed original of this Agreement shall be recorded in the Official Records of Lincoln County, Nevada. All amendments hereto shall be in writing signed by the appropriate officers of County and Owner in a form suitable for recordation in the Official Records of Lincoln County, Nevada. Upon the completion of performance of this Agreement or its cancellation, revocation or termination, a statement evidencing said completion or revocation signed by appropriate officers of County and Owner shall be recorded in the Official Records of Lincoln County, Nevada.

12.13 Release. Each residential lot or commercial parcel within the Subject Property shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any

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instrument of release upon the issuance of a building permit for the construction of a residence or commercial building thereon.

12.14 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such term does not materially impair the parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the parties.

12.15 Voluntary Agreement. Owner acknowledges and agrees that it voluntarily, willingly and without protest and duress freely enters into this Agreement and accepts the terms and conditions herein.

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the day and year first above written, as authorized by Ordinance No. 2004-03 of the Lincoln County Code, to be effective on the Effective Date shown below.

COUNTY:

BOARD OF COUNTY COMMISSIONERS,
COUNTY OF LINCOLN, STATE OF NEVADA

By: George T. Rowe
George T. Rowe, Chairman

Attest: Carmen Hays

THE EFFECTIVE DATE hereof is ~~February 1~~ ^{June 6,} 2005.

OWNER:

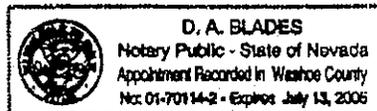
COYOTE SPRINGS INVESTMENT, LLC
a Nevada limited liability company

By: [Signature]
Robert R. Derck, Chief Operating Officer

STATE OF NEVADA)
) ss.
COUNTY OF LINCOLN)

This instrument was acknowledged before me on the 9 day of June, 2005 by Robert R. Derck, Chief Operating Officer of Coyote Springs Investment, LLC, a Nevada Limited Liability Company.

D.A. Blades
Notary Public



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Exhibit A

Legal Description

Township 11 South, Range 63 East, (Lincoln County, Nevada):

All of Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, and 35; Section 13, the South Half (S 1/2); Section 36, the West Half (W 1/2); Sections 19, 30 and 31, all except those portions lying West of the Centerline of U.S. Highway 93.

Township 12 South, Range 63 East, (Lincoln County, Nevada):

All of Sections 2, 3, 4, 5, 8, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 23, 25, 26, 27, 28, 33, 34, 35, and 36; Sections 1, 13, and 24, the West Half (W 1/2); Section 12, the West Half (W 1/2) of the West Half (W 1/2); Sections 6, 7, 18, 19, 29, 30 and 32, all except those portions lying West of the Centerline of U.S. Highway 93.

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Exhibit B

Specific Codes, Ordinances, Rules, Regulations and Official Policies:

(Add Lincoln County Code as Applicable at Effective Date)

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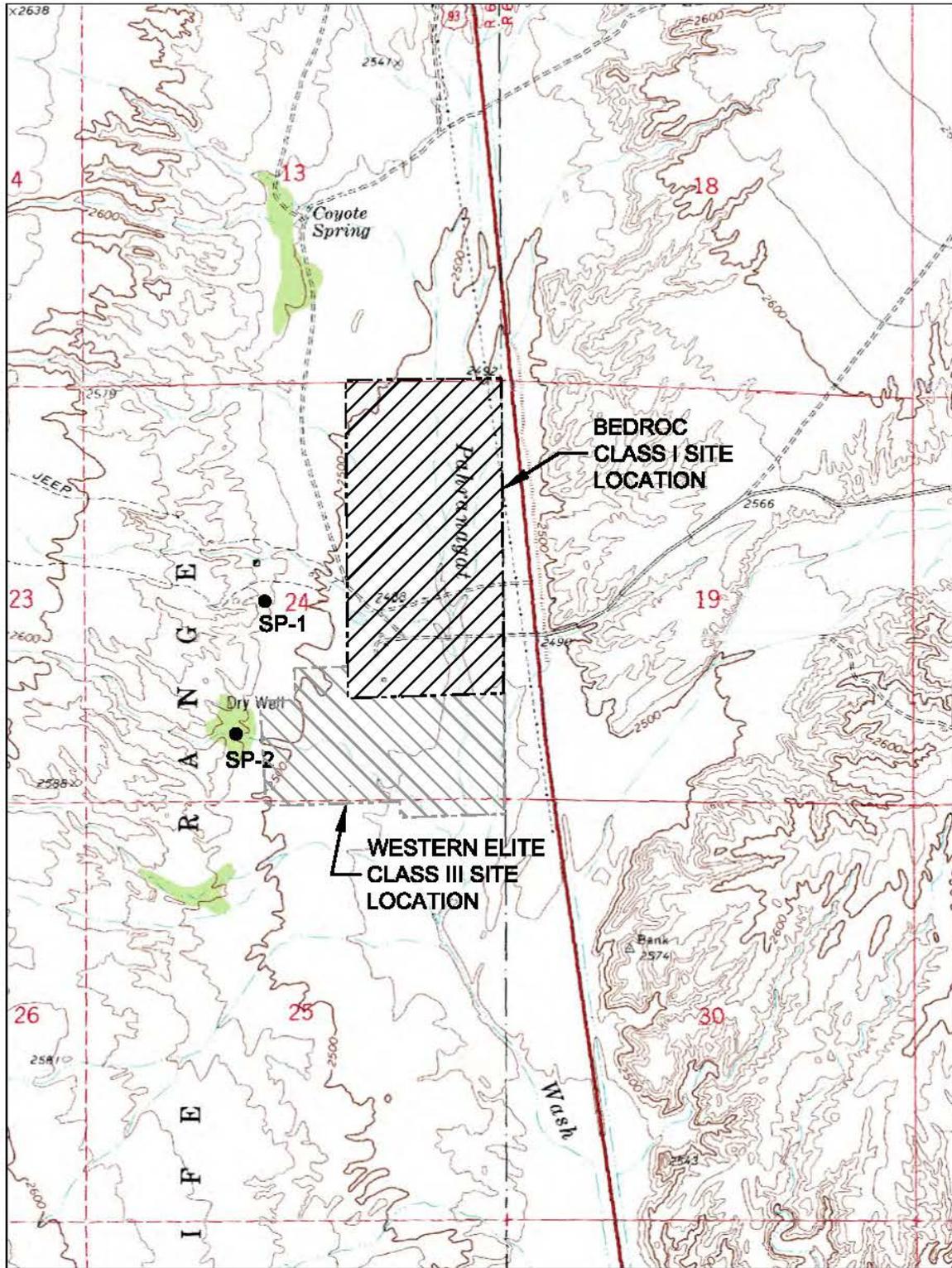
Exhibit C
Concurrent Approvals

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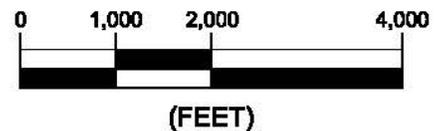
Exhibit 4



SP-1 ● = EXISTING OR FORMER
SPRING LOCATION

VICINITY MAP
1"=2,000'

GRAPHIC SCALE



USGS MAP SOURCE
7.5 MIN. QUADRANGLES:
WILDCAT WASH NW, LINCOLN COUNTY, NEVADA, 1969

**BEDROC LANDFILL AND WASTE MGMT. FACILITY
LINCOLN COUNTY, NEVADA**

**JOYCE
ENGINEERING**
1804 CHIMNEY LANE
RICHMOND, VA 23220
PHONE: (804) 365-4620

DESIGNED RLS
DRAWN DAS
CHECKED _____
APPROVED _____
DATE 10/02/13
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**SCALE
AS SHOWN**

**PROJECT NO.
383.1401.01**

**DRAWING NO.
1**

SITE LOCATION MAP

Exhibit 5

LINCOLN COUNTY COMMISSIONERS

SPECIAL USE PERMIT

Approved by Lincoln County Planning Commission 4-28-2003

Approved by Lincoln County Commission 5-19-2003
Permit No. # 2003-5-2

Application was made by BedRoc Limited LLC, of Las Vegas, Nevada for the establishment of a solid waste disposal center on their property near the county line.

The affected parcels are 08-201-12 & 13.

A letter indicating the intent of BedRoc to pursue a Class 1 land fill has been submitted to the county. At the time the license is approved BedRoc will come back to the county and negotiate terms and conditions of operation, a use or tipping fee, proof of bonding, posting of an inspection bond, and annual or semi-annual review and report of progress. Failure to achieve the licensing through the state of Nevada nullifies this Special Use Permit.

This Special Use Permit is approved by the County Commissioners this 19th day of May, 2003.

Chairman

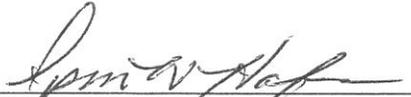

Spencer W. Hafen

Exhibit 6

BedRoc, Inc.,
a member of
BedRoc Limited, LLC
3529 Clayton Street
North Las Vegas NV 89030
(702) 647-1162

May 19, 2003

Re: BedRoc, Inc., Special Land Use Permit

Commissioner Spencer Hafen,
Chairman, Lincoln County Commission
P.O. Box 685
Pioche, Nevada 89043

Dear Commissioner Hafen:

Subject; **Letter of Intent** for Special Use permit

In accordance with the request of the Lincoln County Commission in session on May 19, 2003, pertaining to the approval of the application of BedRoc Inc., for a Special Use permit allowing a Class I landfill at the BedRoc Inc., property at Coyote Springs and US Hwy. 93, please accept the following as a **LETTER OF INTENT** on the part of BedRoc Inc.

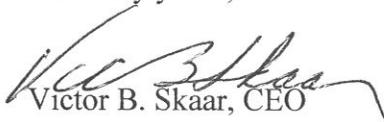
1. Upon the granting of a permit by the State of Nevada of a Class I Permit, BedRoc Inc., will negotiate with Lincoln County a fee to be paid to Lincoln County for materials placed in said landfill. Such fee will be calculated per industry standards on a weight or volume measurement.
2. BedRoc Inc., will comply with bonding requirements imposed with the granting of a Class I permit as specified by the State of Nevada.
3. BedRoc Inc., shall provide periodic informational reviews for the County Commission or the Planning Commission as deemed necessary. It is suggested that annual reviews be the longest interval between presentations.
4. BedRoc Inc., confirms that the Special Use Permit granted by the Lincoln County Commission on May 19, 2003 is for the purpose of allowing BedRoc Inc., to apply to the State of Nevada for a Class I Landfill Permit for this land, and that if the Class I Permit is ultimately not issued by the State of Nevada, that the Special Use Permit granted by the Lincoln County Commission will be of no effect and will not run with the land.

5. BedRoc Inc., will file necessary parcel maps and or deeds to clarify any question of ownership of the land, and to comply with all requirements in effect as of May 19, 2003, imposed by state and county laws for land divisions and parceling.

It is our understanding that the acceptance of this **LETTER OF INTENT** by you that the issuance of the Special Use Permit will proceed and that you, as the chairman, will sign the permit and cause it to be delivered to BedRoc Inc., with copies to: Gregory J. Barlow, Esq., LTD, P.O. Box 98, Caliente NV 89008, and VIC, Inc., Valued Integrated Concepts, 6130 Eisner Drive, Las Vegas NV 89131-2303. We look forward to establishing a strong relationship of mutual benefit with Lincoln County, which results in the ultimate benefit to the residents of Lincoln County.

We welcome the challenge your decision presents.

Sincerely yours,



Victor B. Skaar, CEO

VIC, Inc., Valued Integrated Concepts

6130 Eisner Drive

Las Vegas NV 89131-2303

(702) 645-9108

AGENT FOR: BedRoc, Inc.

CC: Patricia Richards, Vice President BedRoc Inc.

Gregory J. Barlow, Esq.,

Exhibit 7

BEDROC LIMITED
2745 N. Nellis Blvd
Las Vegas, NV 89115
(702) 369-4242 FAX (702) 459-3742

October 24, 2013

Mr. Jon Taylor, P.E., CEM
Staff Engineer III
Bureau of Waste Management
Solid Waste Facilities Branch
901 S. Stewart St., Suite 4001
Carson City, NV 89701-5249

**RE: Bedroc Landfill and Waste Management Facility
Class I Landfill Permit Application
Bedroc Limited, LLC**

Dear Mr. Taylor:

Please enclosed, revisions to the Bedroc Limited, LLC (Bedroc) application for a Class I Disposal Facility application. The facility is located within the Coyote Spring Valley, adjacent to U.S. Highway 93 and the Western Elite Material Processing Facility.

The following information is included for your review:

- Class I/II Municipal Solid Waste Disposal Site Permit Application
- Operating Plan as required by NAC 444.684
- Integrated Sitewide Contingency Plan as required by NAC 444.684
- Groundwater Monitoring Plan as required by NAC 444.683
- Design Report as required by NAC 444.680
- Decomposition Gas Monitoring as required by NAC 444.667
- Closure (and post-closure) Plan as required by NAC 444.6895 and NAC 444.6896
- Beautification Plan as required by NAC 444.678
- Construction Quality Assurance Plan
- Site Characterization Report

For your review, we have enclosed one copy of the application. Should you have any

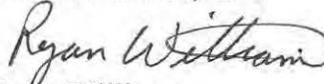
Mr. Jon Taylor, P.E., CEM

October 24, 2013

Page 2

questions or concerns regarding these changes, please do not hesitate to call me or Larry Bertolet at (804) 355-4520.

Sincerely,
Bedroc Limited, LLC

A handwritten signature in black ink that reads "Ryan Williams". The signature is written in a cursive style with a large, sweeping "R" and a long, horizontal flourish at the end.

Ryan Williams
Manager

Enclosures

C Larry Bertolet, P.E.

Exhibit 8

The following comments were received regarding the proposed Bedroc Class I Landfill in Lincoln County, Nevada. The comments were either presented orally at the Public Hearing held on July 7, 2014 in Alamo, Lincoln County, or were received in writing during the public comment period. In cases where multiple comments regarding the same issue were received, the comments have been grouped together and a single response provided. Comments are shown below in plain text, with the Nevada Division of Environmental Protection (Division) notes and responses provided in italics.

Comment 1 – Proximity of Landfill to Coyote Springs Master-Planned Development

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

Coyote Springs is a master-planned community of 43,000 acres located in the Coyote Springs Valley and comprises property both in Clark and Lincoln counties. CSI (Coyote Springs Investment) purchased all of this property in 1998. At the present time, CSI along with Weyerhaeuser (successor to Pardee Homes of Nevada), Lincoln County Power District, and the Southern Nevada Water Authority own property in the Coyote Springs master-planned community. All of the property in this community is entitled and developable pursuant to Development Agreements, Specific Plans, Planned Unit Development Codes, Environmental Permits, and other entitlements.

The map that I have here at my side (*CSI Exhibit 1*) shows the location of the Bedroc facility and the Coyote Springs community. This is SR 168, the Lincoln County/Clark County line is right here. And this is what our development agreement and our Title 15 and various codes and plans that we have in place, that have been in place since our development agreement was approved in 2005. This is what exists for us in terms of zoning at this time.

The Bedroc landfill is not only in the Coyote Springs Valley, it is across the street. If you read the application, the application doesn't mention the Coyote Springs community at all. We don't have any homes now. We have a golf course as many of you may know down in this location in Clark County, and last year we had just at 25,000 rounds of golf. And we do hope to develop and have homes in the Coyote Springs Valley.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

Coyote Springs is a Master Planned Community of 43,000 acres located in the Coyote Spring valley and comprises property in both Clark and Lincoln Counties. Coyote Springs Investment LLC purchased all of this property in 1998. At the present time, CSI, along with Weyerhaeuser NR Company, (successor to Pardee Homes of Nevada), Lincoln County Power District, and Southern Nevada Water Authority, owns property in the Coyote Springs Master Plan Community. All of the property in

this new community is entitled and developable pursuant to Development Agreements, Specific Plans, Planned Unit Development Codes, Environmental Permits, and other entitlements.

(CSI Exhibit 1) shows the anticipated land uses and relative location of CSI's property to the BedRoc Limited LLC ("BedRoc") property for your reference. The BedRoc landfill facility is not only in the Coyote Springs valley, it is literally across the street from the Coyote Springs Master Plan Community. See also *(CSI Exhibit 2)*.

- c. Written Comments received from Severin Carlson of Kaempfer Crowell (Weyerhaeuser NR):

WNR is the master residential developer for Coyote Springs and it owns land (as well as maintains the right to purchase additional land) that would allow for the construction of 50,000 to 60,000 residential lots in the Coyote Springs master plan community, which is in close proximity to Bedroc's proposed Class I site. WNR became the master residential developer this past June after having purchased the property from Pardee Homes (which was an indirect subsidiary of WNR). Additionally, the Class I site is adjacent to an existing Class III site, owned by Bedroc, and operated by its affiliate Western Elite, Inc. As a significant landowner in Lincoln County in near proximity to the proposed Class I site, WNR is concerned with the detriment that a Class I landfill may have on the surrounding environment, and the adverse impact it has on WNR's holdings in Coyote Springs, let alone the impacts already attributable to Western Elite's Class III landfill operations.

NDEP Response

The proposed Bedroc Class I landfill site is more than one (1) mile from the Coyote Springs development area zoned for residential dwellings. This meets the regulatory criteria in NAC 444.678(6) for distance from dwellings or places of public gathering (minimum 1/4-mile).

Comment 2 – Visual Impact of Landfill

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

So I want to put this landfill into perspective a little bit. And I know that NDEP showed some slides and showed what some of this looks like. This is a drawing (*CSI Exhibit A*) that shows if you were standing at the Coyote Springs property and you were looking across the street. So this is a mock-up of the Luxor hotel that I think all of us are pretty familiar with, and this is the height according to the application. In various places it says 140 feet, in other places it says 150 feet at finished height. And you can see the cars and different SUVs. So we've put in a pickup, a person down there at 6 feet, a jeep. So this is driving by on US 93, and this is, when it's finished

after 90 years, and it will be there in perpetuity forever, this is what it will look like for 3500 feet. This is obviously not to scale, that's what the little line means. That means you could take 5 Luxors and place them along the entire length, and that's how big that this will be.

Yes, it's 700 feet back from highway 93; I agree it is. How far is 700 feet? Not even the length of 2 football fields. You'll see it, you'll know it, you'll feel it when you drive by. So welcome to Lincoln County. Everyone who comes into Lincoln County to recreate, to enjoy, to do whatever; welcome to Lincoln County, this is what you'll see.

And the proposed landfill, according to the application submitted has a boundary, the way that I read the plans submitted, the boundary of the actual landfill property will be 184 acres; the base of the landfill itself, according to the plans as we read them, is 113 acres; the top of the landfill at 140 feet – 37 acres in size. How many of us have a piece of property that is 30, 40, 50 acres? Imagine that 140 feet in the air. Think about it in terms of football fields, again back to a football field. So the boundary of the 187 acres is a little more than 139 football fields. The base of the landfill itself is a little over 85 football fields. And at the very top you'll have 37 football fields 140 feet in the air.

- b. Written comments submitted by Joe Cacioppo, P.E. of Resource Concepts Inc.:

The Class I expansion is within 1,000 feet of U.S. Hwy 93. NAC 444.678(6) states that a Class I landfill must not be within 1,000 feet of a public highway, unless special provisions for the beautification of the site and the control of litter and vectors are included in the design and approval by the solid waste management authority. While beautification plans were submitted, they are not adequate to sufficiently obstruct the view of this facility.

NDEP Response

The proposed Bedroc Class I landfill is required to meet the criteria set forth in NAC 444.678(6) regarding proximity to dwellings and highways and visual impact mitigation. The Applicant has included plans in Appendix H of the application describing measures to be taken to prevent visual impacts for any portion of the landfill within 1000 feet of the highway. While the statutes and regulations do not contain applicable criteria for visual impacts due to the specific size or height of a project, the mitigation measures incorporated into the proposed project will maintain a berm that will visually shield the operating face of the landfill from automotive traffic on Highway 93 as vehicles pass by the proposed Bedroc facility. The beautification plan has been reviewed and found by the Division to be acceptable based on the requirements of NAC 444.678(6).

Comment 3 – Land Status of Surrounding Property

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

So this is again, you see the Bedroc location, you see the Kahne Springs Road, and you can see the Coyote Springs master-planned community, and we've put in some mile markers in here. If you look at the application, the application doesn't quite describe, the application actually says that there is no property nearby. The application says "lands surrounding the project site are public lands administered by the Bureau of Land Management. These lands are undeveloped and considered open space." That's just an inaccurate statement, I mean I'm not BLM land and I'm not open space. We have a piece of leased land that's right here that according to all of our documents and our permits and environmental – everything is going to be reconfigured and will be fee-owned land, all of this is fee-owned land. Our property in Lincoln County is 29,000 acres and it starts right there.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

BedRoc's "Design Report" dated October 2013 and revised May 2014, on Page 2 in Section 2.0 there is an affirmative statement which reads "Lands surrounding the project site are public lands administered by the Bureau of Land Management. These lands are undeveloped and considered open space." As shown on *(CSI Exhibit 2)* the community of Coyote Springs is across US Highway 93 from the proposed facility. Coyote Springs is a "Planned Unit Development" within Lincoln County and entitled for up to 110,000 residential units - over 250,000 residents.

- c. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of September 8, 2014):

(GES Bedroc Landfill Vicinity Map) is a map submitted by BedRoc as a part of their legally deficient application. This map is entitled "AERIAL PHOTOGRAPH Bedroc Limited Landfill vicinity Map Lincoln County, Nevada". This map leads the reader to believe that the proposed BedRoc facility is in an area that has no other land uses or private owners. As you know, this is NOT the case, the proposed BedRoc class I landfill is across the street from the Coyote Springs Master Plan Community. See *(CSI Exhibit 1)* which shows the adjacent location of the Coyote Springs Master Planned Community.

NDEP Response

Drawing 20 included with the most current application (revision May 2014), and posted on the Division website during the public comment period, shows the land status for an area up to two (2) miles distant from the Bedroc property boundary. The configuration and identification for each area on the east side of the highway is

in substantial agreement with CSI Exhibit 2. The Division considers the representation of the land status of the surrounding area in the application to be accurate.

Comment 4 – Water Rights

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

And in addition, the Class I operating plan, integrated site-wide contingency plan, the design report, groundwater monitoring and reporting plan imply that Bedroc has the necessary water rights to conduct its business at the Class I landfill. A review of the records in the State Engineer’s office demonstrates that Bedroc has one permit in good standing (Permit # 70859) for 0.35 cfs of irrigation water on a specified piece of property that, place of use it’s 25 acres in size for an irrigation season of May 1 through August 31 of every year. You heard NDEP describe that they have to have dust monitoring, they have to be watering down every day all the time. Where are they getting their water from? I don’t know.

We have concerns with potable water and water rights. For the reasons I mentioned earlier we don’t believe there are valid permanent water rights for a facility. If you read the integrated site-wide contingency plan, for instance section 11 page 35, it states “a shower and an eye-wash station are available in the maintenance building on site.” Section 1 of the design report says “the administration trailer and break room will provide potable water and restrooms for site personnel.” I couldn’t find in the design report or any of the site plans for the installation of a water treatment facility. How are they providing treated water to their employees to do these things? I don’t know.

So, in section 11 of the Class I operating plan, again water. It states, “Adequate water will be available at all times from an onsite well for dust control and compaction of cover material. Incoming loads will be sprayed down before loading if necessary. A water truck is maintained onsite to provide dust control and moisture addition to the materials. Bedroc pumps water from the onsite well to the water truck via standpipes located strategically on the property.” Where are they getting their water? From their irrigation water? Wouldn’t all of us like to use our irrigation water? Wouldn’t all of us like to use water for other uses? On all of the ranches we own in Lincoln County we can’t use our water. We have water, you can’t do it. The State Engineer comes out and monitors us. Why can Bedroc use their irrigation water for these other purposes?

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

BedRoc's Class I Operating Plan, Integrated Site Wide Contingency Plan, Design Report, Groundwater Monitoring and Reporting Plan imply that BedRoc has adequate water rights to conduct its business. A review of the State Engineer's records demonstrates that BedRoc has one permit in good standing (Permit # 70859) for .35 cfs of Irrigation Water on a specified permitted place of use 25 acres in size with a season of use limited to May 1 through August 31. This is not adequate water to conduct business operations because, among other reasons, water designated as "irrigation water" is not for commercial business purposes.

Section 11.0, page 35 of the Integrated Site Wide Contingency Plan submitted by BedRoc's states that potable water and washing facilities will be available. Further, Section 13.4, page 41 of the Integrated Site Wide Contingency Plan describes that "A shower and an eyewash station are available in the maintenance building on site." Additionally, Section 1.0, page 1 of the Design Report states "The administration trailer and break-room will provide potable water and restrooms for site personnel." Neither the design report nor the site plans show the installation of a water treatment facility, thus, BedRoc's application is not complete.

BedRoc does not have the necessary valid permanent year-round Water Rights to conduct the operations that its application seeks. Therefore, the Integrated Site-Wide Contingency Plan cannot be implemented and BedRoc's application is not complete.

NDEP Response

NAC 444.696(2) requires that there be an adequate supply of water for dust control and compaction of cover material. Division regulations overseen by the Bureau of Safe Drinking Water require that potable water meet certain standards depending on the number of service connections and the number of employees. Regulations overseen by the Nevada State Engineer require that the source of water used for these purposes comply with all applicable requirements regarding water rights and approved uses thereof. The Division Bureau of Waste Management is not in a position of regulatory authority over these issues. However, language has been added to Section 9 of the Permit requiring conformance with regulations of all other local, State, and Federal agencies with applicable jurisdiction over the proposed facility which are not covered by the Solid Waste Regulations, including the requirements of the State Engineer and the Division Bureau of Safe Drinking Water.

Comment 5 – Land Conformance Requirements

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

We also argue that there is no conformance to our master-planned community and that they do not, in fact, meet the land conformance requirements as required by

statute. And, Lincoln County parcel 008-201-13 is 440 acres, and that's why I asked the question; I'm confused as to where they come up with their figures. Their other parcel which is -12 is 80 acres.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

BedRoc's proposed Class I landfill of 184 acres is within a much larger legal parcel of property 440 acres in size (Lincoln County APN 008-201-13). NDEP should reject BedRoc's application because the proposed Class I landfill is not defined and identified as a separate legal parcel. Further, the Class I landfill boundary limits should be legally defined, and be separate and distinct from legally defined boundary limits for the Class III landfill, as required by Nev. Revised Statutes and NAC.

BedRoc's proposed Class I landfill does not conform to the development of a Master Planned Community entitled for a total of 159,000 residential units located across the street, See (*CSI Exhibit 1*):

- i. Pursuant to NAC 444.678, a Class I landfill must "conform with the land use planning of the area." Further, NAC 444.680(2) requires BedRoc's application to include "a general location map showing land use and zoning within 1-mile of the disposal site." BedRoc's application is misleading and does not show the Coyote Springs Planned Unit Development and land uses. See (*CSI Exhibit 1*).
- ii. BedRoc's proposed Class I landfill does not conform to the land use of the parcel on which the Class I landfill is proposed to be located. Lincoln County parcel 008-201-13 is 440 acres, 184 of which is proposed to be used as a Class I Landfill. Further, approximately 83 acres of this same legal parcel is already used as a Class III landfill by a different permittee. Western Elite, Inc. This is not allowed by statute.

BedRoc's application does not comply with Nevada Administrative Code ("NAC") 444.5705:

- iii. NAC 444.5705 defines a "Class I site" as a disposal site which is "comprised of at least one municipal solid waste landfill unit including all contiguous land and structures ...used for the disposal of solid waste; and [(2)] is not a Class II or Class III site."
- iv. BedRoc's application identifies that the proposed Class I landfill will be located on Lincoln County APN 8-201-13, which is 440 acres in size. This is the same legal parcel of land on which a permitted Class III landfill is

already located. There is not a separate legal parcel for the proposed Class I landfill. See (*CSI Exhibit 2*).

- c. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of September 8, 2014):

BedRoc's application does not comply with Nevada Administrative Code ("NAC") 444.5705. NAC 444.5705 is attached to this letter as (*CSI Exhibit 5*).

- i. NAC 444.5705 defines a "Class 1 site" as a disposal site which is "comprised of at least one municipal solid waste landfill unit including all contiguous land and structures , ..used for the disposal of solid waste; and [(2)] is not a Class II or Class III site."
- ii. BedRoc's application identifies that the proposed Class I landfill will be located on Lincoln County APN 8-201-13, which is 440 acres in size. This is the same legal parcel of land on which a permitted Class III landfill is already located. Furthermore, the existing Class III operation is owned and operated by a third party - Western Elite Inc. There is no separate legal parcel for the proposed Class I landfill. See Exhibit 3. This is in violation of NDEP's rules and regulations and should not be allowed. See, e.g., NAC 444.5705.

NDEP Response

Drawing 1 included with the most current application (revision May 2014), and posted on the Division website during the public comment period, shows the zoning in the proposed landfill area to be M-2. In addition, the Division has received confirmation from Lincoln County that the proposed landfill location is appropriately zoned for this purpose.

There is no requirement in the Solid Waste Regulations that different landfills be located on separate parcels. The boundaries of each landfill are clearly defined on Drawing 1 (land use and zoning within 1 mile) and Drawing 20 (land status within 2 miles) submitted with the application and do not overlap.

The Division has no regulatory authority over issues related to the master-planned community in Coyote Springs Valley. However, language has been added to Section 9 of the Permit requiring conformance with regulations of all other local, State, and Federal agencies with applicable jurisdiction over the proposed facility but not covered by the Solid Waste Regulations, including the requirements of Lincoln County.

Comment 6 – County Assessor’s Records vs. Current Facilities

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

So out of curiosity I went and I looked at the personal property records on the Lincoln County assessor’s website to see what they have on their property; what is Bedroc paying personal property taxes on? They are paying personal property taxes, according to the assessor’s website, which may not be up to date, I’ll grant that, on parcel 008-201-13 they’re paying personal property taxes on 1 mobile-home hookup, 1 well, and 1 septic tank, and no other buildings or structures. On parcel 008-201-12 they’re paying property taxes on zero improvements. Parcel -12 is the 80 acre site, that’s more or less where the Class III landfill is right now. However, if you come up and you look at my drawing, or even from sitting where you’re sitting, this is just a Google-Earth picture that my CAD tech took. He counted, with his magnifying glass for me – trailers, barns, buildings, sheds, connex boxes: 65; travel trailers: about 7; cabanas/cabins, something along those lines: 6; a scale; one cement rock crusher; a batch plant; one power substation; in addition to in the southwest corner of the Bedroc property what he called a vehicle graveyard or junkyard full of vehicles. I’ve never been on their property; I’ve never done anything more than drive by on highway 93. This is all that I have personally looked at.

NDEP Response

Solid Waste regulations do not require review of county assessor’s records. However, language has been added to Section 9 of the Permit requiring conformance with regulations of all other local, State, and Federal agencies with applicable jurisdiction over the proposed facility but not covered by the Solid Waste Regulations, including the requirements of Lincoln County.

Comment 7 – Lincoln County Special Use Permit (SUP)

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

We argue that Bedroc does not have a valid special use permit, that it was issued in 2003, they never exercised it. I can go on for 30 minutes for why I don’t believe that it exists. That’s my argument with Lincoln County and I disagree that a valid special use permit exists. In addition, there is a prohibition in my development agreement with Lincoln County – we have a bilateral agreement signed by both parties, Coyote Springs Investment on one side, Lincoln County on the other – that says that they, Lincoln County, will not permit or allow a facility like this within 10 miles of the boundary of Coyote Springs. And I realize that may not be NDEP’s argument, however, to me it’s a valid reason why a special use permit couldn’t have been approved.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

BedRoc does not have a valid Special Use Permit issued by Lincoln County authorizing the operation of a Class I landfill at the proposed location. The Special Use Permit BedRoc intends to rely upon was issued by the Lincoln County Board of County Commissioners on May 19, 2003, and is Legally Invalid for many reasons.

- c. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of September 8, 2014):

BedRoc does not have proper land use approvals to operate a Class I landfill at the proposed location. The Special Use Permit BedRoc intends to rely upon was issued by the Lincoln County Board of County Commissioners on May 19, 2003, and is Legally Invalid for the following non-inclusive list of reasons:

- i. BedRoc's purported land use approvals for a class I landfill are EXPIRED and LEGALLY INVALID.
- ii. The governing authority in Lincoln County for land use matters is Lincoln County Code Title 13 ("LC Title 13"). A copy of the sections from LC Title 13 referred to below are attached to this letter as (*CSI Exhibit 4*).
- iii. Specifically, pursuant to Section 13-2-3, LC Title 13 replaced the previous county zoning and subdivision ordinances. See LC Title 13, Chapter 2, Sections 13-2-1, 13-2-2, 13-2-3, 13-2-6, and 13-2-7.
- iv. According to LC Title 13, Chapter 5, Section 13-5J-1 to 13-5J-10, Zone "M-2" is "Heavy Manufacturing District" which states in part:

"any use permitted in the M-1 light manufacturing district, except residential uses.... Any of the following industrial, manufacturing, wholesale and storage uses...."

The list which follows does NOT include "landfill" or "refuse storage" of any kind. See LC Title 13, Section 13-5J-2.

- v. However, according to Section 13-5J-3 of LC Tide 13 [emphasis added]: "The following additional uses may be permitted subject to securing a special use permit in each case as provided for in chapter 8 of this title," which such additional uses include:

"...dump and refuse disposal areas" and "recycling facilities and operations involving use, recovery or residue of hazardous

materials and/or wastes" is permitted...." See LC Title 13, Section 13-5J-3.

- vi. Section 13-5J-3, Chapter 8 of LC Title 13 governs the process to grant a special use permit and its expiration. The process includes an application to the Lincoln County Planning Commission. If following a valid legal application, public hearings and Board approval, a Special Use Permit is granted, the Special Use Permit expires six (6) months from the date of final decision if the approved special-use is not actually established or the actual construction commenced, within such 6-month period. See LC Title 13, Chapter 5, Section 13-9-9.
- vii. The Special Use Permit that BedRoc attempts to rely on for its Class I Landfill application was approved by the Lincoln County Board of County Commissioners on May 19, 2003. It is an established fact that, the "use itself was not established" within 6-months from the date this Special Use Permit was granted in May, 2003. BedRoc did not even apply to NDEP for approval to receive Class I Landfill materials within such 6-month period.
- viii. The deficient application submitted by BedRoc on October 24, 2013, was filed Ten (10) Years after the Expiration of the May 2003 Special Use Permit.
- ix. Additionally, by its very terms, Special Use Permit 2003-5-2 expired. Special Use Permit 2003-5-2 states "Failure to achieve the licensing through the state of Nevada nullifies this Special Use Permit." [Emphasis added]

Therefore, BedRoc does NOT have the necessary Land Use Entitlements to operate a Class I Landfill at its proposed location in the Coyote Spring valley, across the street from the Master Planned Community of Coyote Springs, the future home to approximately 416,556 residents.

- d. Written Comments received from Severin Carlson of Kaempfer Crowell (Weyerhaeuser NR):

Bedroc's application contains many fatal flaws that should result in NDEP denying the application. First, despite Bedroc's contention that it maintains a special use permit for a Class I facility from Lincoln County, the 2003 special use permit it obtained is invalid and void as a matter of law. Lincoln County's planning code required Bedroc to establish or commence the actual construction of its Class I facility within six (6) months from the date it obtained the special use permit. No Class I permit was granted, let alone sought from NDEP, within that six month time frame. Without a valid special use permit, Bedroc's location for the Class I site does

not conform to the land use planning of the area, as required by the applicable regulations. Additionally, it should be noted that the invalid and void special use permit is for two parcels (APN 008-201-12 and APN 008-201-13), not just the parcel listed in Bedroc's application.

NDEP Response

The most current application (revision May 2014) states that the SUP of April 2003 will satisfy the requirements of NAC 444.678(5). The Division received written correspondence dated November 8, 2013 from the Lincoln County Office of the District Attorney stating that they expected that the conditions included in the April 2003 SUP would be met to the satisfaction of the County. The Division will require evidence demonstrating those conditions have been met to be submitted prior to initiation of construction of the facility and has added language to Section 9 of the Permit restating this. The Division will accept the final decision of Lincoln County regarding the SUP.

Comment 8 – Stormwater Controls/Floodplain

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

We're concerned about water quality, and we appreciate the efforts that are being made with the HDPE liner and the extra preventions that are being taken. We still have a concern because this site sits in the Pahranaagat Wash. We are downstream from the Pahranaagat Wash. Our property is here. You can see the streams that come down through the Pahranaagat Wash. If you look at maps that they submitted in their application, you look at the Army Corps of Engineers, you look at the BLM, they all say Pahranaagat Wash right through this area, they put boxes along it "Pahranaagat Wash". This facility sits in the middle of the Pahranaagat Wash. How can that happen? How is the Army Corps of Engineers involved? How does NDEP not have to coordinate with the Army Corps of Engineers and the EPA and the Clean Water Act?

I already discussed the waters of the United States and the Pahranaagat Wash. We have a concern about that. The design report in section 5.0 states "No defined flow channel is present in Coyote Springs Valley in the vicinity of the proposed landfill site." I have a hard time with that, that just doesn't make any sense. And if you read elsewhere, Bedroc then describes that the Pahranaagat Wash flow is between – is right here – is between the edge of the proposed landfill, so the yellow line, and highway 93, the aqua-blue line. That's not a very wide channel there. The Pahranaagat Wash is much larger than that.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

In addition to water basin concerns, CSI is concerned about any effect on the Water Quality in the Coyote Springs Basin #210 by BedRoc's proposed Class I operations:

- i. We are concerned that BedRoc's blatant disregard to the Clean Water Act and regulations promulgated by the US Army Corps of Engineers and other state and federal agencies will negatively and detrimentally affect Water Quality through groundwater, surface water, stormwater, and any other direct or indirect water use or discharge by the proposed Class I operation on the Coyote Springs Master Planned Community's downstream property. Further, we are concerned about the effect on the downstream water quality, habitat, and impacts resulting from the re-routed stream and wash flow caused by the diversion of stormwater around the proposed Class I Landfill location.
- ii. BedRoc states in its application for a Class I permit modification that its property is "not within a 100 year floodplain" - that is a Misleading answer; the Correct answer is that the Federal Emergency Management Agency (FEMA) has not reviewed this geographic area to determine whether or not a 100-year flood plain exists. In review of BedRoc's submitted Design Drawings Dated October 2013 and Revised May 2014, Drawing Nos. 4, 21, 22, and 23 and the to-be-constructed stormwater channel around the edge of the proposed Class I landfill facility, all of the stormwater, flow through the natural channels, and any other water present will flow in the to-be-constructed channel dumping all such waters in a location that appears to be in the northeast corner of the existing Class III landfill; this could erode portions of the Class III facility and cause health and safety concerns, and could cause an excessive amount of waters to be present in a location without an engineered plan approved by proper agencies. BedRoc's inaccurate statements again challenge the veracity of BedRoc's Class I application and its compliance with State and Federal Regulations.

BedRoc's location is within an area containing ephemeral washes and other waters subject to the jurisdiction of the US Army Corps of Engineers (among other agencies), including without limitation, the Pahranaagat Wash and tributaries, see (*CSI Exhibit 3*).

- iii. The Pahranaagat Wash which runs through the Coyote Springs Master Planned Community, is a protected "water of the United States" subject to governance by the US Army Corps of Engineers. CSI was required to obtain, and does maintain, a Section 404 Permit issued by the Army Corps

of Engineers, and we are concerned about possible impacts to the Pahranaagat Wash and the water that discharges from, and flows through, BedRoc's site and any impacts on the Coyote Springs Master Planned Community which is downstream.

- iv. Again, we believe BedRoc makes an ambiguous statement: In the submitted "Design Report" in Section 5.0, 2nd full paragraph: "No defined flow channel is present in Coyote Spring Valley in the vicinity of the proposed landfill site." The application does not include a Delineation of Waters approved by the US Army Corps of Engineers. As shown on (*CSI Exhibit 3*), there are defined flow channels present which are regulated and protected by the US Army Corps of Engineers.
- c. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of September 8, 2014):
 - i. CSI remain highly concerned about the negative and deleterious effects a Class I landfill in such close proximity to the Coyote Springs Master Planned Community will cause.
 - ii. We remain disturbed that BedRoc's apparent disregard of the Pahranaagat Wash and its protected natural flow and wash corridors, the Clean Water Act and regulations promulgated by the US Army Corps of Engineers and other federal, state, local, or other regulatory agencies, will negatively and detrimentally affect water quality through groundwater, surface water, stormwater, and any other direct or indirect water use, diversion, or discharge by or as a result of, the proposed Class I operation, on the Coyote Springs Master Planned Community's downstream property, including, without limitation, as stormwater or other surface waters flow south from the BedRoc landfills through the natural channels of the Pahranaagat Wash which then flows through the Coyote Springs Master Planned Community. See also (*CSI Exhibit 3*) and the natural flow channels of the Pahranaagat Wash through the proposed class I landfill site.
- d. Written Comments received from Michael Senn of the US Fish and Wildlife Service:

Because the project area is located upstream from the Pahranaagat Wash and Kane Springs Wash, we are concerned about contaminants that may be present in runoff from the landfill entering the washes. Desert tortoises travel, burrow, and feed in desert washes. Therefore, flood control measures that reduce infiltration rates into the washes should be developed and implemented by the applicant to avoid and minimize potential indirect effects to tortoises.

As a reminder, discharge of fill material into wetlands or waters of the United States is regulated by the U.S. Army Corps of Engineers (Corps) pursuant to section 404 of

the Clean Water Act of 1972, as amended. We recommend the applicant contact the Corps' Regulatory Section at 321 North Mall Drive, Suite L-101, St., George, Utah 84790-7314, 435-986-3979 regarding the need for a permit. If a permit is required, a Biological Assessment may need to be prepared by the Corps in coordination with the applicant for compliance with section 7 of the Act and include a thorough analysis of the potential project effects to desert tortoises. In the absence of a federal nexus, the applicant would consult under section 10 of the Act for potential impacts to tortoises.

- e. Written Comments received from Severin Carlson of Kaempfer Crowell (Weyerhaeuser NR):

Third, Bedroc's assertion that the landfill site is not located within a published 100-year floodplain is misleading. The Federal Emergency Management Agency ("FEMA") has not mapped this region to determine whether the proposed site is located within a 100-year floodplain. This does not mean that further investigation shouldn't be conducted or that the applicant should provide further assurances that its Class I operations won't harm the environment in the event of a flood. Simply because the Class I facility is not in a published 100-year floodplain does not mean that FEMA would not designate it as such. NDEP should take this misleading conclusion into mind when considering the factual assertions Bedroc sets forth in its application and accompanying materials.

Fourth, as a part of its operations and interests in Coyote Springs, WNR has an obligation, along with Coyote Springs Investment, LLC ("CSI"), to adhere to the conditions of a Section 404 Permit issued by the Army Corps of Engineers. As a part of the process to obtain the 404 Permit, WNR and CSI had to demonstrate that the discharge of dredged or fill material would not significantly degrade the Pahrangat Wash (which runs through the center of Coyote Springs). When permits are granted, the applicants must describe steps taken to minimize impact to water bodies and wetlands and provide appropriate and practical mitigation for unavoidable impacts. WNR will not have control over Bedroc's operations so as to prevent impacts the Class I facility may have on the Pahrangat Wash. Without sufficient safeguards, WNR will have to consider all legal avenues to maintain its 404 Permit, adhere to its conditions, and to protect itself from liability as a result of the actions of third parties, such as Bedroc, particularly when Bedroc does not intend to monitor the Pahrangat Wash, "other than required by the facility's National Pollutant Discharge Elimination System (NPDES) permit." .

- f. Written Comments received from Patricia McQueary of the US Army Corps of Engineers:

The U.S. Army Corps of Engineers is submitting comments on the BedRoc Sanitary Landfill proposal. This proposed landfill is located upstream of the Coyote Springs project that was required to go through a very rigorous and thorough EIS to receive a

permit to develop in this area. A large tract of land was set aside for mitigation of impacts to ephemeral washes within the proposed development area. The proposed BedRoc Landfill area is transected by these very same washes upstream of the mitigation site for Coyote Springs. We have never been approached by the applicant or any past owners of this site for a Section 404 permit under the Clean Water Act. As such, we oppose the issuance of a permit for any additional proposed projects on this site until the applicant has submitted an approved "Waters of the U.S. delineation" to the U.S. Army Corps of Engineers to ensure compliance under the CWA. The applicant is potentially in violation of the CWA with current activities. We will be investigating any potential unauthorized activities on the site and believe that your department should allow the Corps to complete an investigation before issuing a permit.

- g. Written Comments received from Joe Cacioppo, P.E. of Resource Concepts Inc.:

The drainage analysis performed for the Class I permit application continues to use the SCS TR-55 program, which is a simplistic and typically less accurate analysis method primarily used for urban watersheds. The program defines small watersheds as areas that do not exceed 25 square miles. Page 17, Section 13.2 *Run-On Control System*, of the Design Report (Revised May 2014) states the contributing watershed to be 170 square miles. Since this location is in the Pahranaagat Wash, there is also a potential for occasional flash flooding.

Page 2, Section 3.2 *Location Restrictions*, of the Operating Plan states "the landfill site is not located within a published 100-year floodplain." This is only true because the site is in a relatively remote area that FEMA hasn't mapped. FEMA lists this region as a Flood Hazard Zone 'D', areas which flood hazards are undetermined but possible. Peak flows in this region have been reported to exceed 5,000 cubic feet per second, which is 150% greater than that estimated in the SCS TR-55 analysis. The diversion ditches specified in the Design Report have a maximum capacity of 3,300 cubic feet per second. The lack of detailed analyses, potentially undersized diversions and lack of detail on the diversion ditches are a concern. As such, a more thorough analysis with an appropriate program should be required to more accurately characterize the flooding potential in this area.

FEMA lists this region a Flood Hazard Zone 'D', areas which flood hazards are undetermined but possible. This region is comprised of desert washes and alluvial fans that do not have the capacity to adequately convey floodwaters, which could endanger health, safety and welfare. Floodwaters in this region have reached quantities in excess of 5,000 cubic feet per second. In the event of such a flood in this section of the Pahranaagat Wash, the proposed Class I landfill being in the floodplain would be at risk of a washout that could create environmental impacts to this region. NAC 444.678 states, "The location of a Class 1 site must: Prevent pollutants and contaminants from the municipal solid waste landfill units at the site from degrading

the waters of the State." There is not adequate information to determine if this condition can be met. For this reason, more thorough hydrologic and hydraulic analyses need to be conducted.

NDEP Response

The most current application (revision May 2014) presents the design for control of stormwater runoff and runoff in Sections 13.2 and 13.3 of the Design Report and on Drawings 4, 21, 22, and 23. The diversions designed to capture and divert all runoff from watershed areas adjacent to the landfill have been designed to handle flows resulting from the 100-year, 24-hour storm event. This is an exceedance of the design requirements of NAC 444.6885(2)(a) which requires design for the 25-year, 24-hour storm event. The stormwater collection and conveyance design was modeled using SCS TR-20 within HydroCAD 8.0 (see Appendix V of the Design Report; reference to SCS TR-55 in the Design Report text is a typographical error). SCS TR-20 is intended for use on areas from 1 to 300 acres. The modeled area is 170 acres, therefore SCS TR-20 is appropriate for this application.

NAC 444.6785 requires that facilities located in a 100-year flood plain not restrict the flow or storage capacity required to accommodate a 100-year flood, or be physically damaged by the same. The Applicant is correct that the area in which the landfill is located has not been designated as a 100-year flood plain. The Solid Waste Regulations do not require the applicant to make that determination. The design as presented in the application therefore meets the regulatory requirement.

The Division does not have authority to enforce compliance with the regulations of the US Army Corps of Engineers. However, language has been added to Section 9 of the Permit requiring conformance with regulations of all other local, State, and Federal agencies with applicable jurisdiction over the proposed facility but not covered by the Solid Waste Regulations, including the requirements of the US Army Corps of Engineers, the Division Bureau of Water Pollution Control, and the Division Bureau of Water Quality Planning.

Comment 9 – Air Quality, Public Nuisance

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

Air quality – we have a concern about air quality and the noxious odors, greenhouse gases and other issues related to that. The application states, “Nuisance odor problems are diminished further by prevailing on-site winds and the absence of nearby sensitive receptors (neighbors).” There may not be neighbors now, there will be neighbors. This facility has a life of 90 years. There will be neighbors, we will have homes within the next 90 years. We have a 40 year development agreement.

We're 10 years into that development agreement. There will be neighbors before this facility is closed.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

CSI is concerned about any effect on air quality within the Coyote Springs valley of BedRoc's proposed Class I operations:

- i. The proposed Class I landfill will emit noxious odors, greenhouse gasses, methane gasses, other green gasses, dust and other particulate matter that is released into the air. In addition, any fire, explosion, or related smoke can also damage the air quality.
- ii. The Class I Operating Plan, Section 12 regarding "odors" states that "Nuisance odor problems are diminished further by prevailing on-site winds and by the absence of nearby sensitive receptors (neighbors)." As discussed previously, this is an inaccurate and at the very least, misleading statement. The Coyote Springs Master Planned Community is nearby. The prevailing wind in the Coyote Spring valley blows across Highway 93, and "nearby sensitive receptors" DO EXIST in the form of approximately 23,000 golfers annually at the golf course, and thousands of future residents.

NDEP Response

NAC 444.668 requires that the landfill not create health hazards, public nuisances or otherwise cause or contribute to the impairment of the environment. This is achieved by the daily cover of municipal waste (and immediate cover of certain special waste types) placed in the landfill, collection and removal of landfill gases, and maintenance of appropriate barriers to contain wind-blown refuse and exclude terrestrial wildlife. These measures have been used successfully in other landfills in similar environments elsewhere in the State of Nevada to control odors. However, if these measures are shown to be insufficient, the Division is authorized to require addition steps be taken as appropriate.

Comment 10 – Habitat and Conservation

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

We also have issues with habitat and conservation and the U.S. Fish and Wildlife Service, and what impacts that having this facility in Class I – household material, hospital waste – is going to have on the tortoises, is going to have on the Gila Monsters, is going to have on the burrowing owl. Ravens, which Lincoln County has already declared a nuisance – Lincoln County passed an ordinance that said ravens are a nuisance. How is this going to affect Ravens? It is going to quadruple, times a hundred, I don't know. Ravens are going to go up. Ravens kill tortoises, ravens kill burrowing owls, ravens kill all sorts of animals. It is going to dramatically affect that and I again don't understand why U.S. Fish and Wildlife Service is not a participating agency and does not have an opportunity to be a part of this process and the effects on the environment.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

CSI is concerned BedRoc's proposed Class I landfill operation will detrimentally and negatively affect species in the Coyote Springs valley. CSI holds permits governed in part by US Fish & Wildlife Service and the Bureau of Land Management, and CSI is concerned that BedRoc's proposed Class I landfill operations could negatively affect species, habitat and conservation values in the Coyote Springs Master Planned Community. CSI requests a description of consultations BedRoc has had with US Fish & Wildlife Service and Bureau of Land Management regarding any such possible affects, as well as the effect on wildlife by raven predators attracted by the proposed landfill.

- c. Written Comments received from Michael Senn of the US Fish and Wildlife Service:

This responds to your request for comment on the Notice of Intent to approve a permit to allow the placement of municipal solid waste within the Bedroc Landfill and Waste Management Facility. We understand this project includes an expansion of existing waste services within the facility and may result in the removal of habitat for desert tortoise (*Gopherus agassizii*). The Mojave desert tortoise is federally listed as threatened under the Endangered Species Act (Act). Habitat loss and degradation are major threats to the recovery of this species. The proposed project also may indirectly affect desert tortoise in habitat surrounding the project area. The Desert National Wildlife Refuge is located immediately west of project area and includes one of the largest intact blocks of habitat for the tortoise and other wildlife. We are concerned that the increase in waste and trash material at the project site would result in attracting predators, such as common ravens (*Corvus corax*), to the immediate and adjacent area (i.e. the Refuge). Predation on juvenile desert tortoises by common ravens and coyotes (*Canis latrans*) is one of the main threats to tortoises.

The Fish and Wildlife Service holds the conservation responsibilities and management authority for migratory birds. Under the Migratory Treat Act (MBTA), nests (nests with eggs or young) of migratory birds may not be harmed, nor may

migratory birds be killed. Such destruction may be in violation of the MBTA. Therefore, we recommend land clearing, or other surface disturbance associated with the proposed project, be conducted outside the avian breeding season (approximately February through August) to avoid potential destruction of bird nests or young, or birds that breed in the area. If this is not feasible, we recommend a qualified biologist survey the area prior to land clearing. If nests are located, or if other evidence of nesting (i.e., mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer (the size depending on the habitat requirements of the species) should be delineated and the entire area avoided to prevent destruction or disturbance to nests until they are no longer active.

In particular, we are concerned about the western burrowing owl (*Athene cunicularia hypugaea*) and potential project impacts to this species from the proposed action if found within the project area. The western burrowing owl is also a Bird of Conservation Concern and is listed as a Bureau of Land Management sensitive species. The Nevada Comprehensive Bird Conservation Plan (Great Basin Bird Observatory 2010) identifies the burrowing owl as a special status species and identifies the reduction of its habitat in Nevada as a major threat to this species. Burrowing owls may be present within the project area. If burrowing owls are determined through surveys to occur within the project area, we recommend that you design your project to avoid disturbing burrows that are used by owls. If this is not possible, we ask that the project incorporate recommendations in our pamphlet, "Protecting Burrowing Owls at Construction Sites in Nevada's Mojave Desert Region" (*US Fish and Wildlife Service – Protecting Burrowing Owls at Construction Sites*).

- d. Written Comments received from Joe Cacioppo, P.E. of Resource Concepts Inc.:

The area of the proposed Class I landfill expansion is Desert Tortoise habitat. Desert tortoises are currently listed as a threatened species under the Endangered Species Act. In Nevada, they are classified as a State Protected and Threatened Species. A Class I landfill accepts municipal solid waste which has a waste stream with the potential to attract ravens. Ravens are predators of the Desert Tortoise.

NDEP Response

NAC 444.668 requires that the landfill not create health hazards, public nuisances or otherwise cause or contribute to the impairment of the environment. This is achieved by the daily cover of municipal waste (and immediate cover of certain special waste types) placed in the landfill, collection and removal of landfill gases, and maintenance of appropriate barriers to contain wind-blown refuse and exclude terrestrial wildlife. These measures have been used successfully in other landfills in similar environments elsewhere in the State of Nevada to control attraction of nuisance birds such as ravens. However, if these measures are shown to be

insufficient, the Division is authorized to require addition steps be taken as appropriate.

The Division does not have authority to enforce compliance with the regulations of the US Fish and Wildlife Service. However, language has been added to Section 9 of the Permit requiring conformance with regulations of all other local, State, and Federal agencies with applicable jurisdiction over the proposed facility but not covered by the Solid Waste Regulations, including the requirements of the US Fish and Wildlife Service and the Nevada Department of Wildlife.

Comment 11 – Litter

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

We have a litter concern about the trash that I see up and down 93. I drive to Coyote Springs from Las Vegas every single day, five days a week at any rate. There's trash on the road. They do occasionally, you see people out picking things up. The covers are not always on trucks. I follow trucks. At the last public hearing Pardee Homes of Nevada had retained someone who followed trucks and videotaped, and I know with the last public hearing we had submitted many hours of video tape presentations and I hope to be able to resubmit those by this Friday.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

CSI has a litter concern. CSI is concerned BedRoc's operation plan does not include adequate measures to prevent debris, plastics, plastic bags, paper products, cardboard, newspaper, and other waste from littering not only the public highway, but to prevent these noxious materials from spreading into the Coyote Springs Master Planned Community.

- c. Written Comments received from Severin Carlson of Kaempfer Crowell (Weyerhaeuser NR):

Second, WNR is concerned about the fact that the current transportation of waste to the Class III facility is not conforming to applicable regulations requiring the prevention of littering and creation of other nuisances during transport. These specific regulations are within the purview of NDEP's enforcement power having been adopted by the Nevada Environmental Commission. If NDEP chooses not to enforce the regulations promulgated by the Environmental Commission, the regulations are either superfluous or NDEP is abdicating its duty to protect the environment that has a reasonable nexus to the landfills it permits, monitors, and regulates. WNR would

ask that NDEP take notice of a previously submitted DVD and photos in June 2013, concerning Western Elite, Inc.'s application to expand its facility, documenting the waste that litters U.S. Highway 93, wherein the trucks depicted are transporting waste to the Western Elite facility - a facility which rests upon land owned by Bedroc. The addition of a Class I site will only exacerbate the already prevalent problem, which is being inadequately addressed by Bedroc, the landowner for a Class III site, which now wants to operate a Class I site adjacent thereto.

NDEP Response

NAC 444.664 requires that handling, transportation and disposal of waste at the landfill be carried out in such a way as to prevent littering and the creation of other nuisances. However, these requirements are placed upon the carrier of the waste rather than the landfill operator and may not, therefore, become conditions of the Class I landfill Permit. Concerns about waste escaping containers during transport should be addressed to local law enforcement and/or the Nevada Department of Transportation.

Comment 12 – Integrated Site Wide Contingency Plan

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

We're concerned with whether or not the integrated site-wide emergency plan adequately provides for fire protection and whatever emergencies might happen on site, whether it's an employee or it's a fire. We have concerns about that and the – we at Coyote Springs have to have in our development agreement a very specific type of volunteer fire department. We have to have special provisions to make sure that we have those things and I don't see any of those assurances or provisions in this.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

CSI is concerned whether or not BedRoc's Integrated Sitewide Contingency Plan and Decomposition Gas Monitoring Plan are adequate for the proposed Class I facility given its location. CSI is concerned about a landfill gas explosion fires or unmitigated leak which poses a life, health or safety concern to the Coyote Springs community, its employees, present and future residents, business invitees, or others within the community. BedRoc's application does not adequately describe emergency responders, and length of response time to the BedRoc location, thus BedRoc's application is incomplete.

NDEP Response

The Division has reviewed the Integrated Site Wide Contingency Plan included in Appendix C of the application and concluded that the plan adequately addresses the

issues of landfill fires and personnel safety based on the requirements of NAC 444.684 subsections (2)(a), (4)(a) and (4)(b).

Comment 13 – Public Access

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

We have concern about public access. The application states in the operating plan section 5, “Public access is forbidden at this site and signage stating such is clearly posted at the entrance.” I don’t have a poster of this, it wouldn’t have blown up. However, in last Fall Western Elite advertised in the Lincoln County Record for the Polar Express. Some of you may have gone. They advertised, they invited children and families out to do a Polar Express Christmas program. That’s a fantastic thing to do, that’s a great community service. However, at a landfill site? I question whether or not that’s appropriate. I’ve not seen public advertisements for it but I’ve been informed that the pond that is here on the far western edge, that children from Lincoln County have been invited in and Boy Scout groups have been invited in to camp there. Again I don’t have any verification of that other than a rumor.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

BedRoc's Class I Operating Plan, Section 5, page 4 states "Public access is forbidden at this site and signage stating such is clearly posted at the entrance". Contrary to this statement in BedRoc's application to NDEP, last winter Western Elite published advertisements in the Lincoln County Record newspaper for a Christmas Train and Kids Events on the "Polar Express" at the landfill location. Pursuant to statute this is not permitted at a landfill location.

NDEP Response

NAC 444.698 requires that access to the landfill be controlled and unauthorized entry mitigated. However, this applies only to the area within the defined boundary of the landfill and would not necessarily preclude public access to other areas of the owner’s property that are not part of the active landfill. If such activity is allowed, the Division will require that adequate fencing and signage be in place to prevent trespassing by unauthorized personnel into the area of landfill operation.

Comment 14 – Traffic

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

I have a concern about traffic, and that a traffic study should be done. Why shouldn't Bedroc have to conduct a traffic study, put in passing lanes for all of us that drive up and down 93? I'm not the only one in this room who drives up and down 93 and gets stuck behind one of these trucks. I know that. It happens to everyone, and you get stuck behind a truck and sometimes it's two trucks. And why is NDOT, why is the Nevada Department of Transportation not a participating agency to have an opportunity to put conditions on a permit like this? Who instead is going to pay for those improvements to U.S. highway 93 when it comes to a point that NDOT decides? It'll be the tax payers, it'll be all of us paying for those improvements. At Coyote Springs our development agreements in both Clark and Lincoln counties required us to coordinate with NDOT so that when we get certain thresholds of homes, we're required to improve, put in passing lanes. Why not Bedroc? They're putting in this huge facility that is going to accept many, many tons, a huge site – 187 acres, 133 acres, 140 feet tall. They should as well.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

BedRoc should be required to commission and prepare a traffic study to address the potential influx of trucks along US 93 and impacts on garbage along US 93 and a plan to mitigate the substantial and potentially slow truck traffic and additional debris on US 93, and safety associated with the increased traffic.

I request that NDEP review the DVDs and documentary photos submitted to NDEP June 18, 2013, attached to a letter from Severin Carlson, Esq., of Kaempfer Crowell law firm. These DVDs depict the reckless manner in which the applicant allows trucks to transport waste to the existing landfill.

- c. Written Comments received from Severin Carlson of Kaempfer Crowell (Weyerhaeuser NR):

In addition to the litter, WNR is also concerned about the current and anticipated expansion of waste truck traffic on Highway 93 and the increased safety concerns attributed to this increase in traffic. As such, WNR urges NDEP to coordinate with the Nevada Department of Transportation to analyze the impacts on transportation prior to making a decision on Bedroc's request to operate a Class I facility.

NDEP Response

The Solid Waste Regulations do not specifically require traffic studies in conjunction with the permitting of a new landfill. However, language has been added to Section 9 of the Permit requiring conformance with regulations of all other local, State, and Federal agencies with applicable jurisdiction over the proposed facility but not covered by the Solid Waste Regulations, including the requirements of the Nevada Department of Transportation.

Comment 15 – County Assessor Documentation

- a. Written Comments received from Severin Carlson of Kaempfer Crowell (Weyerhaeuser NR):

Bedroc Limited, LLC's application indicates that the Class I site will be located on Lincoln County Assessor's Parcel Number 008-201-13 and that it, Bedroc Limited, LLC, is the landowner. See Permit Application at Section I (Applicant Information). The Lincoln County Assessor's records indicate that the parcel is owned by Bedrock Limited, LLC, not Bedroc Limited, LLC. This discrepancy, with no explanation in Bedroc's application, could serve as grounds to invalidate the Public Notice issued by NDEP.

NDEP Response

The misspelling of the owner's name by the county assessor was a typographical error. The application included a copy of the deed for the property from the county recorder and the name was spelled correctly thereon. Any correction is the responsibility of the county assessor's office. This minor discrepancy does not invalidate the application or the public notice by the Division.

Comment 16 – Solid Waste Disposal Agreements (County or Third Party)

- a. Written Comments received from Michael Harwell of Clark County Department of Business License:

This letter is in response to an application by Bedroc Limited, LLC for a permit to operate a Class I disposal site in Lincoln County that would allow the acceptance of municipal solid waste in excess of 20 tons per day. The location of this proposed 115 acre landfill is about five miles north of the boundary between Clark County and Lincoln County. It is also adjacent to, or in close proximity of, Western Elite (owned by Bedroc Limited), which is an approved Class III disposal site, authorized to accept only industrial waste, such as construction and demolition waste. It is my understanding that the bulk of the waste received by Western Elite is construction and demolition waste originating from Clark County.

According to Permit #SW181REV03, the Crestline Landfill is currently permitted as a Class II disposal site occupying 49 acres and serves as the primary disposal facility for Lincoln County, which has a current population of approximately 5,400 residents. The location and size of the proposed municipal solid waste landfill creates a concern for local governments in Clark County.

Section 9.04.070 of the Clark County Code expressly prohibits the collection or transporting of any solid waste by anyone other than the County, its exclusive franchisee (Republic Services), or their duly appointed agents. The municipal codes

of the incorporated cities of Henderson (HMC 5.17.060), Las Vegas (LVMC 9.08.060) and North Las Vegas (NLVMC 8.20.140) contain similar restrictions. The other two incorporated cities in Clark County, Boulder City and Mesquite, operate their own dedicated landfills for municipal solid waste and have exclusive contracts with Boulder City Disposal and Virgin Valley Disposal, respectively. As a result, there is no municipal solid waste available in Clark County that is not under contract.

Notwithstanding the provisions in the previous paragraph, there are a few exceptions to the restrictions on transporting solid waste. The Clark County Code provides that duly licensed construction, construction cleanup or demolition contractors may transport construction or demolition waste to a transfer station or disposal site operated by the County or its franchisee, to a materials recovery facility for construction *and* demolition waste or to another transfer station or disposal facility legally authorized by the solid waste management authority having jurisdiction over the facility. (Clark County Code 9.04.070 (a))

Although we have no problem with NDEP issuing the Class I Landfill permit to Bedroc Limited, LLC, we believe that a condition to the permit should be added that prohibits the site from accepting any municipal waste from Clark County. I realize that you do not issue franchises and your role is to regulate landfills. However, I do not believe that the state should issue permits that may allow a landfill to violate contracts between another government agency and private operators. Therefore, we respectfully request that the Class I Landfill permit be conditioned to not accept municipal waste from Clark County and to provide an accounting system for the origin of the waste that it does receive. The added conditions will allow the permit to be issued and protect the integrity of the franchise contracts that are currently in existence.

b. Written Comments received from Paul Yamamoto of Recology Crestline, Inc.:

Recology Nevada, Inc. (formerly Norcal Waste Systems of Nevada, Inc.) and its subsidiary Recology Crestline, Inc. (formerly Norcal Waste Systems Crestline Landfill, Inc.) (collectively, "Recology") respectfully submit the following comments on the application for a Class I Landfill filed by Bedroc Limited, LLC. Through a 49-year agreement with Lincoln County, Recology has the exclusive right to dispose of all solid waste generated within Lincoln County at Recology's Crestline landfill. Recology also has a separate agreement with Western Elite, Inc. that allows Western Elite to dispose of certain types of waste at Western Elite's existing Class III landfill consistent with the conditions of Western Elite's existing Class III permit. As set forth in these agreements, neither Western Elite nor Bedroc has the right to dispose of municipal solid waste generated within Lincoln County.

Recology wishes to insure that NDEP has an awareness of these agreements when conducting its review of Bedroc's operating plan and design report. Bedroc's design report notes that the proposed Class I facility "will serve as a disposal facility for

Southern Nevada, specifically Lincoln, Clark, and surrounding counties” and “will accept only municipal solid waste.” (Design Report at p.1). Recology requests that, to the extent NDEP issues a Class I permit to Bedroc, the permit be subject to Recology’s exclusive rights for solid waste generated within Lincoln County.

NDEP Response

Compliance with solid waste disposal agreements with counties or other third parties are not enforceable through Division Solid Waste Regulations. However, language has been added to Section 9 of the Permit requiring conformance with regulations of all other local, State, and Federal agencies with applicable jurisdiction over the proposed facility but not covered by the Solid Waste Regulations.

Comment 17 – Financial Assurance

- a. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

BedRoc's "Closure Plan" dated October 2013 and revised May 2014, has attached to it a letter dated May 15, 2014, from Preferred Trust Company, LLC confirming a trust fund is open and available for use, and purports to attach an executed copy of a "Trust Agreement". The Trust Agreement is invalid. The Trust Agreement is undated, and stated to be a contract between BedRoc Limited, LLC and Preferred Trust Company, LLC. However, the contract is not signed by BedRoc Limited, LLC. The contract is executed by Western Elite, Inc. The consequence of this error is an invalid application, and NDEP should require the applicant BedRoc Limited, LLC to provide a Financial Assurance Trust Fund for the cost of operating the post closure program and to correct all other inaccuracies in its application. In addition, the Trust Agreement was not properly disclosed in that "Exhibit A" to the Trust Agreement was not included in the application materials made available during the public comment period. Therefore, the public and other Stakeholders have not had a full opportunity to review the complete application.

NDEP Response

The Division has received confirmation from Preferred Trust Company, LLC that, as of May 12, 2014, the trust fund is open and available for use by Bedroc Limited, LLC with the Division named as the beneficiary. The agreement is considered by the Division to meet the requirements of NAC 444.6853.

Exhibit A referenced in the trust agreement consists of the spreadsheets with detailed breakdowns of closure and post-closure costs. These were included in the application in Appendix I (Closure and Post-Closure Care Cost Estimates) of

Appendix G (Closure Plan) and have been posted on the Division's website throughout the public comment period.

Comment 18 – Open Ponds

- a. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

According to "google maps" there are two open ponds of water at the BedRoc site and within the same legal parcel of land on which the proposed Class I landfill is located (APN 8-201-13). BedRoc's application does not describe the purpose of these ponds of water and what effect these ponds will have on airborne and groundwater contamination.

NDEP Response

There are two synthetically-lined (high density polyethylene) areas existing within Parcel 008-201-13 associated with the existing Class III landfill. One is the landfill itself and the other is a pond designed to receive discharge from the leachate collection system thereof. Neither of these are intended to impound fluid for any extended period of time. The leachate collection system for the Class III landfill has never produced evacuable quantities of fluid. A third pond within the same parcel is the water pond on the western edge of the property. This pond is not associated with either landfill but may serve as an emergency water supply for fighting fires, if required. These ponds and lined areas are not part of the proposed Class I landfill and are therefore not a part of the review associated with the current permit action.

Comment 19 – Proximity to Surface Waters

- a. Written comments received from Joe Cacioppo, P.E. of Resource Concepts Inc.:

The Class I expansion is within 1,000 feet of a surface water. NAC 444.678(9) states that a Class I landfill must not be within 1,000 feet of any surface water. The Class I landfill expansion is to be located in the Pahrnagat Wash floodplain which experiences surface flows and flash flood events. Page 2, Section 3.2, of the Class I Operating Plan states the landfill is not located within a published 100-year floodplain.

NDEP Response

The Pahrnagat Wash is not considered a surface water for regulatory purposes since it experiences flow only in response to precipitation events and is otherwise dry. NAC 444.678(9) refers to perennial water bodies.

Comment 20 – Proximity to Property Boundary

- a. Written comments received from Joe Cacioppo, P.E. of Resource Concepts Inc.:

The Class I expansion is within 200 feet of the boundary line of the property. NAC 444.686(5) states that solid waste must not be placed within 200 feet of the boundary line of a Class I site unless a shorter distance is approved by the solid waste management authority. In approving a setback of less than 200 feet, the solid waste management authority shall consider the uses of the surrounding land, the surrounding topography and the operations conducted at the site. The proposed landfill expansion is directly across the highway from the Coyote Springs Investment's master planned residential community.

NDEP Response

Drawing 4 included with the application shows a minimum distance of 200 feet from the outer edge of the landfill footprint (waste disposal area) to the property boundary. The design meets the requirements of NAC 444.686(5).

Comment 21 – Proximity to Groundwater

- a. Written comments received from Joe Cacioppo, P.E. of Resource Concepts Inc.:

The Class I expansion is within 100 feet of the upper most aquifer. NAC 444.678(9) states that a Class I landfill must not be within 100 feet of the upper most aquifer. Page 2 of the Design Report states that the upper most aquifer beneath the facility is 65 feet below natural grade and only 40 feet below the disturbed grade. This does not comply with the 100-foot required separation from any aquifer.

NDEP Response

NAC 444.678(9) states that a Class I landfill must not be within 100 feet of the upper most aquifer unless approved by the solid waste management authority. The landfill composite liner design, as shown on Drawing 16 included with the application, includes (from bottom to top) a prepared subgrade, 36 inches of compacted soil (hydraulic conductivity of 1×10^{-7} cm/s or less), and a 60-mil high density polyethylene (HDPE) geomembrane. This design exceeds the minimum requirement of NAC 444.681(1)(b) - 24 inches of compacted soil overlain by 60-mil HDPE geomembrane. This design is considered by the Division to be protective of waters of the State even with the reduced distance to groundwater and has therefore been approved.

Comment 22 – Application Revisions

- a. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of September 8, 2014):

On October 24, 2013, BedRoc Limited LLC ("BedRoc") submitted a cover letter purporting to be "revisions to the BedRoc Limited, LLC (Bedroc) application for a Class I Disposal Facility application. The facility is located within the Coyote Spring Valley...." NDEP has not made available the underlying application which the October 24th cover letter and attachments "revised." Because the underlying original application referred to in the October 24th cover letter was not produced as a part of the public process, BedRoc's submission is invalid, legally incorrect, and must be denied. A full and complete application must be re submitted, the public notice period re-commenced, and all documents made available through the legal process affording members of the public and affected and interested stakeholders an opportunity to comment.

NDEP Response

The application for Class I landfill was revised several times in response to Division comments during the completeness and technical review processes. The complete final application, incorporating all revisions, was available for review both electronically on the Division website and as a hard copy in the Division office throughout the public notice period. There is no requirement that past revisions which have been superseded be made available for review. The application is valid and no repetition of the application process or public notice process is required.

Comment 23 – Regulatory Agencies

- a. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

CSI requests that NDEP consult with other potential regulatory agencies, to discuss potential impacts from the proposed Class I landfill, including, without limitation:

- a. Nevada State Engineer
- b. Nevada Department of Transportation
- c. Nevada State Environmental Commission
- d. State Air Quality agency
- e. State Department of Health
- f. Bureau of Land Management
- g. US Fish and Wildlife Service
- h. US Army Corps of Engineers
- i. Environmental Protection Agency
- j. Other Stakeholders agencies, such as the Lincoln County Habitat Conservation Plan Committee.

NDEP Response

The Solid Waste Regulations do not require the Division to contact each potential jurisdictional agency prior to issuing a permit. It is the responsibility of the applicant to take appropriate steps to insure that all required permits have been obtained prior to initiating construction and/or operation. However, language has been added to Section 9 of the Permit requiring conformance with regulations of all other local, State, and Federal agencies with applicable jurisdiction over the proposed facility but not covered by the Solid Waste Regulations.

Comment 24 – Opposition to Permit Approval

- a. Oral comments made at the July 7, 2014 public hearing by Emilia Cargill, Coyote Springs Investment LLC:

My name is Emilia Cargill and I am senior vice president and general counsel for Coyote Springs Investment, 3100 State Route 168, Coyote Springs NV 89037. I am here on behalf of Coyote Springs Investment to request that NDEP deny Bedroc's application for a proposed Class I landfill in the Coyote Springs Valley.

In conclusion, Coyote Springs Investments requests that Nevada Department of Environmental Protection deny Bedroc's request to allow a Class I landfill at this location in the Coyote Springs Valley.

- b. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of July 11, 2014):

This letter is sent on behalf of Coyote Springs Investment LLC to request Nevada Department of Environmental Protection DENY BedRoc Limited LLC's application to permit a Class I landfill facility in the Coyote Spring Valley.

Therefore, Coyote Springs Investment LLC requests that the Nevada Department of Environmental Protection DENY BedRoc's request to allow a Class I landfill materials at this location within the Coyote Springs Valley.

- c. Written comments received from Emilia Cargill, Coyote Springs Investment LLC (letter of September 8, 2014):

This letter is sent on behalf of Coyote Springs Investment LLC to request Nevada Department of Environmental Protection DENY BedRoc Limited LLC's application to permit a Class I landfill facility in the Coyote Spring Valley.

Therefore, for the reasons set forth in this letter, the CSI Opposition Letters and other protest letters and comments submitted, Coyote Springs Investment LLC requests that

the Nevada Department of Environmental Protection DENY BedRoc Limited LLC's request to permit a Class I landfill within the Coyote Springs valley.

- d. Written Comments received from Severin Carlson of Kaempfer Crowell (Weyerhaeuser NR):

On behalf of our client, Weyerhaeuser NR Company ("WNR") please allow this letter to serve as written comments in protest to the request of Bedroc Limited, LLC ("Bedroc") to obtain a permit to operate a Class I Landfill on approximately 115 acres in Lincoln County, Nevada.

Finally, WNR joins in the comments submitted by CSI to the extent this letter does not address any specific comments raised by CSI. In closing, we respectfully request that Bedroc's application be denied in its entirety.

- e. Written Comments received from Joe Cacioppo, P.E. of Resource Concepts Inc.:

Given the information provided herein, combined with the concerns expressed by the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Coyote Springs Land Company and other stakeholders, RCI feels there is adequate concern with respect to the incompleteness of the application for NDEP to justify denial.

NDEP Response

The opposition to the proposed facility in each of the above comments is noted. The Division is constrained to approve or deny the request for permit based on the compliance, or not, of the application with the Solid Waste regulatory requirements. Based on the Division review of the application relative to those requirements, it has been determined that the proposed facility design and operating plans do comply therewith and the Permit has therefore been approved.

Comment 25 – Support for Permit Approval

- a. Oral comments made at the July 7, 2014 public hearing by Vaughn Higbee (local resident):

Thank you. My name is Vaughn Higbee and I'm not a lawyer and I don't represent anybody but myself. I'm a rancher. I've lived in Lincoln County all my life. And I would like to say that I am in support of the Bedroc application and there's many reasons why I support this application. First of all, I was supportive of the Coyote Springs project and have been and still continue to be; I think it's a great project. It's interesting though that the project itself across from Bedroc really is an industrial area, it's zoned industrial, not homes. So there is never going to be that conflict that was stated here between the homes there. Coyote Springs has worked extremely hard and I was one of the supporters that supported getting that changed to industrial. So

to say that that is going to be in direct conflict with a bunch of houses, I question that. Again, I don't have the kind of facts and figures, but what I see is a place that's really out of the way, that is an individual's private property, that he has worked extremely hard and spent a ton of money, been through the Supreme Court, done years and years of work to get a project in place, that is approved by the State, that will continue to be monitored by both the State of Nevada and the County, Lincoln County. Many of the amendments that the County will add on will be above that and they have already anticipated negotiating some of those issues so that Lincoln County, not only the State, is satisfied with the process. So I would just like to say that to deny this would be a major mistake for Lincoln County. You know, we've been supportive of Coyote Springs because I thought, personally, that it would be a great development. It would bring people into Lincoln County, it would bring revenue into the County coffers. Bedroc has been doing that for a number of years. I'm really not surprised that the County assessor hasn't done a very good job of assessing what's on Lincoln County or on that property, but that's not Bedroc's problem; that's an assessor's problem. I would like to say publically that I think that needs to be changed, because there should be some change. We do need to do a better job of assessing property throughout the County. So, once again, I would like to encourage the State, and the people of Lincoln County, to for once in their life, to accept something that people would work extremely hard to make viable, to accept that and to create a few jobs and a little bit of revenue that most of the time we have worked extremely hard to deny ourselves those kinds of things. Thank you for your time.

- b. Oral comments made at the July 7, 2014 public hearing by Douglas Miller (local resident):

Thank you. My concern is that, as a resident here, and I don't see the whole thing, but what I do see is down at the bottom end the waste management costs that we have to pay, that all of us have to pay, just keep going up and up and up. It seems to me is that we're held captive by only having one operation. And I think to me that we need to have some options for Lincoln County to be able to look at and to provide better services at a better cost to us. It appears to me from your presentation that they have met or exceeded all the requirements and my feeling is that we should accept and approve this application. Thank you.

- c. Oral comments made at the July 7, 2014 public hearing by Bonnie Poulson (local resident):

Hi my name's Bonnie Poulson, I live at 186 Willow Brook Lane, and I'm here to represent a few of our people here in Alamo. I have a petition that has 147 signatures on that I got today and two days ago. These people approve of having the approved Bedroc – in support of it. And Bedroc has been very good to our community. They have helped us with jobs and continue to help us with jobs. They help our youth here in the valley. They also support our high school with our extra-curricular activities,

anything that needs to be done. And they open their facilities to our County. And I would appreciate them being able to have this opportunity. And I was wondering, one question on the petition, will they be online, because I'm submitting the originals to you?

NDEP Response (at hearing): Is there any information in here that the folks that signed the petition would determine to be confidential that they would not want disclosed?

Ms. Poulson: No

NDEP Response (at hearing): It would go into the formal public record, it would be part of the process, as long as you're comfortable with that.

Ms. Poulson: Fine. Thank you.

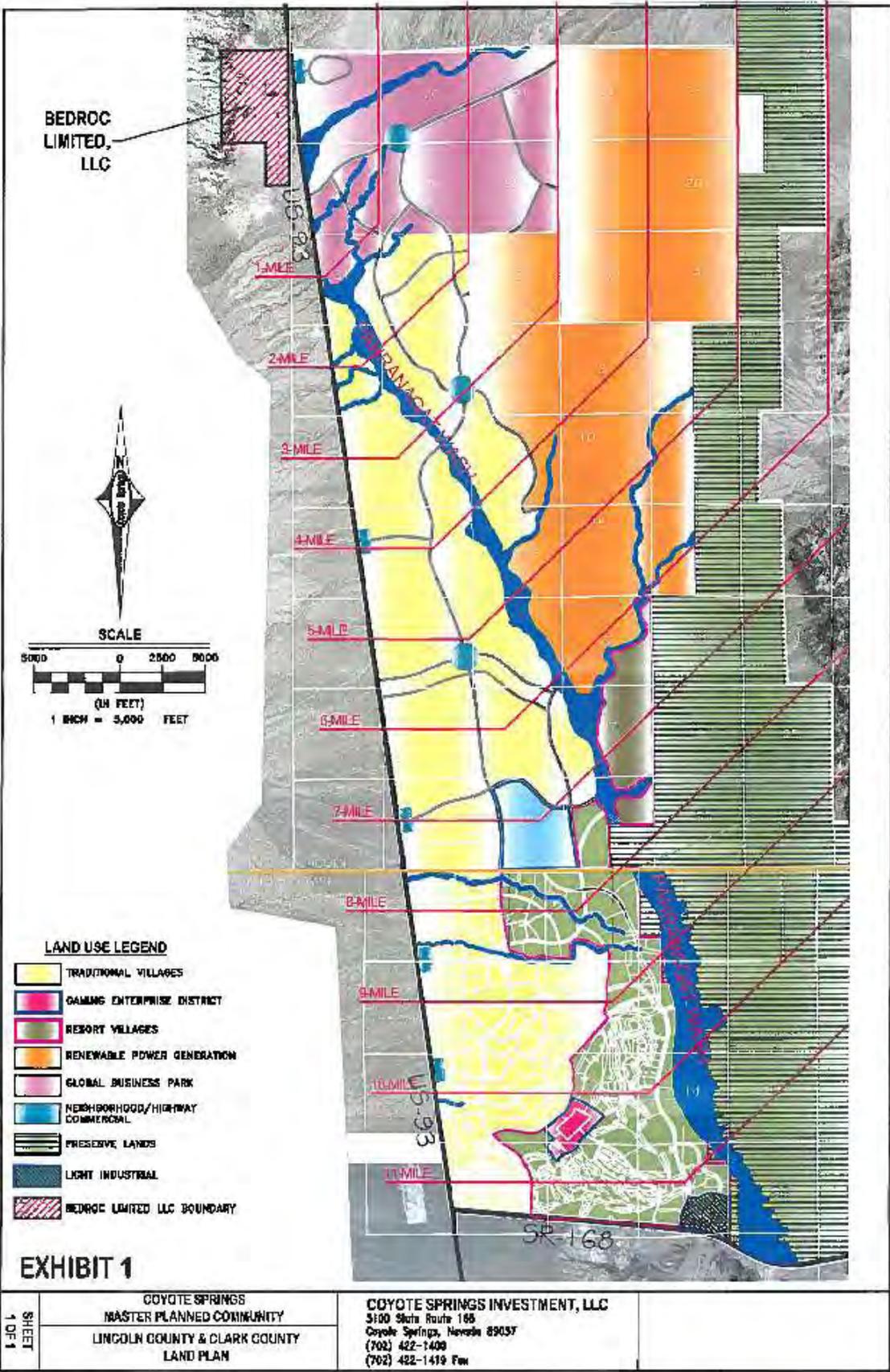
- d. Oral comments made at the July 7, 2014 public hearing by Doug Lamoreaux (local resident):

I am not a lawyer either. However, having patrolled the highway for several years as a retired Sherriff's officer, I would like to respond back to the young lady making the presentation. I assume you're going back to Las Vegas, right? If you will look on the right side of the road as you are traveling down where the landfill is, and you will notice where the property sits for the landfill, you will see the estimated height of the landfill vs the height of the hills on the left. You will notice that the approximate height that the raise of the landfill will raise will equal the height of the hills on the left. So the eyesore that the lady alleges will occur with the travel up the road will not be as bad as being presented. But the benefits of having a business here to present to the County Commissioners as an alternative to us being handicapped in the County with a single proposed landfill community where we are bound by just one company outweighs the possibilities of having two competitive bids as it will always be in a competitive company. We recognize the fact, and I think all of us do here, that Coyote Springs is developing a community down there, and we don't want to detract from them. But when and if, and I use this literally, when and if they develop homes in that area, it may not be in my lifetime. I'm 65 years old. 30 years down the road they may not still have homes on the north end of Lincoln County. But the landfill is still here, and I'm still paying taxes, and I'm still handicapped by having a single landfill that I am bound by the Lincoln County Commissioners to have to pay to have, to go to. And there's no competition. And when you choke a County and people into a single competition, we fought a revolution because of taxation without representation type of a thing, and we're in the same situation. I support this landfill because it gives us a chance to have two bidding factions and to allow us to have competition. Competition builds a healthy environment. Please gentlemen, think of this. We need competition. And that's my comment.

NDEP Response

The support for the proposed facility in each of the above comments is noted. The Division is constrained to approve or deny the request for permit based on the compliance, or not, of the application with the regulatory requirements. Issues such as competition for waste management services and county contracts are not the subject of this permit review but are the responsibility of Lincoln County.

File: Bedroc_Response to Comments_rev2.doc



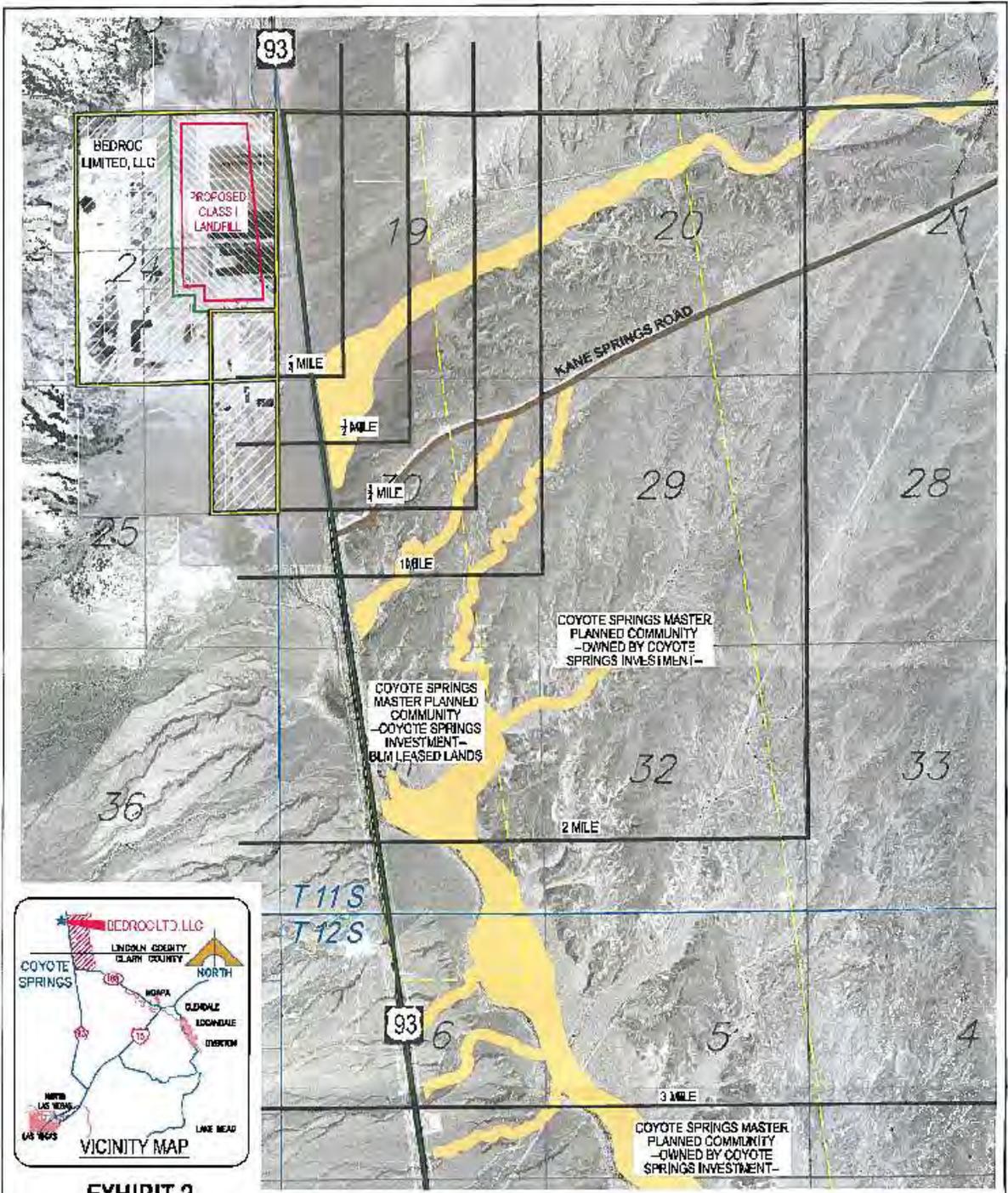


EXHIBIT 2

SHEET 1 OF 1	COYOTE SPRINGS INVESTMENT	COYOTE SPRINGS INVESTMENT, LLC 3100 State Route 168 Coyote Springs, Nevada 89037 (702) 422-1400 (702) 422-1404	DRAWING FILE:		REVISIONS			
	BEDROC LIMITED, LLC		DRAWN BY: _____ TR CHECKED BY: _____ ENR/DC JOB NO.: _____ NTS SCALE: _____ DATE: 07/10/2014	NO.	DATE		BY	

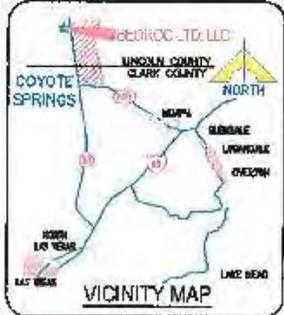
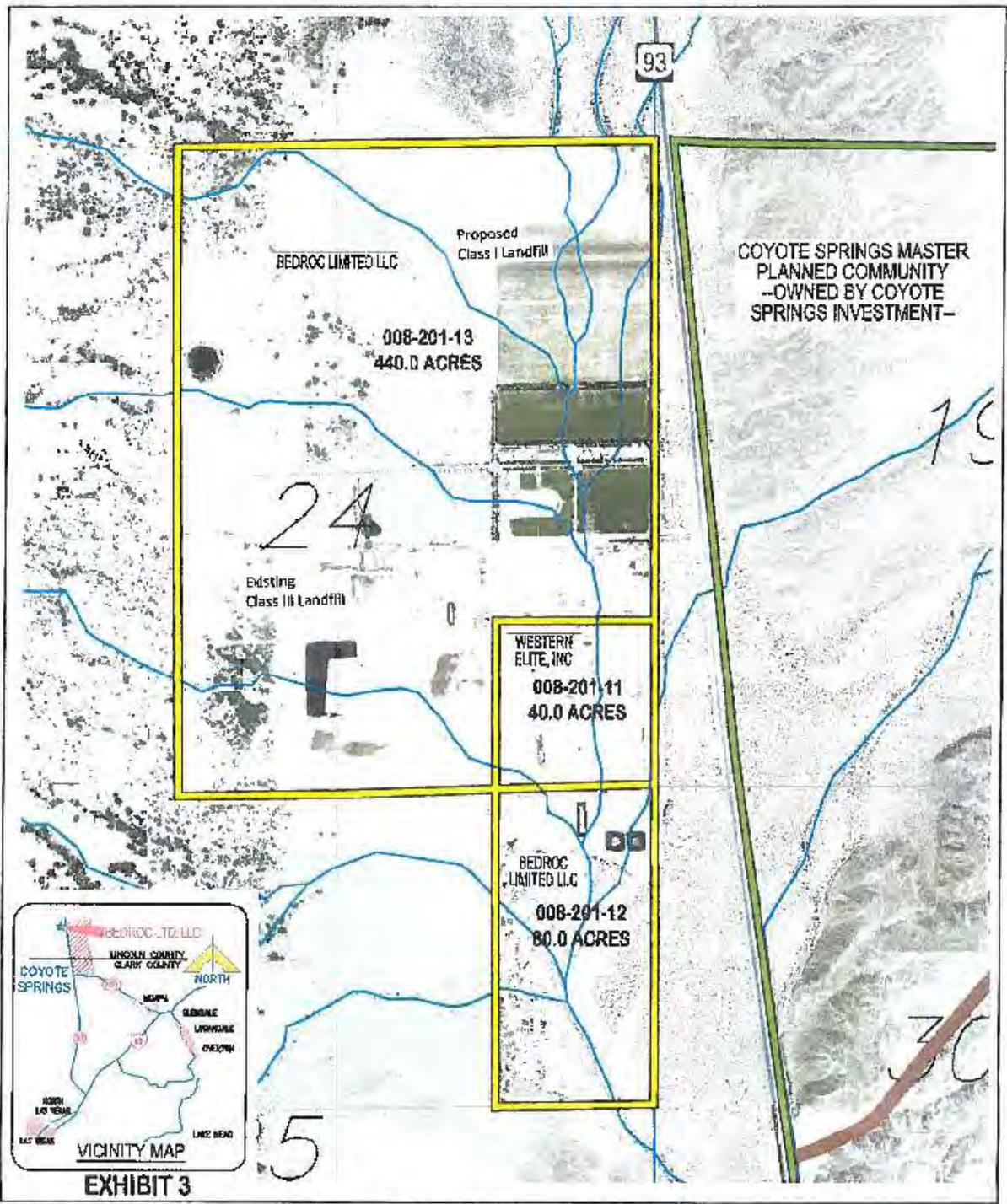


EXHIBIT 3

SHEET 1 OF 1	COYOTE SPRINGS MASTER PLANNED COMMUNITY	COYOTE SPRINGS INVESTMENT, LLC 3100 State Route 165 Coyote Springs, Nevada 89037 (702) 422-1400 (702) 422-1404	SOURCE: USGS HYDROLOGY MEWER
	BEDROC LTD, LLC WATERSHED BOUNDARY DATASET		

CHAPTER 2

INTRODUCTORY PROVISIONS

SECTION:

- 13-2-1: Title
- 13-2-2: Purpose
- 13-2-3: Organization And Use Of Title
- 13-2-4: Types Of Applications
- 13-2-5: Review Procedure
- 13-2-6: Authority
- 13-2-7: Scope And Interpretation
- 13-2-8: Separability

13-2-1: **TITLE:** This title shall be known as the *LINCOLN COUNTY PLANNING AND DEVELOPMENT CODE*. (Ord. 2005-10, 1-3-2006)

13-2-2: **PURPOSE:**

- A. The provisions of this title are intended to regulate the use of land and the division of same into separate interests for the purpose of protecting the public health, safety, convenience and general welfare of the residents of the county. The title is adopted in accordance with and in order to further the implementation of the county master plan and such other plans, policies, and studies designed to promote the orderly growth of the county and its communities.
- B. Among other purposes, this title is specifically adopted to preserve air and water quality; conserve open space and agricultural resources; protect natural and scenic resources from unreasonable impairment; provide for recreational needs; protect life and property from flooding and other natural hazards; preserve historic sites and structures; and to ensure that development is commensurate with the character and physical limitations of the land. Further, this title is designed to ensure that the timing, location and nature of new

13-2-2

13-2-4

development takes into account the immediate and long range financial impacts of proposed uses; supports the county's development of a timely, orderly and efficient arrangement of public facilities, services and transportation; and enhances achievement of the county's economic development goals.

- C. Regulations pertaining to the subdivision of land are additionally intended to ensure conformance with public improvement requirements of the county, establish standards to encourage well planned development, to improve land records and land survey monuments, and to safeguard the interest of the public and the subdivider and provide consumer protection for the purchaser of lots. (Ord. 2005-10, 1-3-2006)

13-2-3: **ORGANIZATION AND USE OF TITLE:** This title replaces the previous provisions of the county zoning and subdivision ordinance, and incorporates special development regulations pertaining to resource development, historic, flood hazard, manufactured homes, and other reviews. The title includes a procedures section which serves zoning, subdivision and special reviews. It also permits simultaneous processing of more complicated applications which may involve more than one application. (Ord. 2005-10, 1-3-2006)

13-2-4: **TYPES OF APPLICATIONS:**

- A. There are several zoning, subdivision, and special applications required by this title. The zoning regulations of this title, in general regulate and restrict the erection, construction, reconstruction, alteration, repair and use of buildings, structures or land. The zoning regulations, chapter 5 of this title, designate land use districts which provide for permitted and conditional uses and establish density, height, setback, and parking requirements. Special permits are as required for:

1. Planned Development Units: A review in which development may vary the strict provisions of the zone district and subdivision regulations through a review procedure in order to promote better site design and integration of the development with the surrounding development;

2. Conditional Uses: A review of uses which may be permitted in a zone district only after review by the planning commission and board

of county commissioners for compatibility with other uses in that zone;

3. Variances: A review for a variance from the zoning provisions of this title where, by reason of extraordinary conditions, the strict application of these regulations would result in practical difficulty or hardship to the owner;

4. Change in District Boundaries And Classification: Change in district boundaries and classification of an area from one district to another, the revision of any of the requirements of a certain district or the change in boundaries of any district.

- B. The subdivision regulations, chapter 17 of this title, generally provide for the division of land or interests in land into two (2) or more separate interests. A full subdivision review is required for any land, vacant or improved, which is divided or proposed to be divided into five (5) or more lots, parcels, sites, units, or plots, for the purpose of any transfer, development, or any proposed transfer or development unless exempted by Nevada Revised Statutes section 278.320. There are also statutorily mandated review procedures for the division of land into four (4) or fewer interests (parcel map) and for the division of land into large parcels. Review of all of these applications is intended to ensure the orderly development of land in accordance with the standards of design and improvement set by the county. The reviews of chapter 17 of this title include:
1. Full subdivision. The preliminary (tentative map) and final reviews of a subdivision to determine its compliance with county and state (final map) standards and platting requirements;
 2. Parcel map. The review of the division of land for transfer of ownership or development into four (4) or fewer lots or interests;
 3. Division of land into large parcels. A division of land into parcels of not less than forty (40) acres nor greater than six hundred forty (640) acres;
 4. Amendment of plats;
 5. Vacation of plats.
- C. Special development regulations provide for regulations which supplement the zoning and subdivision regulations of this title. In general, these regulations deal with especially sensitive areas or

13-2-4

13-2-7

matters and help to implement special policies of the Lincoln County master plan. Included in this title are standards and procedures for the review of resource development activities, flood hazards, mobile home subdivisions and parks and historic districts and structures. (Ord. 2005-10, 1-3-2006)

13-2-5: **REVIEW PROCEDURE:** The review procedure for applications is specified in articles 17C and 17D of this title. The procedure consists of three (3) steps of review: a preapplication conference, step 1 planning commission review, and step 2 board of county commissioners review. The preapplication conference is recommended but not mandatory for all applications in order to give the applicant guidance as to review procedures and the standards against which the application will be reviewed. A step 1 review is the only review required for a historic design district review, special use, variance, change in district boundary or classification, or parcel map review. A full subdivision and PUD application require step 1 and step 2 reviews. Variations in public notice and hearing requirements or other procedural matters are specified for each application. (Ord. 2005-10, 1-3-2006)

13-2-6: **AUTHORITY:** The county is authorized by law to regulate the zoning, planning and subdivision of land by chapter 278 of the Nevada Revised Statutes, 1993. This title is adopted pursuant to chapter 278. (Ord. 2005-10, 1-3-2006)

13-2-7: **SCOPE AND INTERPRETATION:**

- A. This title shall apply to all public and private lands situated within the unincorporated portions of the county.
- B. In their interpretation and application, the provisions of this title shall be regarded as the minimum requirements for the protection of the public health, safety and welfare. Whenever a provision of this title, or any other law, rule, contract, resolution or regulation of the state, federal government or the county, contain provisions covering the same subject matter, the more restrictive or higher standards shall apply.
- C. If any ambiguity exists with reference to the provisions of standards or policies of this title, it shall be the duty of the planning commission to interpret the provisions. The planning commission shall ascertain

13-2-7

13-2-8

all pertinent facts concerning the intent and purpose of the provisions of this title, and set forth its findings and reasons. Its approval shall be final, and its interpretation shall prevail. A record of such resolutions shall be kept with the county clerk. (Ord. 2005-10, 1-3-2006)

13-2-8: **SEPARABILITY:** Any determination of illegality relating to a provision of this title shall have no bearing on the effectiveness of the remainder of the title. (Ord. 2005-10, 1-3-2006)

13-5J-1

13-5J-2

CHAPTER 5

ZONING

ARTICLE J. M2 HEAVY MANUFACTURING DISTRICT

SECTION:

- 13-5J- 1: Purpose And Intent
- 13-5J- 2: Uses Permitted
- 13-5J- 3: Uses Permitted Subject To Special Use Permit
- 13-5J- 4: Building Height
- 13-5J- 5: Front Yard
- 13-5J- 6: Side Yard
- 13-5J- 7: Rear Yard
- 13-5J- 8: Lot Area And Width Requirements
- 13-5J- 9: Distance Between Buildings On Same Lot
- 13-5J-10: Uses Prohibited

13-5J-1: **PURPOSE AND INTENT:** The M2 heavy manufacturing district is intended to provide areas for the development and operation of industrial and manufacturing uses. (Ord. 2005-10, 1-3-2006)

13-5J-2: **USES PERMITTED:** In the M2 heavy manufacturing district, no building or structure shall be erected which is arranged, intended or designed to be used for other than one or more of the following uses:

Any use permitted in the M1 light manufacturing district, except residential uses.

Any of the following industrial, manufacturing, wholesale and storage uses:

Alcohol and alcoholic beverages manufacture.

Blast furnaces.

Boiler or tank works.

Brick, tile or terra cotta products manufacture.

Building materials manufacture.

Cement and lime manufacturing.

Creosote treatment or manufacture.

Feed mills.

Mining and mill operations.

Ore reduction.

Paints, oil, shellac, turpentine or varnish manufacture.

Paper manufacture.

Petroleum products manufacture.

Petroleum refining and reclaiming plants.

Plastic manufacture.

Quarry or stone mills.

Rock, sand and gravel excavating, crushing and distribution.

Rubber manufacture.

Sawmills.

Soap manufacture.

The accessory buildings and structures necessary to such permitted uses located on the same lot or parcel of land.

Other uses similar to the above which are determined by the planning commission to be consistent and compatible with the other uses permitted within the district. (Ord. 2005-10, 1-3-2006)

13-5J-3

13-5J-5

13-5J-3: **USES PERMITTED SUBJECT TO SPECIAL USE PERMIT:**
The following additional uses may be permitted subject to securing a special use permit in each case as provided for in chapter 8 of this title:

- Acid manufacture.
- Ammunition manufacture.
- Chemical manufacture.
- Commercial stockyards and animal slaughter.
- Curling, tanning and storage of rawhides or skins.
- Dumps and refuse disposal areas.
- Explosives manufacture or storage.
- Fat rendering.
- Fertilizer manufacture.
- Incinerators.
- Junk, salvage or auto wrecking yard.
- Recycling facilities and operations involving use, recovery or residue of hazardous materials and/or wastes.
- Residential use, if occupied by an owner or employee acting as the manager or caretaker of the business.
- Rocket fuel manufacture, testing and/or storage.
- Sewer farms or sewage disposal plants. (Ord. 2005-10, 1-3-2006)

13-5J-4: **BUILDING HEIGHT:** Six (6) stories and not to exceed seventy five feet (75'). (Ord. 2005-10, 1-3-2006)

13-5J-5: **FRONT YARD:** There shall be no front yard required. (Ord. 2005-10, 1-3-2006)

13-9-1

13-9-2

CHAPTER 9

VARIANCES

SECTION:

- 13-9- 1: Granting Variances
- 13-9- 2: Application; Procedure
- 13-9- 3: Application; Public Record
- 13-9- 4: Fees; Variance, Special Use Permit Exceptions
- 13-9- 5: Hearing; Notice
- 13-9- 6: Action Of Planning Commission
- 13-9- 7: Final Decision Effective Date
- 13-9- 8: Reapplication
- 13-9- 9: Permit Expiration
- 13-9-10: Permit Extension

13-9-1: **GRANTING VARIANCES:** A variance to the provisions of this title may be granted by the planning commission in accordance with the provisions of this chapter where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of the regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of such regulations enacted under this title would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property. Such relief from the strict application of the regulations of this title, however, may only be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution and under such conditions as such board may deem necessary to assure that the general purpose and intent of this title will be observed, public safety and welfare secured and substantial justice done. (Ord. 2005-10, 1-3-2006)

13-9-2: **APPLICATION; PROCEDURE:** The application for a variance or a special use permit as provided herein shall be made to

13-9-2

13-9-5

the planning commission on forms furnished by the commission. Such applications shall be accompanied by the following data and information:

- A. Site development plan, drawn to scale to include building dimensions of existing and proposed structures, setback dimensions, yards and open space dimensions, parking space dimensions, location and size of signs, location of landscaping and such other information as may be necessary;
- B. Floor plan, drawn to scale to indicate size of building and total square footage of buildings, if appropriate for the project;
- C. Rendered elevation to indicate the architectural appearance of proposed buildings, if appropriate for the project. (Ord. 2005-10, 1-3-2006)

13-9-3: **APPLICATION; PUBLIC RECORD:** From the time of filing of such application, the application, together with all plans and data submitted, shall become a part of the permanent records of the planning commission and shall be available for public inspection in the commission's office. (Ord. 2005-10, 1-3-2006)

13-9-4: **FEES; VARIANCE, SPECIAL USE PERMIT EXCEPTIONS:**
The planning commission shall charge and collect a fee for the filing of a variance application or special use permit application, the charge being due and payable at the time of filing:

- A. Fees will be on file in the county planning office and may be adjusted as necessary by action of the board of county commissioners.
- B. The fee may be waived, at the discretion of the planning commission, for any nonprofit organization or political entity which is the owner of record of the property involved in a special use permit or variance application. (Ord. 2005-10, 1-3-2006)

13-9-5: **HEARING; NOTICE:** Upon receipt in proper form of any application, the planning commission will hold a public hearing thereon. A notice of time and place of hearing, a description of the property involved and the purpose of the hearing shall be sent to each owner of property within a minimum distance of three hundred feet (300') of

13-9-5

13-9-9

the exterior boundary of the lot or parcel of land described in such application. If it is deemed advisable, the planning commission shall also cause the notice to be published once in a newspaper of general circulation in the county not less than ten (10) days nor more than thirty (30) days prior to the meeting. For the purpose of this section, "property owner" means that owner shown upon the latest assessment rolls of the county. (Ord. 2005-10, 1-3-2006)

13-9-6: ACTION OF PLANNING COMMISSION:

A. At the conclusion of the hearing, the planning commission shall take such action thereon as it deems warranted under the circumstances and shall announce and record its action by formal resolution and such resolution shall recite the findings of the planning commission upon which it bases its decision. This decision shall be final, subject only to the appeals process. (Ord. 2005-10, 1-3-2006)

13-9-7: FINAL DECISION EFFECTIVE DATE: The decision of the planning commission shall not become final and effective until seven (7) days after the decision is entered in the minutes of the meeting. No permits shall be issued concerning the property in question until the decision becomes final. (Ord. 2005-10, 1-3-2006)

13-9-8: REAPPLICATION: No person, including the original applicant, shall reapply for a similar special use permit or variance on the same land, building or structure within a period of six (6) months from the date of the final decision by the planning commission of such previous application. (Ord. 2005-10, 1-3-2006)

13-9-9: PERMIT EXPIRATION: Each special use permit or variance authorized under the provisions of this chapter which is not actually established or the actual construction commenced on the buildings or structures within six (6) months from the date of the final decision is null and void. In the event some construction work is involved, it must actually commence within the stated period and be diligently prosecuted to completion. A lapse of work for a period of three (3) months will be sufficient to cause the invalidity of the permit; provided further, when any use of land, building, structure or premises established under the provisions of this chapter has been discontinued for a period of one year, it is unlawful to again use such land or building or premises for such discontinued use

13-9-9

13-9-10

unless a subsequent special use permit or variance is authorized. (Ord. 2005-10, 1-3-2006)

13-9-10: **PERMIT EXTENSION:** Extensions of time may be granted by the planning commission, if requested by the property owner of record not less than seven (7) days prior to the expiration date of the date of the final decision. (Ord. 2005-10, 1-3-2006)

EXHIBIT "5"

Printed on: 9/8/2014

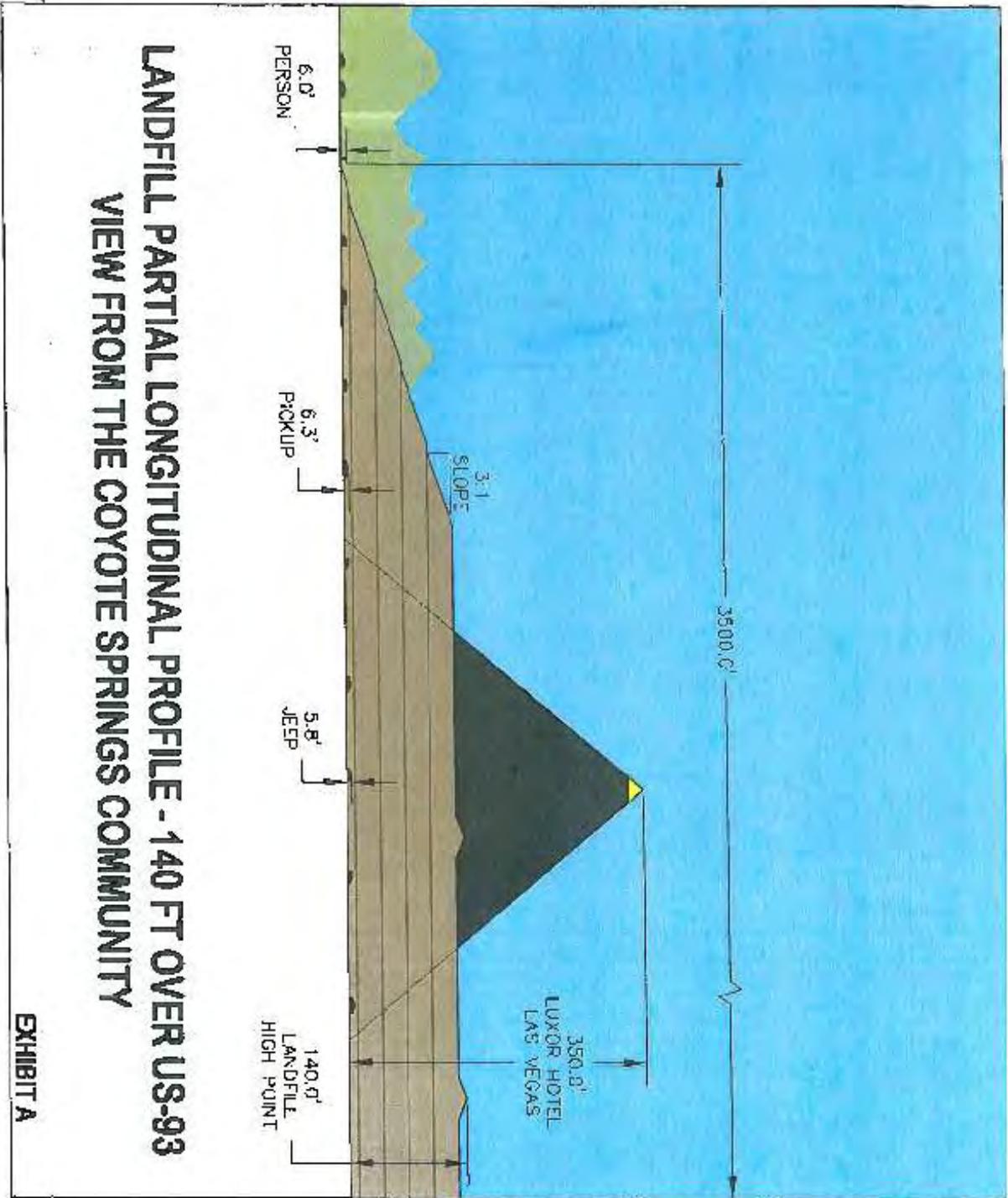
Page # 1

NAC 444.5705 "Class I site" defined. (NRS 444.560) "Class I site" means a disposal site which:

1. Is comprised of at least one municipal solid waste landfill unit including all contiguous land and structures, other appurtenances and improvements on the land used for the disposal of solid waste; and

2. Is not a Class II or Class III site.

(Added to NAC by Environmental Comm'n, eff. 9-2-92; A 11-8-93)



**LANDFILL PARTIAL LONGITUDINAL PROFILE - 140 FT OVER US-93
VIEW FROM THE COYOTE SPRINGS COMMUNITY**

EXHIBIT A

COYOTE SPRINGS INVESTMENT
PROFILE
BEDROC LTD, LLC

COYOTE SPRINGS INVESTMENT, LLC
3100 State Route 158
Coyote Springs, Nevada 89007
(702) 422-1400
(702) 422-1404

DRAWING FILE:

DESIGN NO.	1X
CHECKED BY	EQ/20
DATE	
SCALE	H 1"
DATE	07/22/2011

REVISIONS

NO.	DATE	BY

SHEET
1 OF 1



Approximate Scale

★ Bedroc Limited Landfill Located Approximately 65 Miles North of Las Vegas on State Route 93.

GISMO Image 2010

	GEOTECHNICAL & ENVIRONMENTAL SERVICES, INC. (702) 365-1001 7150 Packard Street Las Vegas, Nevada 89119
	AERIAL PHOTOGRAPH Bedroc Limited Landfill Vicinity Map Lincoln County, Nevada

Job #20123247V1

Figure 1

Protecting Burrowing Owls At Construction Sites Nevada's Mojave Desert Region

Nevada Fish and Wildlife Office
1340 Financial Boulevard, Suite 213
Reno, Nevada 89502
Phone: 775-861-6300
Fax: 775-861-6301

Southern Nevada Field Office
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
Phone: 702-515-5230
Fax: 702-515-5231

<http://www.fws.gov/nevada>
<http://www.facebook.com/ustwspacificsouthwest>
http://www.flickr.com/photos/ustws_pacificsw/
<http://twitter.com/USFWSPacSWest>



January 2013



Burrowing Owls (*Athene cucularia*) are one of the smallest owls in North America. Although these small owls can dig their own burrows for shelter and nesting, they often use burrows that have been created by small mammals such as ground squirrels, prairie dogs, and desert tortoises and even adopt pipes or culverts.

These small owls are between 7.5 to 10 inches tall with a wingspan of 21 to 24 inches. They weigh between 4.5 to 9 ounces. Unlike most owls, burrowing owl males are slightly heavier than females and have a longer wingspan.

Burrowing owls feed primarily on insects and small mammals, but will also eat reptiles and amphibians. They hunt while walking or running across the ground, by swooping down from a perch or hover, and catch insects in the air.

Burrowing owls were once widely distributed across western North America. Although burrowing owls are protected by the Migratory Bird Treaty Act, their numbers are declining.



Photo by Stephen Ting

Are burrowing owls using your construction site?

Observing burrowing owl behavior will help you determine if owls are using your construction site as habitat or if they are nesting in the area. Burrowing owls are often active during the day however you should check crevices, cracks, and burrows at your construction site for owls before beginning construction. Use of a fiber-optic scope or mini camera may help you look into a burrow to determine the presence of owls or nests.

If you discover an active nest, the site must be avoided until the chicks have fledged (able to fly). No construction should occur within a 250 foot radius around the nest. The nesting cycle takes a minimum of 74 days.



Burrowing owls are protected by the Migratory Bird Treaty Act.

Killing or possessing burrowing owls or destruction of their eggs or nest is prohibited by law.

Nesting behavior

Burrowing owls breed from mid-March through August in southern Nevada. If owls are nesting, the site must be avoided until the chicks have fledged or it has been determined the nest has failed. The following are some behaviors that may help identify and determine if there is an active nest in the area:

- A burrow that is occupied by burrowing owls will have debris such as twigs or feathers at the entrance.
- Two owls at the entrance to a burrow is a good indication that the burrow is a nest site. One owl may disappear or reappear over a period of time. This is usually the female. She may have gone below to lay eggs or may be emerging to assist the male in hunting for the chicks.
- An owl observed carrying food to a burrow is a very good sign there is an active nest. The owl is most likely the male providing food for the female while she is incubating eggs.
- Chicks may appear at the burrow entrance when they are about ten days old.

Clark County projects

The following **only** applies to construction projects in Clark County.

Clark County holds a permit from the U. S. Fish & Wildlife Service authorizing "take" of desert tortoises during the course of otherwise legal activities on non-federal lands. Discouraging burrowing owls from breeding in construction sites on private land in Clark County is allowed. Desert tortoise burrows in Clark County can be collapsed from September through February if they do not contain protected wildlife. Contact the Nevada Department of Wildlife at 702-486-5127 if you find State protected wildlife such as Gila monsters .

Exhibit 9

TITLE 13

PLANNING AND DEVELOPMENT CODE

Subject	Chapter
Development Agreements	1
Introductory Provisions	2
Definitions	3
Administration	4
Planning Commission	4A
Appeals Board	4B
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General Provisions	5A
Zoning Maps	5B
Zoning Districts	5C
R1 Single-Family Residential District	5D
RM Multiple-Family Residential District	5E
RR Rural Residential District	5F
C1 Local Commercial District	5G
C2 General Commercial District	5H
M1 Light Manufacturing District	5I
M2 Heavy Manufacturing District	5J
SID Special Industrial District	5K
A Agricultural District	5L
OS Open Space District	5M
Manufactured Home District	5N
HD Historic Design District	5O
Use And Development Standards	6
Off Street Parking Requirements	7
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Resource Development Activities	12
Mobile Home Parks	13
Mobile/Manufactured Home Subdivisions	14
Historic Districts And Structures	15
Special Restrictions	16

CHAPTER 3
DEFINITIONS

SECTION:

13-3-1: Generally
13-3-2: Specific Definitions

13-3-1: **GENERALLY:**

- A. For the purpose of this title, certain terms and words are defined as follows in this chapter.
- B. When consistent with the context:
 1. Words used in the present tense include the future;
 2. Words in the singular number include those in the plural number and the plural the singular;
 3. The word "building" includes "structure";
 4. The word "shall" is mandatory, not directory;
 5. The word "person" includes "firm", "association", "corporation", "partnership " and "natural person";
 6. The word "used" includes the words "arranged", "designed" or "intended to be used";
 7. The word "construct" includes the words "erect", "reconstruct", "alter", "move in" and "move upon". (Ord. 2005-10, 1-3-2006)

13-3-2: **SPECIFIC DEFINITIONS:**

ACCESSORY BUILDING: A detached subordinate building clearly incidental to and located upon the same lot occupied

SANITARIUM:	A building or institution for the recuperation and treatment of persons with physical or mental disorders.
SIDEWALK:	A pedestrian walkway located between the curb and property line.
SIGN:	Any device and all parts thereof which are used to advertise products, goods, services or otherwise promote the sale of objects or identify objects for sale.
START OF CONSTRUCTION:	The first placement of concrete for permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.
STORY:	The space within a building included between the surface of any floor and the surface of the ceiling next above.
STREET:	A thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority, or a thoroughfare which has been made public by right of use and which affords the principal means of access to abutting property.
STRUCTURE:	Any building, fence, tower, edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite form which requires location on the ground or is attached to something having a location on the ground.
SUBDIVIDER:	Any individual, firm, association, syndicate, copartnership, corporation, trust or any other

CHAPTER 5

ZONING

ARTICLE I. M1 LIGHT MANUFACTURING DISTRICT

SECTION:

- 13-5I-1: Purpose And Intent
- 13-5I-2: Uses Permitted
- 13-5I-3: Uses Permitted Subject To Special Use Permit
- 13-5I-4: Building Height
- 13-5I-5: Front Yard
- 13-5I-6: Side Yard
- 13-5I-7: Rear Yard
- 13-5I-8: Lot Area And Width Requirements
- 13-5I-9: Distance Between Buildings On Same Lot

13-5I-1: **PURPOSE AND INTENT:** The M1 light manufacturing district is intended to provide areas for the development and operation of industrial uses which do not cremate or cause fumes, odor, dust, smoke, gas, noise or vibrations which are or may be detrimental to other properties in the neighborhood. (Ord. 2005-10, 1-3-2006)

13-5I-2: **USES PERMITTED:** In the M1 light manufacturing district, no building or structure shall be erected which is arranged, intended or designed to be used for other than one or more of the following uses:

Any use permitted in the C2 general commercial district, except multiple-family dwellings.

Any of the following industrial, manufacturing, wholesale and storage uses:

Agricultural industries.

Assembly of machines (other than aircraft and motor vehicles), toys, novelties or appliances from previously prepared parts.

Automobile and truck parking and storage.

Automobile, truck, airplane, motorcycle, bicycle or farm machinery repair or sale; body and fender works; dismantling and used parts storage, when operated or maintained wholly within a building.

Bakeries.

Billboards.

Blacksmith shops.

Boat building, storage, sales or repair.

Bottling plants.

Breweries.

Building material sales and storage yards, including ready mix concrete and hot mix asphalt plants.

Cabinet shops or furniture manufacture.

Car washes.

Carpet, awning, blinds, mattress or upholstery shops, including cleaning and repair.

Cleaning and dyeing plants.

Contractors' plants or storage yards.

Creameries.

Distribution plants.

Drying, freighting or trucking yards or terminals.

Garment manufacture.

Heating and air conditioning sales, supply and repair.

Ice and cold storage plants.

Kennels.

Laboratories, experimental and research.

Laundries.

Lumberyards.

Machine shops.

Manufacturing, compounding, assembly or treatment of merchandise from the following materials: bond, cellophane, canvas, cloth, cork, feathers, felt, fiber, glass, hair, horn, leather, paper, plastics, precious or semiprecious stones, shell, straw, textiles, tobacco, wood, wool yarn and paint.

Oil and water well surveying and servicing business.

Paint mixing plants.

Petroleum products storage.

Planing mills.

Propane sales and storage.

Public scales.

Public utility service yards, electric transmission substations and gas transmission and compressor stations.

Rubber fabrication.

Sheet metal shops.

Sign painting and manufacture.

Signs.

Tire rebuilding, recapping and retreading plants.

Truck repairing and overhauling shops.

Truck sales, new and used.

Union halls.

Upholstery shops.

Warehouses and warehouse complexes.

Welding shops.

The accessory buildings and structures necessary to such permitted uses located on the same lot or parcel of land.

Other uses similar to the above which are determined by the planning commission to be consistent and compatible with the other uses permitted within the district. (Ord. 2005-10, 1-3-2006)

13-5I-3: **USES PERMITTED SUBJECT TO SPECIAL USE PERMIT:**

The following additional uses may be permitted subject to securing a special use permit in each case as provided for in chapter 8 of this title:

Animal sales yards.

Drive-in theaters.

Gambling casinos and establishments.

Junk, salvage or auto wrecking yards.

Recreational vehicle parks.

Residential use, if occupied by an owner or employee acting as the manager or caretaker of the business.

Temporary asphalt, concrete plants and cement batch plants for construction projects. (Ord. 2005-10, 1-3-2006)

13-5I-4: **BUILDING HEIGHT:** Six (6) stories and not to exceed seventy five feet (75'). (Ord. 2005-10, 1-3-2006)

CHAPTER 5

ZONING

ARTICLE J. M2 HEAVY MANUFACTURING DISTRICT

SECTION:

- 13-5J- 1: Purpose And Intent
- 13-5J- 2: Uses Permitted
- 13-5J- 3: Uses Permitted Subject To Special Use Permit
- 13-5J- 4: Building Height
- 13-5J- 5: Front Yard
- 13-5J- 6: Side Yard
- 13-5J- 7: Rear Yard
- 13-5J- 8: Lot Area And Width Requirements
- 13-5J- 9: Distance Between Buildings On Same Lot
- 13-5J-10: Uses Prohibited

13-5J-1: **PURPOSE AND INTENT:** The M2 heavy manufacturing district is intended to provide areas for the development and operation of industrial and manufacturing uses. (Ord. 2005-10, 1-3-2006)

13-5J-2: **USES PERMITTED:** In the M2 heavy manufacturing district, no building or structure shall be erected which is arranged, intended or designed to be used for other than one or more of the following uses:

Any use permitted in the M1 light manufacturing district, except residential uses.

Any of the following industrial, manufacturing, wholesale and storage uses:

Alcohol and alcoholic beverages manufacture.

Blast furnaces.

Boiler or tank works.

Brick, tile or terra cotta products manufacture.

Building materials manufacture.

Cement and lime manufacturing.

Creosote treatment or manufacture.

Feed mills.

Mining and mill operations.

Ore reduction.

Paints, oil, shellac, turpentine or varnish manufacture.

Paper manufacture.

Petroleum products manufacture.

Petroleum refining and reclaiming plants.

Plastic manufacture.

Quarry or stone mills.

Rock, sand and gravel excavating, crushing and distribution.

Rubber manufacture.

Sawmills.

Soap manufacture.

The accessory buildings and structures necessary to such permitted uses located on the same lot or parcel of land.

Other uses similar to the above which are determined by the planning commission to be consistent and compatible with the other uses permitted within the district. (Ord. 2005-10, 1-3-2006)

13-5J-3: **USES PERMITTED SUBJECT TO SPECIAL USE PERMIT:**
The following additional uses may be permitted subject to securing a special use permit in each case as provided for in chapter 8 of this title:

Acid manufacture.

Ammunition manufacture.

Chemical manufacture.

Commercial stockyards and animal slaughter.

Curing, tanning and storage of rawhides or skins.

Dumps and refuse disposal areas.

Explosives manufacture or storage.

Fat rendering.

Fertilizer manufacture.

Incinerators.

Junk, salvage or auto wrecking yard.

Recycling facilities and operations involving use, recovery or residue of hazardous materials and/or wastes.

Residential use, if occupied by an owner or employee acting as the manager or caretaker of the business.

Rocket fuel manufacture, testing and/or storage.

Sewer farms or sewage disposal plants. (Ord. 2005-10, 1-3-2006)

13-5J-4: **BUILDING HEIGHT:** Six (6) stories and not to exceed seventy five feet (75'). (Ord. 2005-10, 1-3-2006)

13-5J-5: **FRONT YARD:** There shall be no front yard required. (Ord. 2005-10, 1-3-2006)

CHAPTER 5

ZONING

ARTICLE J. M2 HEAVY MANUFACTURING DISTRICT

SECTION:

- 13-5J- 1: Purpose And Intent
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- 13-5J- 3: Uses Permitted Subject To Special Use Permit
- 13-5J- 4: Building Height
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- 13-5J- 9: Distance Between Buildings On Same Lot
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Any use permitted in the M1 light manufacturing district, except residential uses.

Any of the following industrial, manufacturing, wholesale and storage uses:

Alcohol and alcoholic beverages manufacture.

Blast furnaces.

Boiler or tank works.

Brick, tile or terra cotta products manufacture.

Building materials manufacture.

Cement and lime manufacturing.

Creosote treatment or manufacture.

Feed mills.

Mining and mill operations.

Ore reduction.

Paints, oil, shellac, turpentine or varnish manufacture.

Paper manufacture.

Petroleum products manufacture.

Petroleum refining and reclaiming plants.

Plastic manufacture.

Quarry or stone mills.

Rock, sand and gravel excavating, crushing and distribution.

Rubber manufacture.

Sawmills.

Soap manufacture.

The accessory buildings and structures necessary to such permitted uses located on the same lot or parcel of land.

Other uses similar to the above which are determined by the planning commission to be consistent and compatible with the other uses permitted within the district. (Ord. 2005-10, 1-3-2006)

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Curing, tanning and storage of rawhides or skins.

Dumps and refuse disposal areas.

Explosives manufacture or storage.

Fat rendering.

Fertilizer manufacture.

Incinerators.

Junk, salvage or auto wrecking yard.

Recycling facilities and operations involving use, recovery or residue of hazardous materials and/or wastes.

Residential use, if occupied by an owner or employee acting as the manager or caretaker of the business.

Rocket fuel manufacture, testing and/or storage.

Sewer farms or sewage disposal plants. (Ord. 2005-10, 1-3-2006)

13-5J-4: **BUILDING HEIGHT:** Six (6) stories and not to exceed seventy five feet (75'). (Ord. 2005-10, 1-3-2006)

13-5J-5: **FRONT YARD:** There shall be no front yard required. (Ord. 2005-10, 1-3-2006)

the exterior boundary of the lot or parcel of land described in such application. If it is deemed advisable, the planning commission shall also cause the notice to be published once in a newspaper of general circulation in the county not less than ten (10) days nor more than thirty (30) days prior to the meeting. For the purpose of this section, "property owner" means that owner shown upon the latest assessment rolls of the county. (Ord. 2005-10, 1-3-2006)

13-9-6: **ACTION OF PLANNING COMMISSION:**

A. At the conclusion of the hearing, the planning commission shall take such action thereon as it deems warranted under the circumstances and shall announce and record its action by formal resolution and such resolution shall recite the findings of the planning commission upon which it bases its decision. This decision shall be final, subject only to the appeals process. (Ord. 2005-10, 1-3-2006)

13-9-7: **FINAL DECISION EFFECTIVE DATE:** The decision of the planning commission shall not become final and effective until seven (7) days after the decision is entered in the minutes of the meeting. No permits shall be issued concerning the property in question until the decision becomes final. (Ord. 2005-10, 1-3-2006)

13-9-8: **REAPPLICATION:** No person, including the original applicant, shall reapply for a similar special use permit or variance on the same land, building or structure within a period of six (6) months from the date of the final decision by the planning commission of such previous application. (Ord. 2005-10, 1-3-2006)

13-9-9: **PERMIT EXPIRATION:** Each special use permit or variance authorized under the provisions of this chapter which is not actually established or the actual construction commenced on the buildings or structures within six (6) months from the date of the final decision is null and void. In the event some construction work is involved, it must actually commence within the stated period and be diligently prosecuted to completion. A lapse of work for a period of three (3) months will be sufficient to cause the invalidity of the permit; provided further, when any use of land, building, structure or premises established under the provisions of this chapter has been discontinued for a period of one year, it is unlawful to again use such land or building or premises for such discontinued use

13-9-9

13-9-10

unless a subsequent special use permit or variance is authorized. (Ord. 2005-10, 1-3-2006)

13-9-10: **PERMIT EXTENSION:** Extensions of time may be granted by the planning commission, if requested by the property owner of record not less than seven (7) days prior to the expiration date of the date of the final decision. (Ord. 2005-10, 1-3-2006)

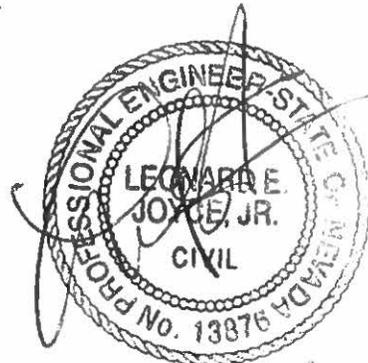
Exhibit 10

PREPARED FOR:
BEDROC LIMITED, LLC
2745 N. NELLIS BLVD.
LAS VEGAS, NEVADA 89115

BEDROC LANDFILL AND WASTE MANAGEMENT FACILITY

DESIGN REPORT

OCTOBER 2013
REVISED FEBRUARY 2014
REVISED MAY 2014



PREPARED BY:

JOYCE
ENGINEERING

1604 OWNBY LANE
RICHMOND, VIRGINIA 23220
PHONE: (804) 355-4520
FAX: (804) 355-4282
JOYCE PROJECT No. 00383.1401.01.01

5/19/14

**Design Report
Bedroc Landfill and Waste Management Facility
Lincoln County, Nevada**

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Appendix VI.....	Technical Specifications
Appendix VII	Construction Quality Assurance (CQA) Plan

Design Drawings are included separately

1.0 GENERAL INFORMATION

This plan has been prepared for the Bedroc Landfill and Waste Management Facility (facility) to address the requirements established in Nevada Administrative Code (NAC) 444.680 and provide information regarding the design and construction of the permitted disposal facility. A drawing set has been prepared to illustrate the proposed construction and development of the facility.

The facility is equipped with a soil and synthetic liner and leachate collection system for the disposal of wastes. The cells proposed for the acceptance of Class I materials at the facility will be constructed in phases, and when completed, will cover approximately 115 acres.

The facility will include the following (per NAC 444.700 “Facilities for personnel.” - NRS 444.560):

- An administrative trailer;
- An equipment maintenance shop; and
- A break-room (shelter and sanitary) trailer for equipment operators and laborers.

The locations of the equipment maintenance shop, and administrative and break-room trailers are anticipated to be temporary and may be relocated on the site as the landfill is developed. Specifically, the equipment maintenance shop and break-room trailer are likely to be periodically relocated near the active disposal area to reduce the travel time for equipment and site personnel. The administration trailer and break-room will provide potable water and restrooms for site personnel. A list of the positions, as well as, job descriptions are included in the facility’s Integrated Site Wide Contingency Plan (ISWCP).

2.0 LOCATION AND LAND USE

The facility is located within the Coyote Spring Valley, adjacent to U.S. Highway 93. The project site is located in Lincoln County, approximately 30 miles south of Alamo and 65 miles north of Las Vegas. The facility will serve as a disposal facility for Southern Nevada, specifically, Lincoln, Clark and surrounding counties. The metropolitan Clark County Area and the surrounding counties have a total population of approximately 2 to 2.5 million. Refuse from Las Vegas will comprise more than 95% of the waste stream, which is estimated to be up to an average of 2,000 tons/day.

The site will accept only municipal solid waste (MSW). The waste will be comprised of residential, commercial and selected special wastes as defined in the facility’s Operating Plan. No hazardous wastes will be accepted. WEI anticipates that the majority of the waste stream will be comprised of municipal solid waste from residential and commercial sources. The estimated breakdown of the MSW and the special wastes are summarized as follows:

- Residential and Commercial MSW: 70% to 100%
- Special Wastes: 0 to 30%

The property's legal description is the East Half (E ½), and the East Half (E ½) of the West Half (W ½) of Section 24, and the East Half (E ½) of the Northeast Quarter (NE ¼) of Section 25, Township 11 South, Range 62 East, M.D.B.&M., Lincoln County, Nevada. A.P.N.: 08-201-02. Copies of the Assignment of Interest in the property are provided in Appendix A.

The initial cell (Cell 1) is located in Lot 12. As additional cells are constructed, the disposal facility will expand northward and westward, and will eventually encompass Lots 13 and 14 and portions of Lot 6, 7 and 8.

The facility is located in excess of ¼ mile from the nearest inhabited dwelling and place of public gathering. The Pahrangat Wildlife Refuge is located approximately 14 miles northeast of the site. Lands surrounding the project site are public lands administered by the Bureau of Land Management. These lands are undeveloped and considered open space.

The project area and adjacent lands are zoned M-2 Heavy Manufacturing. Other lands within one-mile of the site are zoned A-5 Agricultural and SID Special Industrial. The M-2 heavy manufacturing district is intended to provide areas for the development and operation of industrial and manufacturing uses. Uses permitted within this zone subject to a special use permit include salvage yards, recycling facilities and operations involving use, recovery or residue of hazardous materials and/or wastes. A zoning map is included in Appendix A.

3.0 HYDROGEOLOGIC CHARACTERISTICS

Soils at the existing facility, as described from outcrops, test pits, and borings, range from poor to well sorted sand and gravel of alluvial origin to fine silty-sand grading to silty-clay of lacustrine origin. Generally the lacustrine deposits are weakly consolidated and the alluvial deposits are unconsolidated to weakly cemented. Bed thicknesses vary across the site due to the processes by which the sediments were deposited; however, the thickest units are generally less than 30 feet thick.

Based on the static water level data obtained on September 3, 2013, the water table beneath the proposed facility ranges in elevation from 2,410 feet above MSL in the southeastern corner to 2,455 feet above MSL beneath the northwestern corner of the study area. The potentiometric surface lines indicate that groundwater flow in the uppermost aquifer is towards the east-southeast with an average gradient of approximately 0.02 foot per foot. Geologic information gathered during the site investigation indicates the uppermost water table is present in a soil matrix composed of both alluvial and lacustrine sediment.

Prepared pursuant to the Nevada Administrative Code (NAC) 444.680.8.b, the Site Characterization Report documents the geologic and hydrogeologic conditions specific to the terrain underlying the proposed facility and the surrounding region. A copy of the Site Characterization Report is included in Appendix J of the facility's application for a permit to operate a Class I disposal site.

4.0 CLIMATE

Due to extreme temperatures and low average annual precipitation, the climatic conditions in southern Nevada at elevations below 5,000 feet are extremely dry and are classified as part of the Mojave Desert province (Jaegar, 1957).

The precipitation rate averages approximately 0.34 inch per month or 4.1 inches per year, with the "wet" season occurring between November and March. Temperatures in the region range from an average high of 106 degree Fahrenheit in July to an average low of 34 degrees Fahrenheit in December and January, with a mean average daily temperature of 67 degrees Fahrenheit.

At low elevations in the region, vegetation is generally limited to drought and heat tolerant species. Published literature indicates that the regional vegetation primarily consists of agave, a variety of cactuses and yucca, black brush, creosote bush, and Joshua trees (Jaeger, 1957).

5.0 TOPOGRAPHY

The site is located within the Coyote Spring Valley. The valley is bounded by the Sheep Range to the west, and the Delamar and Meadow Valley Mountains to the east. The Pahranaagat Wash is located within Coyote Spring Valley and transects portions of the project area. At the location of the proposed landfill, the wash is approximately one mile wide, forming a relatively wide and flat floor of the valley.

No defined flow channel is present in Coyote Springs Valley in the vicinity of the proposed landfill site. The gravel pits associated with the sand and gravel operation west of the proposed site location, an elevated east-west roadway, and other earthen structures isolate the segment of Coyote Springs Valley in the vicinity of the landfill from surface water flow that may be generated upstream in the valley. Given the highly permeable nature of the shallow alluvium in the valley, it appears that water flow is confined to the subsurface in all but the most unusual of precipitation events.

6.0 DESIGN

The facility will ultimately cover approximately 115 acres. The landfill will be constructed in lifts will have a final slope of 3H:1V on all four sides. Ten-foot benches will be constructed at vertical intervals of approximately 30 feet. When completed the top of the landfill

will be approximately 150 feet above existing grade. Access roads to the site already exist. A perimeter road will be constructed for landfill development and access. Haul roads will be constructed to access the working face.

6.1 Cell Development

All cells will be constructed with a soil and synthetic liner and leachate collection system. To facilitate leachate collection and removal, the overall base grade for the disposal area is generally sloped either toward the southeast corners of Cells 1, 11 and 14, and the northeast corners of Cells 5 and 8. The Class I landfill will be located in Lots 6-8 and 12-14. Landfill development will generally follow the phasing described below.

The initial cell, Cell 1, will be constructed in the southwest corner of Lot 14. The base grade for Cell 1 slopes toward the southeast. A side slope riser pipe and pump removes the leachate that accumulates in the southeast corner of Cell 1. Collected leachate will flow via forcemain to the leachate pond proposed along the eastern side of the facility. Cell 2 will be constructed north and adjacent to Cell 1. The base grade for Cell 2 is sloped toward Cell 1. Waste placement in Cell 2 piggybacks onto Cell 1. Cell 3 will be constructed in the southeast corner of Lot 8, west and adjacent to Cell 1. The base grade for Cell 3 slopes toward the east. Waste placement in Cell 3 will piggyback onto Cell 1. Cell 4 will be constructed in the northeast corner of Lot 8, west and adjacent to Cell 2. The base grade for Cell 4 slopes toward the east. Waste placement in Cell 4 will piggyback onto Cells 1, 2 and 3.

The base grade for Cell 5 slopes toward the northeast. A side slope riser pipe and pump remove the leachate that accumulates in the northeast corner of Cell 5. Collected leachate will flow via forcemain to the leachate pond proposed along the eastern side of the facility. Cells 6 and 7 will be constructed west of Cell 5. The base grades for both cells slope toward the east toward the leachate removal pump in the northeast corner of Cell 5. Waste placement in Cells 6 and 7 will piggyback onto Cells 1, 3 and 5.

Cell 8 will be constructed in the southeast corner of Lot 13, south and adjacent to Cell 5. The base grade for Cell 8 slopes toward the northeast. A side slope riser pipe and pump remove the leachate that accumulates in the northeast corner of Cell 8. Collected leachate will flow via forcemain to the leachate pond proposed along the eastern side of the facility. Waste placement in Cell 8 will piggyback onto Cell 5. Cells 9 and 10 will be constructed west of Cell 8. The base grades for both cells slope toward the east and northeast toward the leachate removal pump in the southeast corner of Cell 8. Waste placement in Cells 9 and 10 will piggyback onto Cells 5, 6, 7 and 8.

Cell 11 will be constructed in the northeast corner of Lot 12 and southeast corner of Lot 13, south and adjacent to Cell 8. The base grade for Cell 11 slopes toward the southeast. A side slope riser pipe and pump remove the leachate that accumulates in the southeast corner of Cell 11. Collected leachate will flow via forcemain to the leachate pond proposed along the eastern side of the facility. Waste placement in Cell 11 will piggyback onto Cell 8. Cells 12 and 13 will

be constructed west of Cell 11. The base grades for both cells slope toward the southeast toward the leachate removal pump in the southeast corner of Cell 11. Waste placement in Cells 12 and 13 will piggyback onto Cells 8, 9, 10 and 11.

Cell 14 will be constructed in the southeast corner of Lot 12, south and adjacent to Cell 11. The base grade for Cell 14 slopes toward the southeast. A side slope riser pipe and pump remove the leachate that accumulates in the southeast corner of Cell 14. Collected leachate will flow via force main to the leachate pond proposed along the eastern side of the facility. Waste placement in Cell 14 will piggyback onto Cell 11. Cells 15 and 16 will be constructed west of Cell 14. The base grades for both cells slope toward the southeast toward the leachate removal pump in the southeast corner of Cell 14. Waste placement in Cells 15 and 16 will piggyback onto Cells 11 and 12.

6.2 Waste Placement

The initial placement of waste in a new cell will be in a careful and controlled manner where the leachate collection system and the liner are most vulnerable. Select waste, avoiding bulky and large rigid items, will be placed as the “operations layer”. This operations layer will be a minimum of 2 feet thick, will not be compacted, and will serve as a protective layer to the liner and drainage system. Markers will be placed along the edge of liner so that filling operations in the cells do not extend outside lined areas and adequate room is left to allow for applying the final cover.

In accordance with NAC 444.686 (4) waste will be spread in thin layers not to exceed 2 feet thick and compacted with a heavy tracked dozer or compactor. The process of placing and compacting 2 foot layers of waste will be repeated until a lift thickness of approximately 20 feet is reached. At the end of each operating day or when the lift of waste is completed, a minimum of six inches of cover soil will be placed over exposed compacted waste. Cover material will come from cell construction activities and adjoining land owned by Bedroc Limited, LLC (Bedroc) if necessary. Waste will be placed in this manner until final elevations are reached. Waste slopes that make up the exterior slope of the landfill will be constructed with slopes no greater than 3:1 and benches per the application drawings.

Initial lifts of waste will be placed on the cell floor. As the base grades are below the surrounding ground surface, initial waste placement activities will be screened from U.S. Highway 93. As the elevation of the working face reaches the grade of the surrounding ground surface, perimeter berms will be constructed on the northern, eastern and southern slopes of the landfill when disposal activities are within 1,000 feet of Highway 93. As necessary, the berms will be extended laterally beyond the waste limits to prevent the working face from being visible from the highway. These berms, approximately 10-15 feet in height and consisting of soil material, will generally be constructed in advance of waste placement activities as necessary to provide visual screening of landfill operations from U.S. Highway 93.

6.3 Drawings

The drawing set attached to this application presents the existing topography and the proposed Class I facility design and development of the site. These drawings were prepared to address the requirements of NAC 444.680(3).

The Existing Site Conditions Plan (Drawing No. 3) shows existing site conditions prior to development of the proposed Class I area.

The Base Grading Plan (Drawing No. 4) shows the Class I base grades before installation of the liner and drainage layer.

The Leachate Collection/Removal Plan (Drawing No. 5) shows the location of the proposed leachate collection/removal piping in the Class I cells, proposed leachate force mains and storage ponds.

The Final Grading Plan (Drawing No. 6) shows the final grades of the site area after installation of the final closure cap.

There are three Cross Section Plans (Drawing Nos. 7, 8 and 9) showing seven sections cut east-to-west and one section cut north-to-south. Shown on the cross sections are the proposed base grades and final grades, existing grades and groundwater surface.

There are five Phasing Plans (Drawing Nos. 10 thru 14) reflecting the progressive development of the Class I landfill. The proposed Class I Landfill will consist of 16 separate cells.

There is one Site Monitoring Plan (Drawing No. 15) reflecting the installation of vents and boundary probes for the Class I landfill.

There are three detail sheets (Drawing Nos. 16, 17 and 18).

Drawing No. 19 provides the soil balance information and location of borrow areas.

Drawing No. 20 identifies the property owners within a 2-mile radius of the site.

Drawings Nos. 21, 22 and 23 provide cross sections and profile of the stormwater diversion channel.

The following is a complete list of permitted drawings that makes up the set of drawings for the Report for Design:

<u>Drawing #</u>	<u>Title</u>
1	Cover Sheet
2	Legend Sheet
3	Existing Conditions Plan
4	Base Grading Plan

5	Leachate Collection/Removal Plan
6	Final Grading Plan
7	Sections A-A to D-D
8	Sections E-E to G-G
9	Section H-H
10	Phasing Plans, Phases I-IV
11	Phasing Plans, Phases V-VIII
12	Phasing Plans, Phases XI-XII
13	Phasing Plans, Phases XIII-XVI
14	Phasing Plans, Phases XVII-XIX
15	Site Monitoring Plan
16	Details
17	Details
18	Details
19	Location of Borrow Area
20	Adjacent Property Owners
21	Stormwater Channel Sections
22	Stormwater Channel Sections
23	Stormwater Profile

7.0 SITE LIFE & CAPACITY

The following is a list of the waste acceptance areas, design capacities and life estimates for each cell:

Cell	<u>Total Lined Area</u> (ac)	<u>Design Capacity* (cy)</u> (cy)	<u>Site Life**</u> (yr)
1	10.8	2,033,845	10.2
2	9.5	1,202,177	6.0
3	7.3	1,002,039	5.0
4	6.8	700,416	3.5
5	6.5	980,368	4.9
6	6.2	1,490,505	7.5
7	6.2	743,137	3.7
8	7.2	1,051,218	5.3
9	6.2	1,437,009	7.2
10	6.2	728,598	3.6
11	5.4	690,857	3.5
12	6.8	1,646,807	8.2
13	7.9	1,186,439	5.9
14	7.3	867,768	4.3

15	8.2	1,366,592	6.8
16	6.8	606,826	3.0
Total	115.2	17,734,601	89

- * Design Capacity is the volume of airspace available for waste and soil cover and is determined by extending the cell limit vertically to the top of the intermediate cover.
- ** Estimated site life is based on an annual gate volume of 600,000 cubic yards reduced at 3:1 to reflect compaction and volume reduction.

8.0 WASTE TYPES

The waste accepted at the facility results from household/Class I municipal solid waste, construction/demolition and debris (hereafter referred to as “Allowed Waste”) of buildings or other structures. Bedroc accepts Allowed Waste solely from known and pre-approved suppliers. Approved waste material cleanup contractors, will initially pick up this material at the construction sites in Las Vegas. Minimal pre-sorting to remove non-construction debris materials will be performed at the construction sites for disposal at an approved site. Additional sorting occurs at the cleanup contractor’s facility prior to transport to the Class I landfill. The Operating Plan provides additional details on the waste types currently accepted and proposed to be accepted at the Class I landfill.

9.0 SITE ACCESS

The site is easily accessible in all kinds of weather to all vehicles expected to use it. Access to the site can be achieved by an existing road, which joins US Hwy 93 at approximately mile marker 8, and travels west to the site. A fence around the perimeter of the property as well as natural barriers will limit access to the landfill to one entrance. The scale house is located at the entrance and controls access to the operating area and monitors all vehicles entering and exiting. A site attendant will be on duty to control access during hours of operation and direct vehicles appropriately. Vehicles delivering solid waste are required to cross the scales to be monitored, weighed and then they are directed to the working face. Speed limits are posted on internal roads. Public access is forbidden at this site and signage stating such is clearly posted at the entrance.

The access road is a minimum of 25-ft wide and is constructed of crushed stone, rubble, or other soil materials capable of providing an all-weather driving surface. Site personnel will maintain the on-site roads for all-weather access. If conditions prohibit access to the active face during inclement weather, an all-weather access area will be constructed as near as possible to the active area. When necessary, haulers will dump waste at the edge of the designated wet weather area to allow the compactor or dozer to push the waste into the fill. Bedroc will maintain the access roads for the life of the landfill so that the facility will be easily accessible in all weather.

10.0 BORROW AND STOCKPILE AREAS

Cell construction activities and adjacent land owned by Bedroc will be utilized to provide the fill soil needed to achieve the base grade elevations.

Stockpile areas will vary from time to time and must be left up to the discretion of the landfill operator. Drawing No. 19 shows the location of the borrow areas and the soil balance.

11.0 LINER

The Class I facility will be designed and constructed in accordance with NAC 444.681. The liner will be constructed as shown in the following sections.

11.1 Liner System

The liner system on the cell bottom will consist of the following components (from top to bottom):

- a. Operations layer consisting of 24 inches of select loose (uncompacted) waste from incoming gate waste;
- b. Drainage layer consisting of 12 inches of coarse aggregate with permeability no less than 0.5 cm/sec;
- c. Protective cushion consisting of a non-woven, 16 oz./s.y. geotextile;
- d. Flexible membrane liner (60-mil textured HDPE);
- e. Compacted Soil Liner consisting of 36 inches of low-permeability soil (permeability less than or equal to 1×10^{-7} cm/sec); and,
- f. Prepared 12 inch subgrade, with the surface smooth and generally free of rocks larger than $\frac{3}{4}$ ".

The liner system on the interior side slopes will consist of the following components (from top to bottom):

- a. Operations layer consisting of 24 inches of select loose (uncompacted) waste from incoming gate waste;
- b. Protective layer consisting of 12 inches of native soil of unspecified permeability;
- c. Geocomposite
- d. Flexible membrane liner (60-mil textured HDPE);
- e. Compacted Soil Liner consisting of 36 inches of low-permeability soil (permeability less than or equal to 1×10^{-7} cm/sec);
- f. Prepared subgrade, with the surface smooth and generally free of rocks larger than $\frac{3}{4}$ ".

11.2 Installation

Technical specifications (Appendix VI) and the Construction Quality Assurance (CQA) Plan (Appendix VII) address such things as preparation of the subgrade, visual inspections of the prepared subgrade and acceptance by the liner installer prior to installation of liner, quality control testing during liner installation, FML layout plan, and seaming methods. Construction Quality Assurance (CQA) will be completed during the liner construction activities to ensure that the construction complies with the liner design plans and specifications. Following each liner construction project, a certification report will be prepared and submitted to provide documentation that the construction activities were completed in accordance with the design plans and applicable federal and state regulations. A Nevada registered civil engineer will supervise CQA activities and certify the report.

Typical CQA activities will include, but are not limited to the following:

- a. Verification of the low-permeability soil materials including material quality, thickness, and compaction;
- b. Verification of the LCRS gravel including material quality and thickness;

- c. Observation and inspection of the geosynthetic materials for conformance with the engineering plans and specifications;
- d. Conformance testing of soil and geosynthetic materials; Documentation of construction procedures, and identification and resolution of construction problems; Preparation of a CQA report providing documentation that the closure activities and construction complied with the project plans and specifications.

The bullets below summarize the minimum CQA Plan requirements.

- a. A delineation of the CQA management organization, including a chain of command
- b. A detailed description of the level of experience and training of the contractor, work crew, and CQA inspectors.
- c. Description of the CQA testing protocols.
- d. CQC manufacturer data on all geosynthetics utilized
- e. CQA documentation requirements
- f. Subgrade inspection and testing procedures including compaction testing frequency.
- g. Low-hydraulic-conductivity soil layer inspection and testing procedures and frequencies including field and laboratory testing. At a minimum include field compaction testing, permeability testing (field and/or laboratory), and laboratory testing for particle-size distribution, Atterberg limits, soil classification, and Proctor compaction.
- h. LCRS layer inspection and laboratory testing procedures and frequencies. At a minimum include laboratory testing for permeability, particle-size distribution, and soil classification. Geosynthetic layers (geomembrane, geotextiles, and geocomposites):
 - i. Preconstruction quality control program
 - j. Conformance testing procedures and frequencies
 - k. Inspection of subgrade surface
 - l. Inspection of placement
 - m. Seam testing procedures and frequencies for geomembranes
 - n. Inspections of installation of anchors and seals

11.3 Location Relative to Groundwater Surface

Groundwater surface elevations within the limits of the proposed Class I Disposal Facility range from approximately 47 to 81 feet below base grades (bottom of 36-inch Compacted Soil Liner). Water level measurements, obtained in September 2013, were used to generate groundwater contours. These contours are shown on the Base Grading Plan. The base grades have been designed to maximize the separation between the bottom of the liner system and groundwater. Accordingly, the base grades result in the following groundwater separation distances (measured between groundwater and the bottom of waste):

- A minimum of 51 feet at the sump locations;
- A maximum of 85 feet at the edge of the landfill; and
- An average separation distance of approximately 55 feet.

12.0 STABILITY

Pursuant to NAC 444.6795, the stability of the facility was evaluated by examining potential deep rotational failure through the waste and subgrade (bearing capacity), shallow rotational failure through the waste and subgrade, sliding block failure along the liner interface, veneer failure between components of proposed liner, and veneer failure between components of the cap. Please note that the facility is not located in a fault or unstable area.

Seismically, the California-Nevada border is one of the more active areas in the southwestern portion of the United States. In the vicinity of the site, seismic activity is less significant, with published United States Geologic Survey peak acceleration maps showing a 2% probability of exceeding a peak seismic acceleration of 0.27g of occurring in 50 years, and a 10% probability of exceeding a peak seismic acceleration of 0.12g of occurring in 50 years (USGS, 2002). Per NAC 444.6793, a seismic impact zone is defined as an area with a 10 percent or greater probability that the maximum horizontal acceleration in lithified earth material will exceed 10 percent of the earth's gravitational pull in 250 years. The site is in a seismic impact zone. According to NAC 444.6793.1 a new municipal solid waste landfill unit or lateral expansion may not be located in a seismic impact zone, unless the owner or operator submits proof to the solid waste management authority that all structures for containment, including liners, systems for the collection of leachate and systems for the control of surface water, are designed to resist the maximum horizontal acceleration in lithified earth material for the site. The calculations and design information show that the materials and the design of the landfill systems resist the maximum horizontal acceleration for the site. This information is presented in Appendix II and IIA.

The maximum seismic displacement for the liner system was calculated (see Appendix IIA). For potential failure along the liner, and the permanent seismically induced displacement was calculated to range from 0.01 inches to 0.47 inches approximately 4 inches. Displacements of up to 6 to 12-inches along the liner system are generally accepted as being within the tolerance limits of liner systems without resulting in adverse damage. Potential failure of the foundation soils is not a critical failure mode since the shear strengths of the native soils are considerably higher than the assumed liner interface shear strength. Results of the evaluation are presented in Appendix II.

The site is not located in an "unstable area" which is defined by as "areas exhibiting soil and/or bedrock conditions prone to differential settlement and/or mass wasting (i.e. landsliding) (NAC 444.6795).

13.0 LIQUIDS MANAGEMENT SYSTEMS

13.1 Leachate Collection and Control

13.1.1 Leachate Flow

Extensive leachate generation rates have been evaluated using the EPA's Hydrologic Evaluation of Landfill Performance (HELP) Model - version 3.07 computer modeling program. In order to determine the expected leachate generation rate from the Class I cells, the HELP model was run using the design proposed in this application (i.e., liner details, leachate piping spacing etc) Synthetically generated climatologically and precipitation data from Las Vegas, Nevada were used to execute the program. This program simulates the actual field conditions and calculates the water balance considering surface run-off, evapotranspiration, and material permeability.

For modeling purposes, the liner system is identical to that described in Section 11.1. The waste material selected was municipal solid waste with channeling, which has a low porosity and initial water content.

Since the proposed based grades are less than 100 feet from the underlying groundwater table, the maximum daily percolation through the HDPE liner was evaluated. For this analysis, the liner system was modeled with a waste lift of 10 feet above it, which is the worst case condition, resulting in a maximum head on the liner of approximately 2.504 inches. As shown in the attached calculations, the average annual percolation through the 36" soil liner is 0.062 gallons per acre per year. On an average daily basis, the resulting leakage potential is 0.0002 gpad, which is effectively a negligible rate.

To determine the estimated annual leachate generated and collected per acre over the life of the facility, seven different HELP model scenarios were run:

1. Average waste depth of 10 feet with 6 inches of cover soil (12" stone, 60-mil HDPE liner, 36" low-permeability soil liner, 12" recompacted subgrade), 2% bottom slope, 263' pipe spacing;
2. Average waste depth of 20 feet with 6 inches of cover soil (12" stone, 60-mil HDPE liner, 36" low-permeability soil liner, 12" recompacted subgrade), 2% bottom slope, 263' pipe spacing;
3. Average waste depth of 40 feet with 6 inches of cover soil (12" stone, 60-mil HDPE liner, 36" low-permeability soil liner, 12" recompacted subgrade), 2% bottom slope, 263' pipe spacing;
4. Average waste depth of 60 feet with 6 inches of cover soil (12" stone, 60-mil HDPE liner, 36" low-permeability soil liner, 12" recompacted

subgrade), 2% bottom slope, 263' pipe spacing;

5. Average waste depth of 100 feet with 6 inches of cover soil (12" stone, 60-mil HDPE liner, 36" low-permeability soil liner, 12" recompacted subgrade), 2% bottom slope, 263' pipe spacing;
6. Average waste depth of 100 feet with 12 inches of intermediate cover soil (12" stone, 60-mil HDPE liner, 36" low-permeability soil liner, 12" recompacted subgrade), 2% bottom slope, 263' pipe spacing; and,
7. Final cap over an average waste depth of 100 feet (24" soil, geocomposite drainage layer, 40 mil-LLDPE liner, geocomposite, 12" intermediate cover), 33% sideslopes.

Each of the above scenarios was evaluated for a period of 100 years. From the results of the HELP model runs, the average annual leachate collected by the 12-inch stone drainage layer in inches per acre was used to calculate the leachate generation (Appendix III).

Given the results of the HELP model runs, presented in Appendix III, the daily leachate flows generated in the peak average month in gallons per acre were multiplied by the actual acreage operating for each scenario, to obtain the estimated quantity of leachate collected during the facility's operational life. These results are summarized in Appendix III. Over the life of the facility, the maximum daily leachate flow is estimated to be approximately 3,500 gallons/day. This occurs during waste placement activities in Cell 15.

As described above, HELP model results were used to estimate the amount of leachate generated and collected over the operating life of the facility. This value was used to size the leachate collection piping and leachate ponds. The leachate generated in the landfill will be discharged to a lined leachate pond, where it will be transported off-site to an existing wastewater treatment plant for disposal, if necessary. Tabulated summaries of the HELP model results and supporting calculations are included in Appendix III. A summary of how each of the main components of the leachate collection system were designed is presented in the sections below.

13.1.2 General Leachate Collection and Removal System

The Leachate Collection and Removal System (LCRS) has been designed to meet the minimum requirements of the Nevada Solid Waste Disposal Regulations (Chapter 444). Plans, cross-section views, details, and specifications are included in the design plans and design report. The LCRS described herein includes the following components:

- Aggregate drainage layer;
- Leachate collection piping;

- Downslope pipes and pumps; and,
- Leachate storage ponds.

Leachate generated in the disposal unit will flow through the drainage layer, which consists of 12 inches of granular material on the bottom. The granular material will achieve a minimum permeability of 0.5 cm/sec. Each Class I cell will be graded so that drainage will flow into perforated HDPE leachate collection laterals, with no more than 263 feet between laterals. These lateral pipes will then flow into perforated HDPE leachate header pipes running through the expansion area at a minimum of 1.3% downward grade. Due to this slope, leachate will flow into these pipes everywhere it is generated in the cell, even at the extremities of the landfill. These pipes will carry leachate by gravity to one of four sump areas. From the sumps, leachate will be pumped into the lined leachate ponds. Leachate will be pumped from the pond into tanker trucks for transport to a local wastewater treatment plant for treatment and disposal, if necessary.

13.1.3 Aggregate Drainage Layer

The Class I drainage layer is comprised of an 12-inch thick layer of coarse aggregate with a permeability of 0.5 cm/sec or greater. Using this permeability, an analysis was performed using the HELP Model to verify that no more than 12 inches of leachate would accumulate above the liner. The data obtained from the HELP Model indicate that the peak daily head developed on the liner with 10-feet of waste is 2.504 inches. This model was run using a 2% bottom slope for conservativeness. A 16-oz/sy non-woven geotextile will be placed above the synthetic liner to provide adequate cushion to the liner from construction and operational loads.

The drainage media will be sloped to allow leachate to drain into the LCRS system. The drainage layer will conform to the bottom slope of the disposal unit which is a minimum of 2.0 % from the leachate collection lateral pipes to the header pipes, and a minimum 1.3% from the header pipes toward the sump areas. The base grades of each Class I cell were designed to account for the calculated differential settlement of the foundation. The grades of each of the cells toward the sumps were designed to slope at a sufficient grade to allow positive drainage after the maximum final settlement.

The aggregate drainage layer will have sufficient bearing strength to support expected loads and not puncture the HDPE liner material. The resulting factor of safety was calculated to be 23.2 using conservative fracture strength of 2,000 pounds per square inch (psi) for the stone and the calculated expected loading of 75 pounds per cubic foot (pcf).

13.1.4 Leachate Collection Piping

The leachate collection lateral pipes and header pipes will be constructed of high-density polyethylene (HDPE) SDR-15.5 (minimum). The piping for the leachate

trunkline will be HDPE sewer grade pipe. This material has been chosen based on its chemical resistivity and strength. The wall thickness and diameter have been chosen for the strength requirements and provide enough area to carry the anticipated flows.

The six-inch diameter leachate collection lines have been sized to handle the maximum flow based on the worst case daily leachate flow rate during peak average month from the largest contributing area. The resulting factor of safety is 15. Calculations have been performed to determine the adequacy of the perforations on the leachate collection pipes. Using 8 holes (3/8-inch diameter) per linear foot of pipe, results in a factor of safety of 800. The maximum flow rate used in the analysis in the permit was 2,852 gallons per day. The piping was analyzed for strength requirements to verify that it would not crush or buckle under the waste placed above it. Static forces from approximately 160 feet of waste were calculated to be about 88 psi. The factor of safety against wall crushing was calculated to be 2.4. The factor of safety against pipe buckling was calculated to be 1.9. The leachate collection piping was also analyzed to determine resistance to deflection. The resulting factor of safety was 10.3.

The gradation of drainage media, and spacing and size of pipe perforations were chosen to minimize clogging during the active life of the facility and the post-closure care period. The aggregate drainage layer will also slope toward the sump area to allow for the drainage of leachate in the event the leachate collection pipe network ever becomes clogged.

To facilitate cleaning and inspection, the pipe diameter is a minimum of six inches. In addition, each collection line has a cleanout as shown on the design plans to provide access for mechanically, hydraulically or chemically cleaning the leachate collection pipe network.

13.1.5 Pump Stations

Each of the four leachate pumps will be sized to handle the highest average monthly flow rate from the respective contributing areas. The pumps will cycle on and off as necessary so that the depth of leachate does not exceed 12" above the liner.

13.1.6 Leachate Storage Ponds

The leachate storage pond was designed to provide storage for 7 days of the maximum daily leachate flow, approximately 25,000 gallons (as determined by the HELP model and supporting calculations discussed previously). The capacity of the proposed leachate storage pond is approximately 140,000 gallons with 1-foot of freeboard.

The leachate pond will be lined with a 60-mil HDPE liner over a prepared base grade. Leachate will be pumped from the ponds, as necessary, into tanker trucks for transport to a local wastewater treatment plant for treatment and disposal.

13.2 Run-on Control System

NRS 444.6885 requires that a system is provided to control run-on during the peak discharge from a 25-year flow. The run-on control system for the proposed facility has been designed to intercept and divert the upland run-on for at least a 100 year, 24-hour storm event. The SCS TR-55 method was used to calculate peak flows and storage volumes. Approximately 170 sq. mi. primarily north and west of the site will be collected in a perimeter stormwater conveyance channel along the northern and western toe of the landfill that will convey the run-on around the site and will discharge the flows at the southeast corner of the site. The discharged stormwater will be collected in the Pahranaagat Wash, a tributary to the Muddy River, which bypasses the facility on the east but flows onsite south of the facility on Lot 10. A map showing these areas is provided in Appendix V.

Run-on from the west will be detained in the areas below elevation 2490, along the western side of the facility. These areas has the capacity equal to 160 ac-ft. The anticipated runoff associated with a 100 year, 24-hour storm event is approximately 624 ac-ft. Similar to the four stormwater detention ponds that will handle run-off from the landfill, run-on that will flow into the detention areas will infiltrate through the bottom of the pond or evaporate. The trapezoidal channel to the south of the facility will carry the overflow from the onsite detention areas and discharge to the Pahranaagat Wash, south of the facility on Lot 10.

The peak discharge from the 170 sq. mi. to the north and west of the facility for a 100 year, 24-hour storm event was calculated to be approximately 1,510 cubic feet per second (cfs). The proposed perimeter ditch (to control run-on) is a trapezoidal ditch with 2H:1V side slopes, a varying bottom width of 105 feet to 140 feet, and a varying flow line slope of 0.15% to 0.23% . This design provides a flow capacity of approximately 3,300 cfs. Thus, the resulting factor of safety for the 100 year, 24-hour storm event was calculated to be 1.02. The run-on control system and details are shown on the design drawings. All supporting calculations are included in Appendix V.

The proposed expansion area has been designed to prevent run-on from entering the active disposal area.

13.3 Run-off Control System

Run-off controls consist of containing sheet flow off of the top deck of the landfill and transmitting it to down slope drains. Run-off from diversion benches flows along the toe of the overlying bench and discharge into the down slope drains. The down slope drains transmit water from the diversion benches and discharge at the downgradient toe of the Landfill. A ditch along the perimeter of the landfill transmits run-off to naturally lined detention ponds. There are four stormwater detention ponds associated with the facility.

Run-off from the site will be carried by a system of ditches along the side slope benches and downslope drains into one of four stormwater detention ponds. The SCS TR-55 method was used to calculate peak flows and storage volumes. A 25-year, 24-hour storm event was used as the design basis for all of the proposed run-off control systems as required by NAC 444.6885.

The proposed ditch design is a V-shaped ditch, 2 feet deep, 3H:1V sideslopes on the uphill

side and 2H:1V side slopes on the downhill side. The designed will provide drainage capacity providing at least a foot of freeboard and a factor of safety of 100+.

The sideslope ditches convey water to one of four 18-inch diameter corrugated HDPE downslope drains, which provides a flow capacity of approximately 39 cfs. Each downslope drain collects run-off from approximately a quarter of the expansion area thus, collecting approximately 4.5 cfs each. The resulting factor of safety is approximately 8.7.

Finally, the downslope drains discharge into one of the on-site stormwater detention ponds. To be most conservative, the stormwater detention ponds design was based on the final grades of the landfill. Using SCS TR-55, the estimated storage volume necessary to collect and store this flow from each drainage area were calculated. Each pond has a total storage volume of approximately 1 acre-ft; thus, providing a factor of safety of approximately 1.6. It is assumed, based on the soils and climate at the site that the stormwater collected in the detention ponds will infiltrate through the bottom of the basin or evaporate. As a result, a discharge structure from the area is not needed. Emergency spillways will be provided for addition safety. Supporting calculations are provided in Appendix V.

14.0 LANDFILL GAS VENTING AND MANAGEMENT SYSTEM

A gas control system will be used to collect and dispose of landfill gas. At a minimum, the gas control will comply with Federal New Source Performance Standards (NSPS) and Emission Guidelines and require a Title V Permit (40 CFR Part 70 and NAC 445B) prior to operating the gas controls. Conceptually, the landfill gas system will consist of a system of vertical gas vents, HDPE collection and header pipes, and condensate sumps. These vents will be installed as the refuse is placed, or alternatively drilled into the refuse after refuse placement. Operation of the gas control system will not occur until there is sufficient amount of methane to operate a flare disposal system. For landfills that receive 12 to 20 inches of annual precipitation in the western U.S., this typically requires 1 to 2 million tons of refuse in place and a minimum of 2 to 4 years of decomposition. Due to the arid climate of the Bedroc Landfill and Waste Management Facility, a longer time period may be required before sufficient gas is generated for flare operations.

A landfill gas monitoring program has been developed in accordance with NAC 444.667. Details of the landfill gas monitoring program can be found in the Decomposition Gas Management Plan submitted with this permit application.

15.0 GROUNDWATER MONITORING SYSTEM

A groundwater monitoring program has been developed in accordance with NAC444.683. Details of the groundwater monitoring program are contained in the Groundwater Monitoring Plan submitted this permit application.

Exhibit 11

Title 17

DEVELOPMENT CODE

Chapters:

DIVISION I. GENERAL PROVISIONS

- 17.02 Introductory Provisions
- 17.04 Definitions

DIVISION II. ZONING

- 17.06 General Provisions
- 17.08 Zoning Maps
- 17.10 Zoning Districts
- 17.12 Use and Development Standards
- 17.14 Off-Street Parking Requirements
- 17.16 Special Use Permits
- 17.18 Variances
- 17.20 Changes in District Boundaries and Classifications
- 17.22 Enforcement and Penalties

DIVISION IV. SPECIAL DEVELOPMENT REGULATIONS

- 17.42 Resource Development Activities
- 17.46 Mobile Home Parks
- 17.48 Mobile Home Subdivisions
- 17.50 Historic District and Structures

DIVISION VI. ADMINISTRATION

- 17.60 Planning Commission
- 17.62 Board of Adjustment

DIVISION VII. UNINCORPORATED AREAS
(RESERVED)

DIVISION I. GENERAL PROVISIONS

Chapter 17.02

INTRODUCTORY PROVISIONS

Sections:

ARTICLE I. GENERAL

- 17.02.010 Title.
- 17.02.020 Purpose.

ARTICLE II. ORGANIZATION AND USE OF CODE

- 17.02.030 General.
- 17.02.040 Types of applications.
- 17.02.050 Review procedure.
- 17.02.060 Authority.
- 17.02.070 Scope and interpretation.
- 17.02.080 Separability.

ARTICLE I. GENERAL

17.02.010 Title. The title of this code shall be the "Lincoln County Development Code." (Ord. 1983-18 §1-1, 1983).

17.02.020 Purpose. A. The provisions of this code are intended to regulate the use of land and the division of same into separate interests for the purpose of protecting the public health, safety, convenience and general welfare of the residents of the county. The code is adopted in accordance with and in order to further the implementation of the county master plan and such other plans, policies, and studies designed to promote the orderly growth of the county and its communities.

B. Among other purposes, this code is specifically adopted to preserve air and water quality; conserve open space and agricultural resources; protect natural and scenic resources from unreasonable impairment; provide for

shall take such action thereon as it deems warranted under the circumstances and shall announce and record its action by formal resolution and such resolution shall recite the findings of the planning commission upon which it bases its decision.

B. The decision of the planning commission in the legislative matter of granting, granting with conditions, or denying special use permits or variances shall be advisory only to the board of county commissioners. (Ord. 1990-5 §21.5, 1990)

17.18.070 Decision by board of county commissioners.

A. The board of county commissioners, after receipt of the report and recommendation from the planning commission, shall consider the report and recommendation and shall make such a decision thereon as it deems warranted, or if deemed necessary, the board of county commissioners may hold a public hearing, as specified above, before any decision is made.

B. The board of county commissioners, in granting a special use permit or variance, may establish conditions under which the lot or parcel of land may be used, or a building or structure is constructed or altered, or make requirements as to architecture, height of building or structure, open spaces, parking areas or vehicle storage and conditions of operation of any enterprise, or may make any other conditions, requirements or safeguards that the commission may consider necessary to prevent damages or prejudice to adjacent properties or detriment to the county. (Ord. 1990-5 §21.6, 1990)

17.18.080 Final decision--Effective date. The decision of the board of county commissioners shall not become final and effective until seven days after the decision is entered in the minutes of the board of county commissioners. No permits shall be issued concerning the property in question until the decision becomes final. (Ord. 1990-5 §21.7, 1990)

17.18.090 Reapplication. No person, including the original applicant, shall reapply for a similar special use permit or variance on the same land, building or structure within a period of six months from the date of the final decision by the board of county commissioners of such previous application. (Ord. 1990-5 §21.9, 1990)

17.18.100 Permit--Expiration. Each special use permit or variance authorized under the provisions of this chapter which is not actually established or the actual construction commenced on the buildings or structures within six months from the date of the final decision is null and void. In the event some construction work is involved, it must

actually commence within the stated period and be diligently prosecuted to completion. A lapse of work for a period of three months will be sufficient to cause the invalidity of the permit; provided further, when any use of land, building, structure or premises established under the provisions of this chapter has been discontinued for a period of one year, it is unlawful to again use such land or building or premises for such discontinued use unless a subsequent special use permit or variance is authorized and issued therefor. (Ord. 1990-5 §21.8, 1990)

17.18.110 Permit--Extension. Extensions of time may be granted by the board of county commissioners, upon recommendation of the planning commission, if requested by the property owner of record not less than seven days prior to the expiration date of the date of the final decision. (Ord. 1990-5 §21.10, 1990)

Chapter 17.20

CHANGES IN DISTRICT BOUNDARIES AND CLASSIFICATIONS

Sections:

- 17.20.010 Authorization.
- 17.20.020 Initiation of changes--Amendments.
- 17.20.030 Fees.
- 17.20.040 Hearing--Notice.
- 17.20.050 Advisory action of planning commission.
- 17.20.060 Decision by county commission.
- 17.20.070 Decision--Effective date.
- 17.20.080 Reapplication.

17.20.010 Authorization. Boundaries of zone districts established by this division or the classification of property uses therein may be amended, reclassified or altered whenever public necessity, convenience and general welfare require, by the board of county commissioners after a report and recommendation by the planning commission as herein required. (Ord. 1990-5 §22.0, 1990)

17.20.020 Initiation of changes--Amendments. Amendments, supplements or changes may be initiated in the following manner, either by:

- A. The planning commission,
- B. The board of county commissioners,
- C. The petition of one or more property owners. The petition shall be in the form of an application for change of zone classification and shall be duly signed and acknowl-

Exhibit 12

ADOPTING ORDINANCE

Summary: An Ordinance enacting a revision and codification of the general ordinances of Lincoln County

BILL NO.

ORDINANCE NO. 2003-01

AN ORDINANCE ENACTING A REVISION AND CODIFICATION
OF THE GENERAL ORDINANCES OF
LINCOLN COUNTY, NEVADA

WHEREAS, NRS 244.116 to 244.119 authorizes the Board of Commissioners of Lincoln County to revise and codify the Lincoln County Code from time to time;

WHEREAS, the District Attorney's Office has worked with Sterling Codifiers to revise and update the Lincoln County Code;

WHEREAS, the Lincoln County Clerk has received multiple copies of the new Lincoln County Code in both looseleaf and electronic media;

WHEREAS, the Board of Commissioners of Lincoln County must adopt the new revised edition of Lincoln County Code by ordinance.

WHEREAS, the new development code was not available and is not incorporated herein.

**THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF LINCOLN DO ORDAIN:**

The 2003 Lincoln County Code is hereby adopted as the official code of Lincoln County, Nevada, with all of the Code's titles, divisions, sections, and subdivisions including all amendments passed by this Board as of the date this Ordinance is approved. The old development code section #17 dealing with land use and zoning will be retained until further action by this board.



Exhibit 13

Summary: Creating an ordinance to repeal the Lincoln County Development Code as found under title 17 of the 1983 Lincoln County Code and replace it with revised development code to be included under Title 13.2 of the Lincoln County Planning and Development Code.

BILL NO. 2005 -10 _____
ORDINANCE No. 2005-10 _____

AN ORDINANCE REPEALING THE LINCOLN COUNTY CODE AS FOUND UNDER TITLE 17 OF THE 1983 LINCOLN COUNTY CODE AND REPLACE IT WITH THE PLANNING AND DEVELOPMENT CODE TO BE INCLUDED UNDER TITLE 13.2 OF THE LINCOLN COUNTY CODE.

WHEREAS, The county is authorized by law to regulate the zoning, planning and subdivision of land by Chapter 278 of the Nevada Revised Statutes. This code is adopted pursuant to Chapter 278.020.

WHEREAS, a uniform system of ordinances regarding the approval, administration and enforcement of zoning, planning, and subdivisions of land within Lincoln County is necessary to ensure the health, safety, and general welfare of the citizens of Lincoln County.

WHEREAS, Lincoln County Code was revised and updated in 2003 with the exception of Title 17, which was retained on a temporary basis.

WHEREAS, with the anticipation of future growth and need for an updated zoning, planning, and subdivision of land ordinance.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LINCOLN DO ORDAIN AS FOLLOWS:

We herewith repeal the Lincoln County Code as found under Title 17 of the Lincoln County Code and replace it with the Planning and Development Code to be included under Title 13 Chapter Two of the Lincoln County Code, and attached as Appendix A.

PROPOSED on October 3, 2005, by Commissioner Ronda Hornbeck.

PASSED 3rd ^{day} (Month) January (Day) ²⁰⁰⁶ ~~2005~~ (Year)

VOTE:

Ayes:

Commissioner

George T. Rowe

Commissioner

Tom W. Hoff

Commissioner

Ronda Hornbeck

Commissioner

Lee Heston

Commissioner _____

Nayes:

Commissioner _____

Commissioner _____

Commissioner _____

Commissioner _____

Commissioner _____

Absent

Commissioner

Wade Poulson

Commissioner _____

Attest:

County Clerk



George T. Rowe
G. Tommy Rowe, Chairman of the Board

This ordinance shall be in force and effect from and after the

19th (day) of January year ~~2005~~ 2006.

shall become a part of the permanent records of the planning commission and shall be available for public inspection in the commission's office. (Ord. 1990-5 §21.4, 1990)

13-12-4 Fees-Variance-Special Use Permit-Exceptions.

The planning commission shall charge and collect a fee for the filing of a variance application or special use permit application, the charge being due and payable at the time of filing:

A. Fees will be on file in the county planning office and may be adjusted as necessary by action of the board of county commissioners.

B The fee may be waived, at the discretion of the planning commission, for any nonprofit organization or political entity which is the owner of record of the property involved in a Special use permit or variance application. (Ord. 1990-5 §21.2, 1990)

13-12-5 Hearing-Notice.

Upon receipt in proper form of any application, the planning commission will hold a public hearing thereon. A notice of time and place of hearing, a description of the property involved and the purpose of the hearing shall be sent to each owner of property within a minimum distance of three hundred feet of the exterior boundary of the lot or parcel of land described in such application. If it is deemed advisable, the planning commission shall also cause the notice to be published once in a newspaper of general circulation in the county not less than ten days nor more than thirty days prior to the meeting. For the purpose of this section, "property owner" means that owner shown upon the latest assessment rolls of the county. (Ord. 1990-5 §21.3, 1990)

13-12-6 Action of Planning Commission.

A. At the conclusion of the hearing, the planning commission shall take such action thereon as it deems warranted under the circumstances and shall announce and record its action by formal resolution and such resolution shall recite the findings of the planning commission upon which it bases its decision. This decision shall be final, subject only to the appeals process.

13-12-7 Final Decision-Effective Date.

The decision of the **planning commission** shall not become final and effective until seven days after the decision is entered in the minutes of the meeting. No permits shall be issued concerning the property in question until the decision becomes final. (Ord. 1990-5 §21.7, 1990)

13-12-8 Reapplication.

No person, including the original applicant, shall reapply for a similar special use permit or variance on the same land, building or structure within a period of six months from the date of the final decision by the planning commission of such previous application. (Ord. 1990-5 §21.9, 1990)

13-12-9 Permit-Expiration.

Each special use permit or variance authorized under the provisions of this chapter which is not actually established or the actual construction commenced on the buildings or structures within six months from the date of the final decision is null and void. In the event some construction work is involved, it must actually commence within the stated period and be diligently prosecuted to completion. A lapse of work for a period of three months will be sufficient to cause the invalidity of the permit; provided further, when any use of land, building, structure or premises established under the provisions of this chapter has been discontinued for a period of one year, it is unlawful to again use such land or building or premises for such discontinued use unless a subsequent special use permit or

3-12-10 Permit-Extension.

Extensions of time may be granted by the planning commission, , if requested by the property owner of record not less than seven days prior to the expiration date of the date of the final decision. (Ord. 1990-5 §21.10, 1990)

CHAPTER 7: CHANGES IN DISTRICT BOUNDARIES AND CLASSIFICATIONS

13-13-1 Authorization.

Boundaries of zone districts established by this division or the classification of property uses therein may be amended, reclassified or altered whenever public necessity, convenience and general welfare require, by the planning commission. (Ord. 1990-5 §22.0, 1990) NRS 278.260

13-13-2 Initiation of Changes-Amendments.

Amendments, supplements or changes may be initiated in the following manner, either by:

- A. The planning commission,
- B. The board of county commissioners,
- C. The petition of one or more property owners. The petition shall be in the form of an application for change of zone classification and shall be duly signed and acknowledged by the property owner of record and shall be filed in the office of the planning commission upon forms furnished by the commission for the purpose and shall be accompanied by the following data and information:
 1. Site plan, drawn to scale, showing the boundaries and dimensions of the area included in the application, property lines with dimensions, rights-of-ways, easements, and such other information as may be necessary to accurately indicate the configuration of the area include in the application and its relationship to surrounding properties;
 2. Copy of the recorded deed or deeds of the area included in the application.
 3. Each application shall be signed by the property owner(s) of record of the property to be changed by such application and notarized. (Ord. 1990-5 §22.1, 1990)

13-13-3 Fees.

The planning commission shall require a fee payable to the county which-schedule shall be in on file in the county planning. The fee is to offset the cost of reviewing maps by the county surveyor, sending out notices and other administrative expenses involved in a petition for a change in these regulations, the charge being due and payable at the time of filing any petition or request for change. The fee may be waived when the property owner of record is a government agency or nonprofit organization. (Ord. 1990-5 §22.2, 1990)

13-13-4 Hearing-Notice.

Upon the filing of any such Verified petition of a property owner, or by a resolution of intention by the planning commission or board of county commissioners, the planning commission shall hold at least one public hearing in relation thereto which. has been duly advertised in a newspaper of general circulation in the county at least. ten days before the day of such hearing, at which parties of interest and citizens shall have an opportunity to be heard. The planning commission shall, in addition thereto, cause notice of the same hearing to be sent to each property owner within three hundred feet of the subject property, and send a notice to the applicant and/or the property owner, within the above time limit. (Ord. 1990-5 §22.3, 1990)

Exhibit 14

Jon Taylor

From: Jon Taylor
Sent: Wednesday, November 20, 2013 4:00 PM
To: 'lcda@lcturbonet.com'
Cc: Art Gravenstein; Eric Noack; Jon Taylor; clytle@lincolnnv.com
Subject: Western Elite

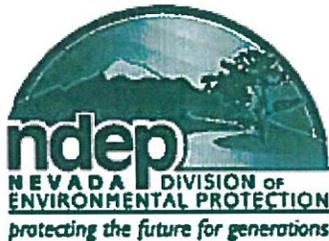
Mr. Hooge;

The Division has reviewed your letter of 11/8/13 and determined that the submittal of the Class I Landfill Application (Application) by Bedrock LLC complies with NAC 444.678(5). Accordingly the Division will proceed to process the Application. Should the Division find the applicant meets all applicable regulations, by law the Division will be constrained to issue the Permit. We anticipate concluding a Completeness Review by 12/19/2013.

If you have any questions please do not hesitate to contact me.

Sincerely;

Jon Taylor



Jon Taylor PE CEM
Bureau of Waste Management
Nevada Division of Environmental Protection
901 S. Stewart St., Ste 4001
Carson City NV 89701
p: 775.687.9477 f: 775.687.5856
www.ndep.nv.gov

Exhibit 15



Lincoln County Planning and Building Department
181 Main Street PO Box 329
Pioche, Nevada 89043

Phone 775 962 5165 Fax 775 962 5877

July 11, 2013

Mr. Jon Taylor
NDEP
Bureau of Waste Management
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249

RE: Western Elite, Inc, Permit #SW277REV06; Proposed Permit Modification and Lincoln County Land Use Clarification

Mr. Taylor,

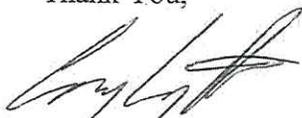
I have reviewed the Special Use Permit Number 2003-5-2 granted to Western Elite, Inc. in 2003 by the Board of Lincoln County Commissioners. After reviewing the permit and discussing the matter with the District Attorney, we have concluded that Western Elite must apply for and obtain a new special use permit to operate a Class I site on the property.

The Western Elite Property is currently zoned M2, which primarily consists of uses related to heavy manufacturing. In an M2 Zone, "[d]umps and refuse disposal areas," are allowed subject to the approval of a special use permit by the Lincoln County Planning Commission.

Lincoln County granted Western Elite or its predecessor, a special use permit subject to obtaining a Class I license through the State. After three years, the County granted Recology, or its predecessor, an exclusive franchise to dispose of waste within the County because Western Elite had not obtained a Class I license. Thus, Western Elite currently has no special use permit for a Class I waste disposal site and with various concerns, such as public safety, environmental issues, and the exclusive franchise rights held by Recology, Lincoln County will require Western Elite to obtain a new special use permit and follow the regular application process.

Please feel free to contact this office with questions or concerns.

Thank You,



Cory Lytle
Director

Exhibit 16

DANIEL M. HOOGE
State Bar #10620
District Attorney



MATTHEW D. CARLING
State Bar #7302
Deputy District Attorney

OFFICE OF THE DISTRICT ATTORNEY
LINCOLN COUNTY, NEVADA

November 8, 2013

Jon Taylor
PE CEM
NDEP Elite Solid Waste Branch
901 S. Stewart Street, Suite 4001
Carson City, NV 89701

Dear Mr. Taylor:

I am writing this letter to clarify the status of the special use permit issued to Western Elite, Inc. or BedRoc Limited, LLC (BedRoc) in Lincoln County.

Lincoln County issued Special Use Permit 2003-5-2 to BedRoc in 2003 with conditions. BedRoc has not satisfied all of the conditions in the permit; however, BedRoc has notified Lincoln County that it will appear before the Lincoln County Planning Commission and the Lincoln County Commission soon to complete the conditions.

I do not foresee any substantial impediment to completion for BedRoc and expect BedRoc to meet the conditions to Lincoln County's satisfaction.

If you have any questions please contact me at the number below.

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel M. Hooge".

Daniel M. Hooge
District Attorney for Lincoln County

Exhibit 17

Black's Law Dictionary (9th ed. 2009), conditional-use permit

CONDITIONAL-USE PERMIT

conditional-use permit. See SPECIAL-USE PERMIT.

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Bryan A. Garner, Editor in Chief

End of Document

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Exhibit 18

MASTER PLAN

FOR

LINCOLN COUNTY, NEVADA

Adopted on September 4th, 2007

***Proposed Amendments for public hearing were held on
August 6th and 20th 2007 for the
Lincoln County Board of Commissioners***

***Recommended for approval with modifications on
July 17th, 2007 by the Lincoln County Planning Commission***

Recommended on July 16th by the Alamo Town Board

- GOAL SW-1** **Increase the economic benefits to county residents from waste management activities in the county.**
- Policy SW-1A* *Lincoln County should explore methods of increasing revenues and services of the Crestline landfill.*
- Policy SW-1B* *Recycling, composting and yard debris plans should be developed within the county on a measured basis and based upon adequate material stream and market opportunity.*
- Policy SW-1C* *Innovative ideas should be explored to allow the county to collect and transport recyclables to markets in either Utah or Nevada locations.*
- Policy SW-1D* *Revenues from landfill operations should be used to offset trash collection fees for residents and for developing recycling programs county-wide.*
- Policy SW-1E* *Increased waste stream and associated revenue from outside sources should be utilized primary to improve waste management services, landfill, diversion and recycling efforts.*
- Policy SW-1F* *Value added industries should be explored by the county to utilize portions of the waste stream for fuel production, biomass, re-use of building materials or other waste stream materials. Any agreements related to solid waste disposal in the county should allow for small businesses to pursue these industries not being pursued by the landfill operators.*
- Policy SW-1G* *Lincoln County should pursue waste transfer locations as RPP lands from BLM for the transfer of waste and recyclable from new developments in the county.*
- Policy SW-1H* *The 2000 Lincoln County Solid Waste Management Plan should be revised and incorporated into the county master plan.*
- Policy SW-1I* *All solid waste facilities should operate under a conditional use permit which is reviewed at least every 5 years.*

Exhibit 19

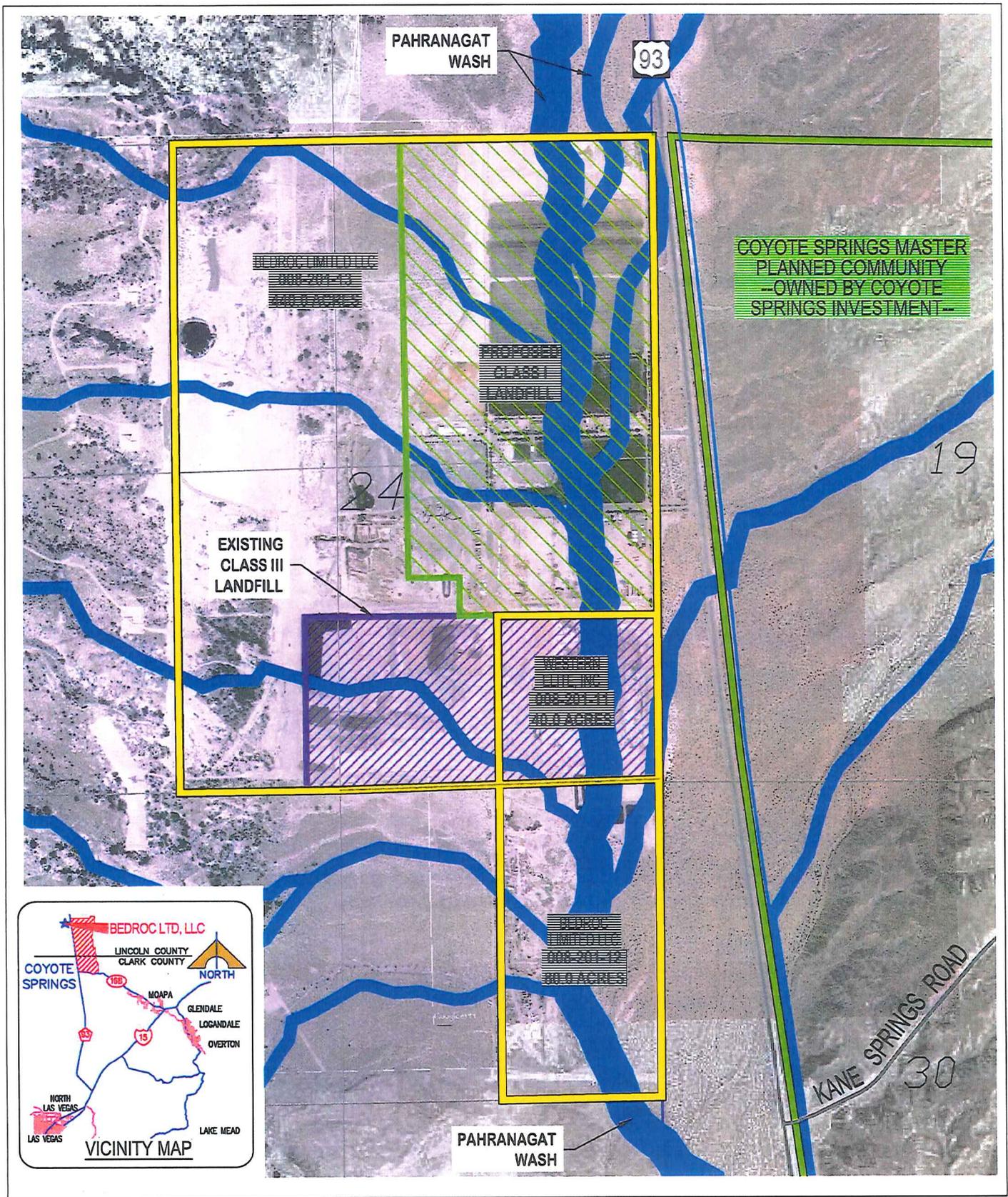


EXHIBIT A
BEDROC LIMITED LLC
CURRENT LANDFILL & PROPOSED LANDFILL
PAHRANAGAT WASH AND TRIBUTARIES
SECTION 24 - TOWNSHIP 11 S, RANGE 62 E

Exhibit 20

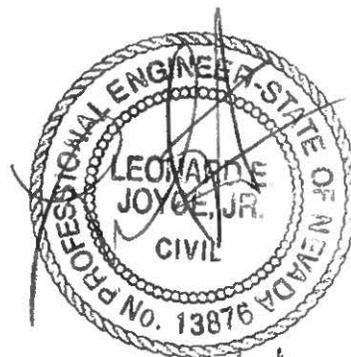
PREPARED FOR:

**BEDROC LIMITED, LLC.
2745 NORTH NELLIS BOULEVARD
LAS VEGAS, NEVADA 89115**

BEDROC LANDFILL AND WASTE MANAGEMENT FACILITY

GROUNDWATER MONITORING AND REPORTING PLAN

**OCTOBER 2013
REVISED MAY 2014**



PREPARED BY:

**JOYCE
ENGINEERING**

1604 OWNBY LANE
RICHMOND, VIRGINIA 23220
PHONE: (804) 355-4520
FAX: (804) 355-4282
JOYCE PROJECT No. 383.1401.01.01

5/19/14

**GROUNDWATER MONITORING AND REPORTING PLAN
 BEDROC LANDFILL AND WASTE MANAGEMENT FACILITY
 LINCOLN COUNTY, NEVADA**

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**GROUNDWATER MONITORING AND REPORTING PLAN
BEDROC LANDFILL AND WASTE MANAGEMENT FACILITY
LINCOLN COUNTY, NEVADA**

1.0 INTRODUCTION

Bedroc Limited, LLC. (Bedroc) is proposing to construct and operate a Class I solid waste landfill for the disposal of Class I materials.

This monitoring plan complies with the requirements of the Nevada Administrative Code (NAC) Chapter 444 Section 683 and the Code of Federal Regulations (40 CFR), Parts 258.51 and 258.53 and is certified by a qualified groundwater scientist in accordance with NAC 444.7483.

The *Groundwater Monitoring and Reporting Plan* is a guidance document for collection and analysis of representative groundwater samples from the uppermost aquifer beneath the facility, and for managing those data.

2.0 SITE DESCRIPTION

The facility is a 115-acre facility located in Coyote Spring Valley adjacent to State Route 93, approximately 65 miles north of Las Vegas, Nevada. A site location map showing topographic features of the surrounding area is presented as Drawing 1.

The site is located in the north/south trending Coyote Spring Valley. The valley is bounded on the east by the Delamar and Meadow Valley Mountains and on the west by the Sheep Range Mountains. Surface drainage in the valley is provided by the southward draining Pahrnagat Wash, which traverses the valley immediately east of the proposed landfill site. In the vicinity of the proposed landfill, the Pahrnagat Wash is approximately 1 mile wide with a

gentle (approximately 0.5%) slope to the south-southwest. A Site Plan, showing existing topographic features of the site, is presented as Drawing 2.

3.0 SITE GEOLOGY AND HYDROGEOLOGY

Several hydrogeological investigations have been performed at the facility and in the region surrounding the facility. These investigations include topographic mapping, drilling of soil borings, construction of monitoring and observation wells, geophysical investigations, geotechnical investigations, excavation of test pits, soil and groundwater analyses, and hydraulic parameter measurements. Based on the information compiled during these investigations, a summary of the regional and site geology and hydrogeology is present below. For more detail, the reader is referred to the *Site Characterization Report* (JEI, 2004) and the *Site Characterization Report* (GES, 2013) prepared for the site.

3.1 Regional Geology

The Coyote Springs Valley trends north-northwest. It is bounded to the west by the Sheep Range, to the northeast by the Delamar Mountains, and to the southeast by the Meadow Valley Mountains. It is separated from the Pahranaagat Valley to the northwest both geologically and topographically. To the south-southeast, the valley drains into the Arrow Canyon Wash. The Sheep Range, Delamar Mountains, and Meadow Valley mountains are composed of Paleozoic rocks (Tschanz and Pampeyan, 1970; Stewart and Carlson, 1978).

The Coyote Springs Valley is located within the Basin and Range Physiographic province and topography in the area is typical of that province, with long northerly trending valleys separated by hogbacks of uplifted (relative to the valley floor) strata. Relief across the Coyote Springs Valley is approximately 4,500 feet. Regionally, there are several major fault zones, including the Las Vegas shear zone located approximately 60 miles south of the study area and the Alamo shear zone located approximately 15 miles to the north of the study area (Stewart and Carlson, 1978; Stewart, 1980). Additionally, the 2013 *Site Characterization Report* identified

three mapped faults in the immediate vicinity of the site: Wildcat Wash fault, Arrow Canyon Range fault, and Sheep Range fault.

Surficial and underlying sediments in Coyote Springs Valley consist of interbedded lacustrine and alluvial deposits (Tschanz and Pampeyan, 1970; JEI, 2004). The lacustrine sediments date from the late Tertiary Period (Tschanz and Pampeyan, 1970; Stewart and Carlson, 1978), and are located toward the center of the valley floor. Alluvial gravel deposits, dating from the late Tertiary or early Quaternary Period (Tschanz and Pampeyan, 1970; Stewart and Carlson, 1978), form the bulk of the exposed sediments on the valley floor, extending from the bedrock outcropping of the bordering mountains to the center of the valley. Late Quaternary alluvial sediments overlay the older deposits and form an anastomosing belt approximately 0.5 to 1 mile wide covering much of the valley floor (Tschanz and Pampeyan, 1970).

Bedrock in the valley, primarily limited in exposure to the mountains bordering the valley axis, are primarily mapped and described as Cambrian, Ordovician, and Silurian shales, limestones, dolomites, and quartzites. To the north of the study area are rocks mapped as Tertiary volcanic rocks (Tschanz & Pampeyan, 1970; Stewart and Carlson, 1978).

3.2 Site Geology and Hydrogeology

Soils at the site are classified and mapped as the Arizo-Bluepoint Association (NRCS, 1997). These soils grade laterally from gravelly loamy sand to loamy fine sand. The soils, derived from the weathering of alluvial parent material, are very deep and well drained. These soils are rarely to occasionally flooded and have a high infiltration rate, being classified in hydrologic group A.

Characterization of the site geology and hydrogeology is outlined in the *Site Characterization Report* (JEI, 2004). Field activities included the advancement of an exploratory trench on Lot 11 (existing Class III landfill) in November 1996 for the purpose of

characterizing the on-site soils. The trench, which was advanced to approximately 15 feet below grade, encountered silty loam and silty sandy loam in the upper 12 to 15 feet. A silty clay material was encountered beneath the loamy material. In October 2003, 13 test pits were advanced on and through the existing material stockpile on Lot 11 for the purpose of characterizing the stockpiled material and underlying soils.

In December 1996, Terracon Consultants, Las Vegas, Nevada, advanced two boreholes at the existing Class III landfill. One boring was advanced to a depth of 41 feet in the middle of Lot 11. The second borehole was advanced on the southeast corner of Lot 11 to 81.5 feet below grade and was subsequently completed as a monitoring well, identified as OW-1 on Drawing 3. In November and December 2003, 14 additional soil borings were advanced at the site on Lot 11 and Lot 5. Six of 14 soil borings were converted to monitoring wells, the locations of which are shown on Drawing 3, as OW-2 through OW-7.

Additionally, in August 2013, Geotechnical & Environmental Services, Inc. (GES), Las Vegas, Nevada, advanced seven boreholes at the proposed Class I landfill. The seven boreholes (OW-7R through OW-13) were advanced at the site on Lot 6, Lot 7, Lot 8, Lot 13, and Lot 14. The seven soil borings were converted to one monitoring well (Class III facility) and six observation wells, the locations of which are shown on Drawing 2. In addition to the borings used in the site characterization study, two monitoring wells (OW-14 and OW-16) and one observation well (OW-15) was also installed.

Data obtained during these investigations confirm the presence of Tertiary and younger sedimentary deposits in the vicinity of the facility as mapped by others (Tschanz and Pampeyan, 1970; Stewart and Carlson, 1978). Based on the characteristics of the sediments and review of available literature, the sediments at the site are correlated with the Pliocene Muddy Creek Formation and younger unnamed Quaternary alluvium.

3.3 Site Hydrogeology

Historically, there have been two springs located in the vicinity of the landfill. The approximate locations of the springs are shown on Drawing 1. One of the springs, identified as “Sp-1” on Drawing 1, is located approximately 2,000 feet northwest of Lot 11. Flow from this spring re-infiltrates into the subsurface within 40 feet of emergence. The second location, identified as “Sp-2” on Drawing 1 is the location of a former spring. During the field work in November and December 2003, the spring could not be located in the field and appears to have either dried up or been covered by depositional processes.

Both spring locations have an elevation of approximately 2,520 feet above mean sea level (MSL) and are located upgradient topographically from the facility. Based on information gathered during the site investigation concerning the geologic and hydrogeologic characteristics of the site, the springs are believed to emanate from a perched water table that is present in the eastward sloping alluvial fan deposits that are interbedded with lacustrine sediments. The source of recharge for the perched water table is believed to be infiltrating precipitation to the west of the facility where the alluvial fan sediments are exposed. Based on our evaluation of the site features in the vicinity of Sp-1, the spring discharges where the lower lacustrine sediments have been exposed by erosional processes. Monitoring of the spring is not proposed herein, since the facility operations cannot impact the spring due to the topographic and hydrologic location of the spring relative to the proposed facility.

The active channel for the Pahranaagat Wash is located east of Lot 11 between the facility and Highway 93. The channel exhibits intermittent characteristics, attributed to the sparse precipitation that the area receives and the highly permeable nature of the shallow alluvium in the valley. Local personnel indicate that the channel only conveys flow during extreme precipitation events. Subsequently, monitoring of the Pahranaagat Wash, other than that required by the facility’s National Pollutant Discharge Elimination System (NPDES) permit, is not proposed herein.

As discussed previously, two monitoring wells and seven observation wells have been constructed at the facility to monitor the uppermost aquifer below the Class I facility. Table 1 summarizes well construction details, and soil boring and well construction logs for the monitoring and observation wells constructed at the facility are presented in Appendix I. Static water level data obtained from the monitoring and observation wells indicate that the water table in the uppermost aquifer beneath the site is present at a depth of 11 to 80 feet below grade in the vicinity of the Class I facility, depending on the topographic elevation. Table 2 summarizes the available depth to water information for the site. Based on this information, the uppermost aquifer beneath the facility is contained in the sediments of the Muddy Creek Formation.

Using the static water level data obtained on September 3, 2013, a groundwater surface contour map was prepared and is presented as an overlay on Drawing 2. As presented, the water table beneath the facility ranges in elevation from 2,410 feet MSL beneath the southeastern corner of the facility to 2,445 feet MSL beneath the northwestern corner of the facility. The potentiometric surface lines indicate that groundwater flow in the uppermost aquifer is towards the east-southeast with an average gradient of approximately 2.63E-02 foot per foot. The relatively flat gradient, which was calculated as shown below, is indicative of a high hydraulic conductivity.

The gradient along the northern flow pathway was calculated as follows:

$$\begin{aligned}\text{Gradient (i)} &= D_H (\text{drop in the potentiometric surface}) / D_L (\text{length of flow pathway}) \\ &= (2,455 \text{ feet AMSL} - 2,410 \text{ feet AMSL}) / 1,520 \text{ feet} \\ &= 45 \text{ feet} / 1,520 \text{ feet} \\ &= 2.96\text{E-}02 \text{ (unitless)}\end{aligned}$$

Similarly, the gradient along the southern flow pathway was calculated as follows:

$$\begin{aligned}
 \text{Gradient (i)} &= (2,455 \text{ feet AMSL} - 2,410 \text{ feet AMSL}) / 1,949 \text{ feet} \\
 &= 45 \text{ feet} / 1,949 \text{ feet} \\
 &= 2.31\text{E-}02 \text{ (unitless)}
 \end{aligned}$$

Geologic information gathered during the site investigation indicates that the uppermost water table is present in a matrix composed of both alluvial and lacustrine sediment and that the uppermost aquifer exhibits both semi-confined and unconfined characteristics locally.

Slug testing data obtained during the 2004 site investigation are summarized in Table 3. As presented, the hydraulic conductivity of the aquifer matrix in the vicinity of the monitoring wells ranges from 0.24 to 11.04 feet per day. The range is attributed primarily to the different strata that are present within the screened interval of each well. The geometric average hydraulic conductivity value for the aquifer matrix is 1.12 foot per day.

The estimated average effective porosity (n_e) for the sand and gravel deposits is 0.25 and for the lacustrine sediments 0.35 (Fetter, 1988). Using the latter estimates of effective porosity and the calculated gradients, the average estimated rate of groundwater flow beneath the study area was estimated using the algorithm below.

$$V_{gw} = Ki/n_e$$

where:

- V_{gw} = groundwater velocity (feet/day)
- K = estimated hydraulic conductivity (feet/day)
- i = hydraulic gradient
- n_e = effective porosity

Minimum

$$V_{gw} = [(0.24) \times (0.0263)]/0.35$$

$$V_{gw} = 1.80E-2 \text{ foot/day}$$

$$V_{gw} = 6.6 \text{ feet/year}$$

Average

$$V_{gw} = [(1.12) \times (0.0263)]/0.30$$

$$V_{gw} = 9.82E-2 \text{ foot/day}$$

$$V_{gw} = 35.8 \text{ feet/year}$$

Maximum

$$V_{gw} = [(11.04) \times (0.0263)]/0.25$$

$$V_{gw} = 1.16 \text{ foot/day}$$

$$V_{gw} = 424 \text{ feet/year}$$

As presented above, the estimated horizontal rate of groundwater flow in the uppermost aquifer beneath the facility is expected to range from approximately 7 to approximately 424 feet per year, with a site average of approximately 36 feet per year.

4.0 GROUNDWATER MONITORING NETWORK

In accordance with NAC 444.7483, the applicant has proposed a permitted groundwater monitoring network that is composed of two upgradient monitoring wells (OW-14 and OW-16) and nine downgradient monitoring wells (OW-5 and OW-17 through OW-24). The locations of the monitoring wells are shown on Drawing 2.

Elements of the groundwater monitoring plan are illustrated on the prepared Groundwater Monitoring Plan (see Drawing 2). These elements include site boundaries, site topography,

potentiometric surface, and existing and future groundwater monitoring wells. The monitoring wells are located and constructed to yield groundwater samples representative of the conditions in the uppermost aquifer underlying the facility, and are generally screened within the sand and gravel deposits (ave K= 1.12 foot per day), which are expected to be the preferential pathway for groundwater flow beneath the facility. Therefore, the monitoring network monitors the most likely avenue for contaminants that may be released from the facility in the event those contaminants should impact the groundwater beneath the facility.

Proposed wells are to be phased in with the expansion of the landfill. Compliance wells will be installed at the waste management unit boundary, prior to placement of waste in associated cells. Newly constructed wells will be located hydraulically downgradient of the waste limits in accordance with NAC 444.7483. The sequence of adding and removing wells during the development of the landfill is summarized in Table 4. The locations of the wells are depicted on Drawing 2.

Future upgradient compliance wells: OW-14 and OW-16

Future downgradient compliance wells: OW-5 (former Class III facility upgradient well); and OW-17 through OW-24

Wells OW-8, OW-13, and OW-15 will be maintained as upgradient observational wells throughout the life of the facility.

4.1 Drilling Methods

Drilling and construction of additional monitoring wells as required will be performed with applicable drilling technology (either mud or air rotary or vibratory methods) in accordance with procedures recommended by the United States Environmental Protection Agency (EPA,

1991; EPA, 1993a). If additional wells are required, a qualified hydrogeologist or groundwater scientist will log the soil samples and direct the construction of each monitoring well.

Information recorded during the advancement of the test borings and during construction of the monitoring wells will be used to prepare a boring and well construction log for each well. After completion, the owner or operator will transmit the boring and well construction logs, and appropriate maps to the Nevada Division of Environmental Protection (NDEP) in accordance with NAC 444.7483.5(b).

4.2 Monitoring Well Construction

Monitoring well construction will be performed in accordance with the Groundwater Monitoring Well Construction Specifications presented in Appendix II and all applicable regulations found in NAC 534.360 through 534.500. In general, all monitoring wells will be constructed of 2- or 4-inch inside diameter (ID), schedule 40 polyvinyl chloride (PVC), flush jointed riser pipe, and 2- or 4-inch ID, schedule 40 PVC, flush jointed, factory slotted 0.010- to 0.020-inch screen. Wells will be completed with standpipe well head construction where possible and flush mounted construction where required. A maximum of 20 feet of screen will be used. The filter pack will be clean sand or gravel selected based on the characteristics of the well screen and the aquifer matrix (i.e., have a smaller diameter than the surrounding soils to prevent clogging). The filter pack will be placed to approximately 2 feet above the top of the screened interval. After placement of the filter pack, a filter pack seal consisting of a minimum of 2 feet of bentonite, either granular or pellets, will be placed directly above the sand filter pack. The filter pack seal will be hydrated with potable water and allowed time for hydration prior to continuing with well installation. After placement and hydration of the filter pack seal, the remaining annular space in the borehole will be backfilled with lean cement-bentonite slurry or hydrated bentonite slurry.

All wells with standpipe construction will have a locking steel outer protective casing with a minimum diameter of 4 inches and a concrete apron for surface protection. Flush

mounted wells will be equipped with a surface vault with a minimum diameter of 8 inches set in a concrete apron. The concrete apron will have a minimum thickness of 4 inches and will be centered on the well casing. The apron will be graded to provide drainage away from the well head.

4.3 Well Development

Newly constructed wells will be developed to remove drilling fluids, if used, and fine-grained sediments from the filter pack and the surrounding aquifer. Well development will be performed with disposable bailers, mechanical well developer, an air lift pump, or other approved method. Well development procedures are specified in section 5.0 of the *Groundwater Monitoring Well Construction Specifications* found in Appendix II. Groundwater samples withdrawn from the wells after development has been completed should be relatively free of fine-grained sediments.

4.4 Documentation

Documentation of groundwater monitoring well installation will be in accordance with NAC 444.7483.5(b). An example of the well construction log that will be submitted to NDEP after the installation of piezometers/monitoring wells is included in Appendix III. Horizontal and vertical control will be established by survey after installation. This information will be compiled and submitted to NDEP and will include the following:

- well location to within ± 0.5 foot in horizontal plane in reference to NAD 27 or the local Township and Range coordinates;
- ground surface elevation to within ± 0.01 foot in reference to mean sea level (MSL); and
- top of monitoring well casing elevation to within ± 0.01 foot in reference to MSL.

4.5 Monitoring Well Decommissioning

If a monitoring well is damaged or otherwise becomes unusable during the operating life of the facility, EPA's well decommissioning procedures, and the applicable regulations found in NAC 534.360 through 534.500, shall be followed (EPA, 1991). These procedures are summarized below. Approval from NDEP will be obtained prior to monitoring well abandonment in accordance with NAC 444.7483.4.

4.5.1 Permanent Abandonment

Monitoring wells with a 2-inch or large diameter casing (riser pipe/screen) shall be abandoned by either:

- Over-drilling the monitoring well to remove the casing and filling the resultant open borehole with a cement-bentonite grout or bentonite slurry; or
- Grouting the monitoring well in-place with a cement-bentonite grout and then over drilling the top 10 feet of the boring to facilitate the placement of a cement plug. All monitoring wells abandoned in this manner will be cut off at the ground surface prior to abandonment.

In both cases, the bentonite content of the cement-bentonite grout shall be approximately 5%, and a tremie pipe will be used to ensure that grout is continuously placed from the bottom of the borehole/monitoring well screen and riser upward.

For each monitoring well abandoned, the following information will be provided to the NDEP:

- The name of the monitoring well;
- A description of the procedure by which the monitoring well was abandoned;
- The date when the monitoring well was considered to be taken out of service; and
- The date when the monitoring well was abandoned.

5.0 GROUNDWATER MONITORING PROGRAM

The Groundwater Monitoring Program for this facility is modeled after the Detection Monitoring Program for municipal solid waste landfills as outlined in NAC 444.7488 *et seq.* and will be implemented following receipt of the required permit for operation of the waste disposal facility. Records of the background groundwater quality data and all subsequent measurements obtained during the groundwater monitoring program, including all concentration measurements and the background values established during the Detection Monitoring Program will be kept in the facility operating record. These records will be maintained throughout the active life of the facility and the post-closure care period. For each parameter, the laboratory certificates-of-analysis will identify the analytical method detection limit, the reported concentration, and applicable laboratory quality assurance/quality control (QA/QC) data on surrogate and standards analyses.

Resulting statistical evaluations of the analytical data will be kept in the operating record for the same time period. The static water level determinations and evaluations will also be retained. A discussion of the Detection Monitoring and Assessment Monitoring Programs is presented in the following subsections. References to sampling lists include the list of 62 constituents for Detection Monitoring, as listed in Appendix I of NAC, as well as the list of 213 constituents for Assessment Monitoring, as listed in Appendix II of NAC.

5.1 Detection Monitoring Program

The Detection Monitoring Program is designed to identify the concentrations of specific organic and inorganic constituents in the upper aquifer. Components of a Detection Monitoring Program, including analytical requirements, sampling frequency, data evaluation, and reporting requirements are discussed in the following sections.

5.1.1 Constituents

The Detection Monitoring Program (Phase 1) will include monitoring for the following:

1. Total Organic Carbon (TOC)
2. Total Organic Halides (TOX)
3. pH
4. Specific Conductance
5. Chloride
6. Sulfate
7. Total Kjeldahl Nitrogen
8. Nitrate
9. Nitrite
10. Chemical Oxygen Demand (COD)

In addition to the above, a biennial sampling event for the groundwater monitoring wells and that includes Appendix II to Part 258—List of Hazardous Inorganic and Organic Constituents will be performed. Depending on what is detected in this monitoring, Bedroc will have the option to modify the frequency (either longer or shorter) and constituent list. This groundwater monitoring plan will then be revised to incorporate these modified monitoring frequencies and constituent lists. These constituents and their statistical values will be submitted to the Division for approval per NAC 444.7485.

Required analytical methods and associated estimated laboratory Limits of Quantitation (LOQs) for each constituent are presented in Appendix IV. In addition to the NAC Appendix I constituents, Bedroc proposes to monitor, periodically on an as-needed basis, for voluntarily water quality and leachate indicator parameters. A summary of the voluntary water quality and leachate indicator parameters is provided in Table 5. While in the Detection Monitoring Program, samples for all constituents will be analyzed using SW-846 methods 6000 and 7000 series as applicable, and 8011 and 8260, as updated (EPA, 1995).

5.1.2 Background Sampling

The first sampling event consists of a minimum of four independent samples from each well (background and downgradient). These samples will be obtained and analyzed for the constituents shown in Section 5.1.1. to establish background. Samples will be collected over a period of 12 consecutive quarters. The data from the first four sampling events will be used in computations to establish background levels. Subsequent sampling results will be compared with these background levels.

5.1.3 Background Sampling Reports

Following each background sampling event, the analytical results will be submitted to the NDEP within a reasonable timeframe after receiving a hard copy of the laboratory certificates-of-analysis.

5.1.4 Sampling Schedule

Once background sampling has been completed, sampling for Detection Monitoring will be conducted on a quarterly schedule (Phase 1) in accordance with the requirements of NAC 444.7488. During each sampling event, groundwater samples will be obtained from each well and analyzed for all of the constituents listed in the Phase 1 detection parameter list pursuant to NAC 444.7489.

5.1.5 Analytical Data Evaluation

There may be time lag between Phases 1 and 2 (Phase 2 is leachate sampling discussed in Section 6.0). Prior to implementing Phase 2, Phase 1 data will be collected as discussed in Section 5.1 and using statistical methods outlined in NAC 444.7485. At the conclusion of Phases 1 and 2, Bedroc will submit an evaluation, within 180 days of detecting chemical constituents (both inorganic and organic) that can be regarded as being consistently generated by the facility (i.e. leachate from the waste mass). These may therefore be considered as reliable

groundwater detection parameters, for inclusion into the Detection Monitoring Program. At the conclusion of Phase 2, Phase 3 will consist of the submission of a re-evaluation of the initial parameters and the added parameters pursuant to NAC 444.7484 at the conclusion of eight quarterly groundwater sampling events.

- Groundwater data will be evaluated statistically as described in Section 8.0 of this GMRP. At the conclusion of the 12 quarters Bedroc will submit the statistical analysis required by NAC.7485 within 180 days.

The results of the statistical analyses will then be evaluated as discussed in Section 10.0 of this GMRP.

5.1.6 Reporting

An annual report will be prepared and submitted to the NDEP by March 1 of each year. The report will include the following:

- Information pertaining to the sampling events performed during the year;
- Information that is unique to each monitoring well, if applicable;
- Results of chemical analyses;
- A description of any actions taken (or proposed) to correct for suspect data;
- Results of statistical tests;
- A discussion of site conditions;
- Results of the evaluation of groundwater surface elevations measured during the year; and
- Any response to the evaluation of groundwater surface elevations.

5.2 Assessment Monitoring Program

The Assessment Monitoring Program is designed to determine the concentrations of solid waste constituents in groundwater and the rate and extent of their migration. In accordance with NAC 444.749, an Assessment Monitoring Program will be implemented at the Bedroc Landfill and Waste Management Facility whenever a confirmed statistically significant increase over background has been detected for one or more of the constituents listed in the Phase I detection parameter list pursuant to NAC 444.7489. Components of an Assessment Monitoring Program, including analytical requirements, sampling frequency, data evaluation, and reporting requirements, are discussed in the following sections.

5.2.1 Constituents

Assessment monitoring constituents are listed in Appendix II of the NAC (see Appendix IV). Required analytical methods and associated EQLs are also presented in Appendix IV. MCLs are listed for those constituents for which the EPA has established MCLs. It is recognized that existing MCLs may change without notice as directed by the EPA. While in the Assessment Monitoring Program, samples for all constituents will be analyzed using SW-846 methods 6000 and 7000 series as applicable, and 8011, 8081, 8151, 8260, and 8270, as updated (EPA, 1995).

5.2.2 Background Sampling

Within 90 days of confirming statistically significant increases in the Detection Monitoring Program, the Owner/Operator will initiate an Assessment Monitoring Program and obtain groundwater samples from each monitoring well and analyze them for all constituents listed in Appendix II of the NAC. Within 90 days of the initial NAC Appendix II event, a second round of sampling will be performed during which samples will be analyzed for NAC Appendix I constituents plus detected NAC Appendix II constituents. To complete the background database for detected NAC Appendix II constituents, two additional sampling events will be conducted on a semi-annual basis for all constituents listed in NAC Appendix I plus any

additional detected constituents listed in NAC Appendix II, ensuring that at least once annually, samples are collected for analysis of the constituents in NAC Appendix II. If a constituent was first observed while the facility was monitoring under the Detection Monitoring Program, the background data for NAC Appendix I constituents established during the Detection Monitoring Program will serve as the background data for the NAC Appendix I constituents for the Assessment Monitoring Program.

After obtaining the results from the initial or subsequent sampling events required in NAC 44.749, the Owner/Operator will:

- within 14 days, notify the NDEP identifying the Assessment Monitoring constituents that have been detected;
- on at least a semi-annual or quarterly basis, as applicable, re-sample all wells and conduct analyses for all NAC Appendix I constituents and for those NAC Appendix II constituents that were previously detected;
- within 90 days of obtaining a minimum of four data points for each NAC Appendix II detect, establish background concentrations for the detected constituents; and
- within 90 days of establishing background concentrations, submit proposed Groundwater Protection Standards for all detected NAC Appendix II constituents to the NDEP.

5.2.3 Background Sampling Reports

Following each background sampling event, analytical results will be submitted to NDEP within a reasonable time period after receiving the hard copy of the laboratory certificates-of-analysis.

5.2.4 Sampling Schedule

In accordance with NAC 444.7485, one groundwater sample will be collected from each monitoring well for 12 consecutive quarters for landfills monitored under the Assessment Monitoring Program. At least once per year, samples will be analyzed for the entire NAC Appendix II list of constituents. For the other sampling event(s), the samples will be analyzed for the NAC Appendix I list plus any constituents from the NAC Appendix II list that have been detected during previous sampling events.

5.3 Record Keeping

Records of the background groundwater quality data and all subsequent measurements, including all concentration measurements and the background values established during the groundwater monitoring, will be kept at the Bedroc Limited, LLC. administrative office. These records will be maintained throughout the active life of the facility and the post-closure care period. The laboratory certificates-of-analysis will identify for each parameter the analytical method detection limit, the reported concentration, and applicable laboratory QA/QC data on surrogate and standards analyses. Resulting statistical evaluations of the analytical data will be kept for the same time period. The static water level determinations and evaluations will also be retained.

5.4 Biennial Groundwater Monitoring for Hazardous Constituents

A biennial sampling event for the groundwater monitoring wells as described in Section 5.1.1 will be conducted.

6.0 LEACHATE SAMPLE COLLECTION

This section describes the leachate collection, monitoring, and analysis program for the Bedroc Landfill and Waste Management Facility. Leachate monitoring is performed to collect information on site leachate characteristics.

6.1 Leachate Collection System

Leachate samples will be collected from the leachate holding pond. As proposed, the holding pond will receive leachate from all active and closed areas of the landfill via an underground conveyance system. The location of the leachate pond associated with the Bedroc Landfill and Waste Management Facility is shown on Drawing 2.

6.2 Leachate Sampling Parameters (Phase 2)

Sampling will include all the constituents listed in the Appendix II to Part 258—List of Hazardous Inorganic and Organic Constituents, and Appendix I of 40 CFR 258. A summary of the leachate monitoring parameters is provided in Table 6.

6.3 Leachate Monitoring Schedule

The leachate pond for the Bedroc Landfill and Waste Management Facility will be sampled on a quarterly basis (as needed) in conjunction with the scheduled groundwater sampling event. Quarterly sampling for 3 years (12 continuous quarters) of the leachate pond will be conducted to provide further information to determine the most appropriate detection monitoring program for the site. Therefore, Phase 2 monitoring will include this leachate

monitoring, (i.e. sampling of the leachate pond) from the point in time leachate generation begins.

7.0 GROUNDWATER SAMPLE COLLECTION

The following sections outline procedures for obtaining and analyzing groundwater samples from the facility's groundwater monitoring network.

7.1 Sample Collection

Groundwater samples will be collected for twelve consecutive quarters in the Detection Monitoring and Assessment Monitoring Phases. At the conclusion of 12 quarters, Bedroc will submit the statistical analysis required by NAC 444.7485 within 180 days to NDEP.

7.1.1 Static Water Elevations

Static water elevation and total well depth will be measured to the nearest 0.01 foot in each well prior to each sampling event. An electronic depth meter will be used for the measurements. This device is lowered into the well and emits an audible tone when water is reached. The distance from the top of the well casing to the water surface and to the bottom of the well will be measured using the tape attached to the probe.

Once annually the total depth of each well will be gauged. If a well has a dedicated pump, the depth to water shall be measured first. Then the pump shall be removed from the well and placed on clean, plastic sheeting adjacent to the well. The distance from the top of the well casing to the bottom of the well will be measured using the tape attached to the probe. After measuring the total depth, the pump will be placed back in the well.

The rate and direction of groundwater flow will be determined each time groundwater is sampled, and reported in the scheduled monitoring report. If the evaluations show that the

monitoring network is no longer in compliance with NAC 444.7483, the NDEP will be notified and the network will be modified as discussed in Section 10.0 of this Groundwater Monitoring Plan.

7.1.2 Well Evacuation

The monitoring wells at the Bedroc Landfill and Waste Management Facility will be sampled using non-dedicated or dedicated bladder pumps and micro-purge procedures. The micro-purge procedures are presented in Appendix V. Micro-purge sampling greatly reduces the volume of water that must be purged from a well before representative samples can be collected, and provides for water quality consistency between sampling events. Micro-purging is accomplished through the use of non-dedicated or dedicated low-flow sampling devices. Bailers and portable pumps are not used because they cause mixing of the standing water column within the well (Robin and Gillham, 1987; EPA, 1996). This mixing action requires removing the traditionally large purge volumes before sampling. Introducing any device into the well prior to sampling causes a surging effect that increases turbidity and interferes with the normal flow of water through the well screen. This disturbance usually remains in effect for as long as 24 to 48 hours (Kearl *et al.*, 1992).

Water quality parameters pH, temperature, turbidity, conductivity, and dissolved oxygen will be monitored during low-rate purging. The stabilization of these parameters indicates when the discharge water is representative of formation water and samples can be collected for analysis. Sampling personnel will containerize and dispose of purge water generated during sampling activities in the facility's leachate collection system.

If all of the monitoring wells in the compliance network are equipped with dedicated pumps, the potential for cross contamination between wells is minimized. If the monitoring wells in the compliance network are sampled with non-dedicated pumps, then decontamination procedures in Section 7.1.4 will be followed to avoid any potential for cross contamination

between wells. To ensure consistency between sampling events, the monitoring wells will be purged and sampled from upgradient to downgradient.

7.1.3 Sample Collection

Following the completion of purge activities, samples for the required constituents (see Appendix IV for Detection and Assessment Monitoring Program analytes) will be collected immediately in the following order:

- Field measurements for pH, dissolved oxygen, specific conductance, temperature, and turbidity
- Volatile organics
- Total (unfiltered) metals
- Extractable organics (semi-volatile compounds, pesticides, herbicides, PCBs, etc.)
- Phenols
- Cyanide
- Field measurements for pH, dissolved oxygen, specific conductance, temperature, and turbidity

The purge rate during sampling shall remain the same as the rate used to achieve stabilization during the purge. Container sizes and preservatives are presented in Table 7.

7.1.4 Decontamination

Field equipment will be decontaminated using the following procedures:

When the target analytes are inorganic constituents, the equipment shall be cleaned with a phosphate-free detergent, rinsed with a dilute (0.1 N) hydrochloric or nitric acid, rinsed with potable or distilled water, and rinsed with distilled water.

When the target analytes are organic constituents, the equipment shall be cleaned with a phosphate free-detergent, rinsed with potable or distilled water, rinsed with distilled water, rinsed with pesticide quality hexane or isopropanol (or similar solvent which is not a target analyte), and rinsed with distilled water.

If the target analytes include both organic and inorganic constituents, the decontamination procedure for both inorganic and organic constituents shall be followed.

If conditions are such that the above decontamination procedures cannot be utilized, then a phosphate-free detergent wash and distilled water rinse procedure will be the acceptable alternative.

7.2 Sample Preservation and Handling

The sample container, minimum volume, chemical preservative, and holding times for each analysis type are provided in Table 7. Sample preservation methods will be used to retard biological action, retard hydrolysis, and reduce sorption effects. These methods will include chemical addition, refrigeration at 4° C, and protection from light.

7.3 Chain-of-Custody

Samples will be properly containerized, packed into pre-chilled coolers, and either hand-delivered or shipped overnight by a commercial carrier to the laboratory for analysis. The chain-of-custody program will allow for tracing sample possession and handling from the time of field collection through laboratory analysis. The chain-of-custody program will include sample labels and seals, field logbook, chain-of-custody record, and laboratory logbook.

7.3.1 Sample Labels

Legible labels sufficiently durable to remain legible when wet will contain the following information:

- Job and sample identification number;
- Monitoring well number or other location;
- Date and time of collection;
- Name of collector;
- Parameters to be analyzed; and
- Preservative, if applicable.

7.3.2 Sample Seal

The shipping container will be sealed to ensure that the samples have not been disturbed during transport to the laboratory. The tape is labeled with instructions to notify the shipper if the seal is broken prior to receipt at the laboratory.

7.3.3 Field Logbook

The field logbook will contain sheets documenting the following information:

- Identification of the well;
- Well depth;

- Static water level depth and measurement technique;
- Well yield - high or low;
- Purge volume (given in gallons or number of bailers);
- Time well was purged;
- Date and time of collection;
- Well sampling sequence;
- Types of sample containers used and sample identification numbers;
- Preservative used;
- Field analysis data and methods;
- Field observations on sampling event;
- Name of collector(s);
- Internal temperature of shipping container at the time of sample placement; and,
- Climatic conditions including air temperatures.

An example field log book sheet is provided in Appendix III of this Groundwater Monitoring Plan.

7.3.4 Chain-of-Custody Record

The chain-of-custody record is required for tracing sample possession from time of collection to time of receipt at the destination. A chain-of-custody record will accompany each individual shipment. The record will contain the following information:

- Sample destination and transporter;
- Sample identification numbers;
- Signature of collector;
- Date and time of collection;
- Sample type;
- Identification of well;
- Number of sample containers in shipping container;

- Parameters requested for analysis and preservative;
- Signature of person(s) involved in the chain of possession;
- Inclusive dates of possession; and
- Internal temperature of shipping container upon opening in laboratory (noted by the laboratory).

A copy of the completed chain-of-custody sheet will accompany the shipment and will be returned to the shipper after the shipping container reaches its destination. A sample chain-of-custody record is included in Appendix III of this Groundwater Monitoring Plan. The chain-of-custody record will be used as the analysis request sheet.

7.4 Analytical Procedures

Analytical procedures will be performed in accordance with *Test Methods for Evaluating Solid Waste - Physical/Chemical Methods*, EPA Document SW-846 as updated (EPA, 1995), or if SW-846 does not specify a method, Clean Water Act (CWA) methods shall be used. The monitoring parameters/constituents for the Detection and Assessment Monitoring Phases of the Groundwater Monitoring Program are presented in Appendix IV, along with the proposed analytical method and estimated quantitation limit (EQL). Alternate SW-846 methods may be used if they have the same or lower EQL.

Methods with higher EQLs will be considered if the concentration of the constituent is such that an alternate test method with a higher EQL will provide the same result. Alternate SW-846 methods may be used if written approval from the NDEP is received 30 days prior to their use.

7.5 Field Quality Assurance and Quality Control Program

Trip and field blanks will be collected and analyzed during each sampling event to verify that the sample collection and handling process has not affected the quality of the samples. The

blanks will be prepared in the lab each time a group of bottles is prepared for use in the field. The appropriate number of bottles of each type (e.g., VOA, plastic, glass) will be filled with Type II reagent grade water, transported to the site, handled like the samples and shipped to the laboratory for analysis. In addition to being transported to the site, handled like the samples and shipped to the laboratory for analysis, the field blank will also be exposed to the sampling environment. As with all other samples, the time of the blank exposure will be recorded so that the sampling sequence is documented. The trip will be analyzed for volatile organic compounds only. The field blank will be analyzed for the same list of constituents as the groundwater samples.

If non-dedicated sampling devices are used *in lieu* of dedicated sampling devices, at least one equipment blank per day will be prepared to ensure that the non-dedicated sampling device has been effectively cleaned, and the field blank will be deleted. The equipment blank will be prepared in the field after cleaning a sampling device or prior to sampling with an office-cleaned device by filling the device with Type II reagent grade water, transferring the water to the sample bottles, and shipping the bottles to the laboratory for analysis. The time will be recorded and the blanks will be subjected to the same analyses as the groundwater samples.

The assessment of blank analysis results will be in general accordance with EPA's *National Functional Guidelines For Data Review (Organic and Inorganic)* (EPA, 1993b, EPA, 1994). No positive sample results will be reported unless the concentration of the compound in the sample exceeds 10 times the amount in any blank for common laboratory contaminants (see next paragraph), or five times the amount for other compounds. Resampling will be performed as necessary to confirm or refute suspect data; such resampling will occur within 30 days of the data review.

Concentration levels of any contaminants found in the blanks will be used to qualify the groundwater data. Any compound (other than the four listed below) detected in the sample,

which was also detected in any associated blank, will be qualified “B” when the sample concentration is less than five times the blank concentration. For common laboratory contaminants (methylene chloride, acetone, 2-butanone, and common phthalate esters), the results will be qualified “B” when the reported sample concentration is less than 10 times the blank concentration. The “B” qualifier designates that the reported detection is considered to represent cross-contamination and that the reported constituent is not considered to be present in the sample at the reported concentration. If the concentration of any blank-qualified data exceeds background, the NDEP will be contacted within 14 days to determine what action, if any, will be necessary to correct the observed blank contamination, as appropriate.

7.6 Laboratory Quality Assurance and Quality Control Program

The following are general guidelines for quality assurance/quality control to be followed by laboratories analyzing samples collected at the landfill.

7.6.1 Chain-of-Custody

Information to be included on the chain-of-custody and actions to be taken by the laboratory upon receipt of the samples are discussed as follows.

- The date, time of sample collection, and analysis to be performed will be provided to the laboratory on the chain-of-custody form. The samples will be examined upon receipt to ensure collection in EPA-approved containers for the requested analysis. The sample collection date and time will also be reviewed to ensure the EPA-required sample holding time has not expired or will not expire before the sample can be processed.
- The information concerning transportation mode and manner will be reported on the form. Samples must be transported on ice or under refrigeration and received at 4+/- 2 degrees centigrade.

- The pH of each sample, and sample appearance will be recorded upon receipt. The pH for volatiles samples shall be taken following analysis (as long as a second, unopened sample remains available for back-up). Also, preservative adjustments and sample splitting must occur as required prior to distribution. Sample adjustments will be fully documented. Cyanide samples shall be tested for residual chlorine and sulfides (a spot-test is acceptable), and quenched when necessary prior to preparation and analysis.
- Any sample discrepancies (e.g., breakage, headspace in volatile samples) must be documented and Bedroc contacted immediately for further instructions. Resampling will occur within 30 days of notification to obtain sufficient samples for analysis.

7.6.2 Analysis

- During the sample analysis period, the samples will remain refrigerated. Volatile and non-volatile samples must be stored in separate refrigerated units.
- If at any point during the analysis process, the results are considered technically inaccurate, the analysis must be performed again if holding times have not been exceeded. Resampling will be performed within 30 days if holding times are exceeded.

7.6.3 Documentation

- Permanent ink must be used for all documentation.
- Documentation will be written legibly. Mistakes will be crossed out with a single line, corrected, dated, and initialed.

7.6.4 Analytical Quality Control

Analytical quality control in sample processing and data generation must be consistent with guidelines outlined in the most recent revisions to *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW-846, 3rd Edition, plus the most recent promulgated updates, if applicable). Quality control samples shall be performed with each batch of samples at the frequencies specified in SW-846 and as outlined below. The “analytical batch” is defined as that group of samples (not to exceed 20 field samples) prepared (aliquotted, extracted, digested, etc.) together by the same technician(s), using the same batch of glassware, equipment, standards, solvents, and other reagents during the same working shift (or concurrent shifts, if the preparation procedures extend to subsequent shifts).

A method blank and laboratory control sample (LCS, see discussion below) must be prepared with each analytical batch. The method blank and LCS must also be analyzed on each instrument involved in the field sample analyses from the batch. If, for example, the batch is divided among two GC/MS systems, the method blank and LCS must be analyzed on both instruments. The lab shall, whenever possible, make every attempt to analyze the batch on the same instrument. Exceptions will be granted, for example, when the original analytical instrument goes out-of-service midway through the batch, or is recalibrated for a different method following the initial analysis of the batch but prior to any unanticipated reinjections.

For all GC and GC/MS methods, at a minimum, the lab is required to perform a 5-point initial calibration. With each organic analytical batch, the lab must prepare and analyze a matrix spike (MS), matrix spike duplicate (MSD), method blank, and LCS. For GC/MS analysis, the method blank may double as the LCS, and the surrogates may be used as the control analytes. For GC analyses, the LCS must include surrogates as well as a representative subset (at a minimum) from the target compound list (TCL). For 8081 analysis, for example, at least six of the TCL pesticides must be included in the LCS. If PCBs are required, the target Aroclor must be used as the LCS (if more than one Aroclor congener is on the TCL, the LCS must include at

least one congener from the TCL). If the target congener interferes with TCL pesticides, a separate LCS for this Aroclor must be produced with each analytical batch.

With each inorganic and classical wet chemistry analytical batch, the lab must prepare and analyze a matrix spike (MS), duplicate (DUP), method blank, and LCS. For inorganic metal analyses, the LCS must include all the Target Analyte List (TAL) metals (or those being analyzed in the associated field samples, if a subset of the full list).

The lab must maintain control charts of the LCS control analyte constituents for each method referenced in the analyte lists included in this plan. Control charts are not deliverable.

The laboratory method blanks must be examined for contaminants, and corrective actions taken as appropriate. Certain contaminants may be observed in the method blanks as a result of contamination common to most laboratories (methylene chloride, acetone, 2-butanone, and common phthalate esters). These common lab contaminants and all other target analytes must be below the laboratory quantitation limit (QL). For metals analysis, a target analyte may be present in the method blank at greater than five times the QL, so long as the associated samples contain the same metal at concentrations more than an order of magnitude (10X) higher. In each of these exceptional cases described above, the data shall be appropriately flagged and qualified in the case narrative. In all other cases, the analytical batch must be re-prepared and re-analyzed with a new method blank.

7.6.5 Data Reporting

The data will be reported in micrograms per liter using the number of significant figures appropriate to the method. The lab must include on its analytical reporting form (“Form 1” for CLP-like deliverables) the lab’s QL and detection limit (DL). The QL is a value, usually a factor of 3-4 times the DL, below which the quantitation of an analyte is not possible within the method-required limits of precision and accuracy. The lab is required to report results of

analytes below the lab's QL, but above the DL, with a "J" data flag (denoting an estimated value). The lab's QLs must be at or below the MCLs (for those analytes with MCLs listed), if achievable, in the analyte tables included in this plan.

The data report shall, at a minimum, include the following information.

- Narrative: Must include a brief description of the sample group (number and type of samples, field and associated lab sample identification numbers, preparation and analytical methods used). The data reviewer shall also include a statement that all holding times and QC criteria were met, samples were received intact and properly preserved, etc., with a brief discussion of any deviations potentially affecting data usability. This includes, but is not limited to, test method deviation(s), holding time violations, out-of-control incidents occurring during the processing of QC or field samples and corrective actions taken, and repeated analyses and reasons for the re-analyses (including contamination, failing surrogate recoveries, matrix effects or dilutions, for example). If samples were analyzed on more than one instrument, the reason for doing so must be stated in the narrative. The narrative shall be signed by the laboratory director or authorized laboratory representative, signifying that all statements are true to the best of the reviewer's knowledge, the data meet the data quality objectives as described in this plan (except as noted), and the data are released to Bedroc. One narrative is required for each sample group.
- Original Chain-of Custody Form

- Target analyte list (TAL): The lab shall list all compounds that were analyzed for in the samples. The TAL is typically included as part of the analytical reporting forms.
- Blank Data: For organic analyses, the lab shall report the results of any method blanks, reagent blanks, trip blanks, field blanks, and any other blanks associated with the sample group. For inorganic analyses, the lab shall provide the results of any preparation or initial calibration blanks associated with the sample group.
- QC Summary: The lab will provide summary forms detailing laboratory QC sample results which include individual recoveries and relative percent differences (if appropriate) for the following QA/QC criteria: surrogates, matrix spike analyses, matrix spike duplicate analyses, LCS, and sample duplicate analyses. QC control limits shall also be reported; if any QC limits were exceeded, a flag or footnote shall be placed to indicate the affected samples.

Additional quality assurance data and/or other pertinent data may be reported as requested by the owner/operator of the landfill.

7.6.6 Documentation

Records of the background groundwater quality data, and all subsequent measurements, including all concentration measurements and the background values established during all three phases of the Groundwater Monitoring Plan (GMP) will be kept at the Bedroc Limited, LLC. administration office, throughout the active life of the facility and the post-closure care period.

A hardcopy of the data, and any associated non-deliverable documents, must be properly stored by the laboratory in a secured facility, under proper chain-of-custody, for at least three years following data delivery. The following data shall be readily retrievable at the request of Bedroc, at any time during this period:

- The date and reference method must be included in all analysis documentation.
- Analytical results shall include analyte concentration, sample weight, percent water (when required), and final volume of extract or diluted sample.
- Calibration curve or coefficient of the linear calibration shall be included along with the concentration/response data (or relative response data) or the calibration check standards. It shall also include the initials of the analyst and must include the date on which the calibration curve was made.
- The results of the samples, concentration units, relative percent difference for duplicates, spike/surrogate concentrations, and spike/surrogate recoveries must also be documented.
- The reference QA identification, QA true value, and QA acceptable range must be documented.
- The identity and amount of each constituent in the laboratory blank are to be reported. If the concentration of the blank exceeds the method detection limit, the source of the contamination must be determined. Reanalysis of the entire batch may be required.
- All chromatograms for the reported results shall be properly labeled with the same identification and the amount injected.

- Any additional sample preparation and its justification, and any comments or observations which can affect the results must be documented for possible further interpretation.

8.0 STATISTICAL ANALYSES

In accordance with NAC 444.7485, the groundwater monitoring data will be statistically analyzed using one of the statistical methods discussed in the following subsections in accordance with guidance issued by the United States Environmental Protection Agency (EPA, 1989; EPA 1992a).

8.1 Statistical Test Methods

The statistical test used to evaluate the groundwater monitoring data will be the tolerance or prediction interval method, unless these test are determined to be inappropriate with the background data. Possible alternate statistical test methods, as described in NAC 444.7485 are:

- (1) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method will include estimating and testing the contrasts between each compliance well's mean and the background mean levels for each constituent;
- (2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify significant evidence of contamination. The method will include estimating and testing the contrasts between each compliance well's median and the background median levels for each constituent;
- (3) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the

level of each constituent in each compliance well is compared to the upper tolerance or prediction limit;

- (4) A control chart approach that gives control limits for each constituent; or
- (5) Another statistical test method that meets the performance standards specified by the NDEP. A justification for the alternate test method will be submitted to the NDEP for approval prior to use.

The statistical analysis chosen to evaluate the groundwater data will meet the following performance standards:

- (1) The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of monitoring parameters or constituents. If the distribution is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.
- (2) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment-wise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

- (3) If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration for each constituent of concern.
- (4) If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentrations for each constituent of concern.
- (5) The statistical method shall account for data below the limit of quantitation with one or more statistical procedures that are protective of human health and the environment. Any estimated quantitation limit (EQL) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.
- (6) If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

8.2 Reporting of Low and Zero Values

Chemical constituents that are not present above the detection limit of the analytical procedure are reported as “<.xxx” where “.xxx” is the laboratory detection limit; or “ND” (non-detect). The laboratory detection limit for that constituent will be included in a separate column

in the report. There are a variety of ways to deal with data that include values below detection. General guidelines that will be used to handle the data when less than 100 percent of the data are detected are provided in Table 8.

However, procedures referenced therein will be modified as discussed in the *Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities, Unified Guidance*, (EPA, 2009), and as agreed upon with the NDEP on a case-by-case basis. The statistical tests referenced in Table 8 are detailed in either of the following EPA guidance manuals:

1. *Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities, Interim Final Guidance*, April 1989; and
2. *Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities, Unified Guidance*, March 2009.

8.3 Normality Testing

The original data must be tested for normality using the Shapiro Wilk Test of Normality (either single group or multiple group version) for sample size up to 50 and the Shapiro-Francia Test of Normality for sample size more than 50, or other acceptable test methods. The following are used for decisions:

- (1) If the original data show that the data are not normally distributed, then the data must be log-transformed and tested for normality using the above methods.
- (2) If the original or the log-transformed data confirm that the data are normally distributed, then a normal distribution test must be applied.

- (3) If neither the original nor the log-transformed data fit a normal distribution, then a distribution-free test must be applied.

8.4 Missing Data Values

Missing data values may result in an incomplete measure of environmental variability and an increased likelihood of falsely detecting contamination. Also, if Assessment Monitoring data are missing, there is a danger that the full extent of contamination may not be characterized. Therefore, resampling will occur within 30 days of the date of the laboratory data package to replace the missing data.

8.5 Outliers

Prior to making a definitive SSI determination, a thorough review of outliers will be performed. An outlier is a value that is much different from most other values in a data set for a given groundwater chemical constituent. The reasons for outliers may include:

- Sampling errors or field contamination;
- Analytical errors or laboratory contamination;
- Recording or transcription errors;
- Faulty sample preparation or preservation, or shelf-life exceedance; or
- Extreme, but accurately detected environmental conditions
(e.g., spills, migration from facility).

Formal testing for outliers should be done only if an observation seems particularly high (by orders of magnitude) compared to the rest of the data set. If a sample value is suspect, one should run the outlier test described below (EPA, 1989). It should be cautioned, however, that this outlier test assumes that the rest of the data values, except for the suspect observation, are normally distributed (Barnett and Lewis, 1978). Since log-normally distributed measurements often contain one or more values that appear high relative to the rest, it is recommended that the outlier test be run on the logarithms of the data instead of the original observations. That way,

one can avoid classifying a high log-normal measurement as an outlier just because the test assumptions were violated.

The procedure for evaluating data for the presence of outliers is as follows. Let the sample of data be denoted by X_1, \dots, X_n . For specificity, assume that the data have been ordered and that the largest observation, denoted by X_n , is suspected of being an outlier. Generally, inspection of the data suggests values that do not appear to belong to the data set. For example, if the largest observation is an order of magnitude larger than the other observations, it would be suspect.

Step 1. Calculate the mean, \bar{x} , and the standard deviation, S , of the data including all observations.

Step 2. Form the statistic, T_n :

$$T_n = (X_n - \bar{x}) / S$$

Note that T_n is the difference between the largest observation and the sample mean, divided by the sample standard deviation.

Step 3. Compare the statistic T_n to the critical value given the sample size, n , in Table 8, Appendix B of EPA's statistical analysis document mentioned above. If the T_n statistic exceeds the critical value from the table, this is evidence that the suspect observation, X_n , is a statistical outlier.

If the test designates an observation as a statistical outlier, the sample should not be treated as such until a specific reason for the abnormal measurement can be determined. Valid reasons may include contaminated sampling equipment, laboratory contamination of the sample, or errors in transcription of the data values. Once a specific reason is documented, the sample

should be excluded from any further statistical analysis. If a plausible reason cannot be found, the sample should be treated as a true but extreme value, not to be excluded from further analysis.

8.6 Comparison to Groundwater Protection Standards

NAC Appendix II constituents detected in statistically significant concentrations when compared to background concentrations shall be compared to the Groundwater Protection Standards (GPSs) established by the NDEP using one of the methods discussed in the following sections.

8.6.1 Direct Comparison

If one sample is collected for analysis during a sampling period, the result shall be compared to the GPS via direct comparison (i.e., greater than or less than the GPS).

8.6.2 Confidence Interval Comparison

If four or more independent samples are collected per downgradient well during a sampling period, the mean of the four samples may be compared to the GPS via the Confidence Interval statistical method using a lower 95% confidence level. The procedure for evaluating the downgradient well data is as follows:

- Calculate the mean, \bar{x} , of the four samples;
- Calculate the standard deviation, s , of the sample;
- Determine the critical value, t_c , for a confidence level of 90% (5% on each tail) and degrees of freedom, $d.f. = n - 1$;
- Calculate E , where $E = (t_c) * (s / (n)^{0.5})$;
- Calculate the lower 5% Confidence Interval, $L_{0.05}CI$, where $L_{0.05}CI = (\bar{x} - E)$; and
- Compare the $L_{0.05}CI$ to the GPS.

If the $L_{0.05}CI$ is less than the GPS, there is no statistical increase in the mean of the downgradient monitoring data for that point-of-compliance monitoring well.

9.0 GROUNDWATER PROTECTION STANDARDS

In accordance with NAC 444.7492, the administrator of the NDEP shall determine a GPS for each NAC Appendix II constituent detected in the groundwater. The GPS shall be established using the following guidance:

- (1) For constituents for which a maximum contaminant level (MCL) has been promulgated under Section 1412 of the Safe Drinking Water Act (Part 141, Title 40, Code of Federal Regulations), the MCL for that constituent will be the GPS;
- (2) For constituents for which MCLs have not been promulgated, a level equal to:
 - (a) The background concentration of the constituent; or
 - (b) An appropriate Alternate Concentration Limit (ACL) that is based on the protection of public health and safety and complies with requirements of NAC 444.7492.1(b)2.
- (3) For constituents for which the background level is higher than the MCL established by the EPA, the background concentration for that constituent will be the GPS.

9.1 Definitions

The following definitions are applied during establishment of the GPS:

Maximum Contaminant Levels: The maximum contaminant level (MCL) is the EPA Drinking Water Standard, as promulgated by the EPA under the Safe Drinking Water Act, and is subject to change without notice. MCLs are listed in the EPA's *Drinking Water Regulations and Health Advisories* (EPA, 2002).

Action Limits: *In lieu* of MCLs, action limits have been established by the EPA for copper and lead. Action limits are listed in the EPA's *Drinking Water Regulations and Health Advisories*.

Alternate Concentration Limits: Per NAC 444.7492.1(b)2, the Director of the NDEP may establish a risk-based Alternate Concentration Limit (ACL) for constituents without an established MCL.

Estimated Quantitation Limits: The Estimated Quantification Limit (EQL) is an inter-laboratory concept derived from laboratory performance of selected laboratories (not all laboratories). EQLs provide performance goals and were formerly referred to as Practical Quantitation Limits (PQL).

10.0 EVALUATION OF CHEMICAL ANALYTICAL DATA

The following decision criteria will be used to direct the GMP based on the results of the statistical analyses performed in accordance with Section 8.0.

10.1 Detection Monitoring Phase

The Detection Monitoring Program will continue until the post-closure period at the facility is terminated or until a statistically significant increase over background concentrations for one or more NAC Appendix I constituents is noted, at which time the Assessment Monitoring Program will be implemented unless a successful Alternate Source Demonstration has been submitted.

If one or more constituents listed in NAC Appendix I is shown to be present in statistically significant concentrations when compared to background, Bedroc may collect a verification sample from the affected well within the compliance monitoring period (180 days

from the date of sampling for quarterly monitoring). If the verification sample is also indicative of a statistically significant increase (SSI) when compared to background, then the permittee will proceed to the Assessment Monitoring Program or submit an Alternate Source Demonstration. If the Alternate Source Demonstration is not approved by the NDEP, the owner/operator shall implement the Assessment Monitoring Program within 90 days of the disapproval. If the verification sample refutes the initial SSI, the facility shall remain in the Detection Monitoring Phase.

10.2 Assessment Monitoring Phase

If, after entering the Assessment Monitoring Phase, the concentrations of all NAC Appendix II constituents are shown to be at or below background values for two consecutive sampling events, the facility shall notify the NDEP of this finding. Furthermore, the monitoring program at the facility may revert to the Detection Monitoring Program.

If the concentration of any NAC Appendix II constituent is shown to be statistically significant when compared to established background, but the concentration is shown to be below the GPS established by the NDEP using the statistical procedures discussed in Section 8.0 of this Groundwater Monitoring Plan, the facility shall remain in the Assessment Monitoring Phase.

If the concentration of any NAC Appendix II constituent is shown to be statistically significant when compared to the GPS established by the NDEP using the statistical procedures discussed in Section 8.0 of this Groundwater Monitoring Plan, the permittee shall proceed with an Assessment of Corrective Measures in accordance with NAC 444.7491.3.

10.3 Assessment of Corrective Measures

In the event that analytical data indicate solid waste constituents are present in any downgradient monitoring well at a concentration greater than the GPS, the owner/operator shall,

within 14 days of the finding, notify the NDEP and identify which constituents have exceeded the GPS. The owner/operator also shall characterize the nature and extent of the release, install and sample at least one monitoring well at the facility boundary in the direction of constituent migration, notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site (as indicated by sampling of wells in accordance with NAC 444.7491.3), and shall initiate an assessment of corrective measures as required by NAC 444.7493.

In lieu of performing the nature and extent study and the assessment of corrective actions, the owner/operator may demonstrate an alternate source of contamination. The Alternate Source Demonstration, in the form of a written report to be certified by a qualified groundwater scientist, evaluates the possibility that a source other than the landfill caused the contamination; or that the SSI resulted from error in sampling, analysis or statistical evaluation, or from natural variation in the quality of the groundwater. Results of an Alternate Source Demonstration must be submitted to the NDEP within 90 days of determining that groundwater constituents are present in any downgradient monitoring well at concentrations greater than the GPS.

If a successful Alternate Source Demonstration is made and approved by NDEP, the permittee shall continue the Assessment Monitoring Phase. In the demonstration is unsuccessful, the facility shall implement the nature and extent investigation and the assessment of corrective measures in accordance with NAC 444.7493.

11.0 HYDROGEOLOGIC ASSESSMENT

After each sampling event, groundwater surface elevations will be evaluated to determine whether the requirements for locating the monitoring wells continue to be satisfied.

The direction of groundwater flow will be determined by comparing the groundwater surface elevations among the monitoring wells, and at least annually, constructing a groundwater

surface contour map. The groundwater flow rate shall be determined using the following equation:

$$V = \frac{ik}{n_e}$$

- where
- V = the groundwater flow rate (feet/day)
 - i = the hydraulic gradient, $\Delta h/\Delta l$ (foot/foot)
 - k = the maximum hydraulic conductivity (feet/day)
 - n_e = the effective porosity of the host medium (unitless)
 - Δh = the change in groundwater elevation between two wells (feet)
 - Δl = the distance between the same two wells (feet)

If the evaluation shows that the groundwater monitoring system does not satisfy the requirements of NAC 444.7483, the monitoring system will be modified to comply with those regulations after obtaining approval from the NDEP. Proposed revisions will be submitted to the NDEP within 30 days of determining that the system does not satisfy the requirements of NAC 444.7483; the modifications may include a change in the number, location, or depth of the monitoring wells.

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Exhibit 21

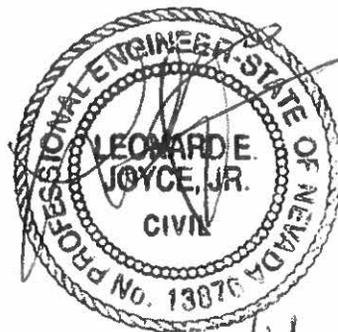
PREPARED FOR:

BEDROC LIMITED, LLC
2745 N. NELLIS BLVD.
LAS VEGAS, NEVADA 89115

BEDROC LANDFILL AND WASTE MANAGEMENT FACILITY

BEAUTIFICATION PLAN

**OCTOBER 2013
REVISED MAY 2014**



PREPARED BY:

JOYCE
ENGINEERING

1604 OWNBY LANE
RICHMOND, VIRGINIA 23220
PHONE: (804) 355-4520
FAX: (804) 355-4282
JOYCE PROJECT No. 00383.1401.01.01

5/19/14

**Beautification Plan
Bedroc Landfill and Waste Management Facility
Lincoln County, Nevada**

1.0 GENERAL

NAC 444.678 requires that Class I disposal sites be located at least one-fourth mile from the nearest inhabited domestic dwelling or place of public gathering or 1,000 feet from a public highway, unless special provisions for the beautification of the site and the control of litter and vectors are included in the design and approved by the solid waste management authority.

The site of the Bedroc Landfill and Waste Management Facility is located in excess of ¼ miles from the nearest inhabited dwelling and place of public gathering. However, because the proposed boundary of the facility falls within the 1,000 foot setback from U.S. Highway 93, the facility has prepared this plan to address the activities to provide visual screening of landfill activities from the general public.

2.0 PERIMETER BERM

Initial lifts of waste will be placed on the cell floor. As the base grades are below the surrounding ground surface, initial waste placement activities will be screened from U.S. Highway 93. To provide visual screening of landfill operations from U.S. Highway 93, perimeter berms will be constructed in advance of waste placement activities. The perimeter berms will be constructed on the northern, eastern and southern slopes of the landfill when disposal activities are within 1,000 feet from Highway 93. As necessary, the berms will be extended laterally beyond the waste limits to prevent the working face from being visible from the highway. These berms, approximately 10-15 feet in height will consist of soil material. As the waste surface reaches an elevation 5 feet below the surrounding ground surface, the initial perimeter berm will be constructed. As the surface of the waste increases in height, berms will be constructed in advance of disposal activities, so that at all times waste placement activities will be screened by the berms.

3.0 FINAL SLOPES

To blend in with the natural topography, the final shape of the landfill will be comprised of varying slopes on the sides and the top. Cross-slope drainage channels, formed in the side slopes as waste placement progresses, will provide variation in the side slopes. The top of the landfill, as well as the corners, will be rounded to minimize the rectilinear appearance. Storm water collected by the side slope channels will flow to riprap channels on the eastern and western sides of the landfill.

Native plant species in addition to native gravels will be used on the final slopes. The final surface and appearance should have variation. "Green" vegetation is not desirable because it will not blend with the native vegetation. Trees will not be planted as they would provide no screening benefit and would not be typical of the natural vegetation. Boulders will be placed, in groups and alone, at random locations on the northern, eastern and southern side slopes visible to U.S. Highway 93.

4.0 LITTER CONTROL

Litter at the site is controlled by several measures. Vehicles transporting waste are required to have their loads adequately covered in accordance with all transportation regulations. Once the waste is unloaded in the disposal area, it is compacted by heavy equipment and covered to prevent free blowing litter. Blowing litter is controlled through a series of either fences and/or dirt berms. Litter control fences and berms will be cleaned at least weekly and by patrolling daily. The site perimeter will be inspected daily and scattered litter will be returned to the working area. Additional litter control fences may be constructed and placed in strategic locations around the working face to capture wind-blown material. The perimeter berms will also serve to capture and contain wind blow debris from the landfill. During extremely windy conditions, all activities that could lead to blowing litter will be curtailed.

5.0 VECTOR CONTROL

An effective vector control plan involves preventing vectors from living and becoming established on the landfill by not providing sources of food, water, and/or shelter. The most important measures taken at the facility to minimized vector problems is prompt placement, compaction, cover and intermediate cover of all exposed waste. Slopes will be graded to a minimum of 3% for drainage purposes to prevent ponding of water. Waste accepted at the landfill such as dead animals and other highly putrescible wastes will be placed in a separate trench or area and covered immediately.

If vectors become a nuisance, additional measures will be taken to correct the problem. These measures may include the services of a pest control contractor who will be responsible to select the appropriate control measure(s) for the specific type of vector creating the nuisance.

Exhibit 22

PREPARED FOR:

BEDROC LIMITED, LLC
2745 N. NELLIS BLVD.
LAS VEGAS, NEVADA 89115

BEDROC LANDFILL AND WASTE MANAGEMENT FACILITY

OPERATING PLAN

**OCTOBER 2013
REVISED FEBRUARY 2014
REVISED MAY 2014**



PREPARED BY:

JOYCE
ENGINEERING

1604 OWNBY LANE
RICHMOND, VIRGINIA 23220
PHONE: (804) 355-4520
FAX: (804) 355-4282
JOYCE PROJECT No. 00383.1401.01.01

5/19/14

**Operating Plan
Bedroc Landfill and Waste Management Facility
Lincoln County, Nevada**

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1. Overview

In accordance with the Nevada Administrative Code (NAC) 444.684, this Operating Plan has been prepared for the Bedroc Landfill and Waste Management Facility (facility). In addition, this plan addresses the compliance of the facility with the requirements presented in NAC 444.6665 through 444.6678, NAC 444.686 through 444.6887 and NAC 444.690 through 444.7025.

This operating plan also serves as a guidance document for the personnel working at the site to aid them in proper landfill operations. It is also a guide for operations supervisory personnel and sets forth contingency plans for special problems and situations that may arise. The Nevada Division of Environmental Protection (NDEP) is the solid waste management authority having jurisdiction over the facility.

2. General Information - NAC 444.677(1)

2.1. Landfill Classification:
Class I solid waste landfill.

2.2. Name and Mailing address of Landfill Owner:
Bedroc Limited, LLC
2745 N. Nellis Blvd.
Las Vegas, NV 89115

2.3. Name of Mailing address of Landfill Operator:
Bedroc Limited, LLC
2745 N. Nellis Blvd.
Las Vegas, NV 89115

2.4. Site Location:
The site is located adjacent to U.S. Highway 93, mile marker 8, Lincoln County, NV, approximately 65 miles north of Las Vegas, NV. The property's legal description is the East Half (E ½), and the East Half (E ½) of the West Half (W ½) of Section 24, Township 11 South, Range 62 East, M.D.B.&M., Lincoln County, Nevada.

2.5. Site Description:
The site is situated in the arid desert of southern Lincoln County, NV. Lands surrounding the site are public lands administered by the Bureau of Land Management. The project area and adjacent lands are zoned M 2 Heavy Manufacturing. The M 2 heavy manufacturing district is intended to provide areas for the development and operation of industrial and manufacturing uses.

The landfill site consists chiefly of barren soils supporting some desert vegetation. The area averages 300 sunny days and approximately 4 inches of rainfall per year. In accordance with NAC 444.678 (5) the facility was granted a Special Use Permit by

Lincoln County for a Class I site in 2003. The 2012 population of Lincoln County is approximately 5,400 residents.

2.6. Hours of Operation:

The landfill may operate 24-hours per day, 365 days per year.

2.7. Emergency Contacts:

Contact: Ryan Williams
702-250-3045 Cell Phone

Contact: Ron Williams
702-250-8328 Cell Phone

Lincoln County Sheriff - Alamo Substation: 775-725-3375

Lincoln County Volunteer Fire Department - Alamo Substation: 775-725-3375

Fire, Police, Ambulance Emergencies: 911

3. Location Restrictions - NAC 444.6783 through 444.6795

3.1. Airport Safety NAC 444.6783

A Class I site will be designed and operated so that it does not pose a hazard to aircraft. The owner or operator who proposes to locate a new municipal solid waste landfill unit or lateral expansion within a 5-mile radius of the end of any airport runway used by a turbojet or piston-type aircraft will notify the affected airport and the Federal Aviation Administration.

The nearest airfield is located in Alamo, NV, and is over 30 miles from the site. The landfill site is not located within a 5-mile radius of any airport runway.

3.2. Floodplains NAC 444.6785

A Class I site located in a 100-year floodplain will maintain proof that the unite or lateral expansion will not restrict the flow of the floodplain, reduce the temporary capacity of the floodplain to store water, and not result in the washout of solid waste that poses a hazard to public health and safety and the environment.

The landfill site is not located within a published 100-year floodplain. However, several natural drainage channels exist surrounding the site. Runoff from rain drains away from the landfill and intermittently through these channels. A system of berms and/or shallow ditches will divert any potential run-on away from the landfill and into these washes.

3.3. Wetlands NAC 444.679

A Class I site may not be located in wetlands unless the owner or operator satisfactorily demonstrates that the construction and operation of the landfill will not cause or contribute to violations of any applicable state water quality standard, violate any applicable toxic effluent standard or prohibition, jeopardize the continued existence of endangered or threatened species, or violate any requirement set forth in the Marine Protection, Research and Sanctuaries Act.

The landfill site is not located within any wetlands.

3.4. Fault areas NAC 444.6791

A Class I site will not be located within 200 feet of a fault that has had a displacement in Holocene time unless the owner or operator demonstrates to the solid waste management authority that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will protect the public health and safety of the environment.

The landfill site is not located within 200 feet of a fault area.

3.5. Seismic impact zones NAC 444.6793

The site is located in a seismic impact zone as discussed in Section 12.0 of the facility's Design Report. As required by NAC 444.6793, the owner will place the proof in the operating records for the site and notify the solid waste management authority that the proof has been placed in the operating records. The calculations and design information show that the materials and the design of the landfill systems resist the maximum horizontal acceleration for the site. This information is presented in Appendix II of the Design Report.

3.6. Unstable areas NAC 444.6795

A Class I site located in an unstable area will maintain proof that engineering measures have been incorporated into the structural design of the unit or lateral expansion to ensure that the integrity of the unit or lateral expansion will not be disrupted. The owner or operator will place the proof in the design report and the operating records of the unit and notify the solid waste management authority that the proof has been placed in the operating records.

The landfill site is not located in an unstable area. The soil and geologic conditions at the site are well suited to ensure surface and subsurface stability.

4. Signage - NAC 444.690

Signs will be posted at the entrance of the landfill facility that clearly indicate the following:

- Identification of the site owner/operator
- The hours of operation
- Materials accepted and excluded

- Fees charged
- Private Property/Trespassing prohibited/Not open to the public
- Prohibitions against illegal dumping and open burning

5. Access Roads - NAC 444.678(1)

The site is easily accessible in all kinds of weather to all vehicles expected to use it. Access to the site can be achieved by an existing road, which joins US Hwy 93 at approximately mile marker 8, and travels west to the site. A fence around the perimeter of the property as well as natural barriers will limit access to the landfill to one entrance. The scale house is located at the entrance and controls access to the operating area and monitors all vehicles entering and exiting. A site attendant will be on duty to control access during hours of operation and direct vehicles appropriately. Vehicles delivering solid waste are required to cross the scales to be monitored, weighed and then they are directed to the working face. Speed limits are posted on internal roads. Public access is forbidden at this site and signage stating such is clearly posted at the entrance.

The access road is an approximately 25-ft wide and is constructed of crushed stone, rubble, or other soil materials capable of providing an all-weather driving surface. Site personnel will maintain the on-site roads for all-weather access. If conditions prohibit access to the active face during inclement weather, an all-weather access area will be constructed as near as possible to the active area. When necessary, haulers will dump waste at the edge of the designated wet weather area to allow the compactor or dozer to push the waste into the fill. Bedroc Limited, LLC (Bedroc) will maintain the access roads for the life of the landfill so that the facility will be easily accessible in all weather.

6. Plan for Operating - NAC 444.684

6.1. Personnel and Equipment

This manual has been designed to be useful both as a field reference document and as a training manual for classroom and self-instruction purposes. Every employee is expected to be familiar with its use and location at the site. All landfill employees will be given site-specific training regarding waste characterization and handling. Management personnel have been certified as having completed the Landfill Operations Course offered by the Environmental Industry Associations.

The number of employees working at the site will vary depending of the amount of waste anticipated during that day. A list of the positions, as well as, job descriptions are included in the facility's Integrated Site Wide Contingency Plan (ISWCP). Additional employees or subcontractors may be working from time to time to perform functions such as general maintenance, cell construction, liner installation, litter control, etc.

Equipment requirements may vary in accordance with the method and scope of activities on-site at any given time. The primary operating equipment may include a dozer, water truck, wheel loader, scraper, compactor or equivalent equipment. Equipment necessary for the normal landfill operation will be maintained and stored on-site.

6.2. Communication Systems

The scale house attendant, landfill supervisor and equipment operator(s) will have mobile phones to help facilitate normal day to day operations, outbreak of a fire and for other emergency purposes.

6.3. Initial Waste Placement

The initial placement of waste in a new cell will be in a careful and controlled manner where the leachate collection system and the liner are most vulnerable. Select waste, avoiding bulky and large rigid items, will be placed as the first lift. This layer will be a minimum of 2 feet thick, will not be compacted, and will serve as a protective layer to the liner and drainage system. Markers will be placed along the edge of liner so that filling operations in the Class I cells do not extend outside lined areas and adequate room is left to allow for applying the final cover.

6.4. Operation and Maintenance - NAC 444.686

The operation and maintenance of the site will be in a manner which will not create odors, unsightliness or other nuisances. An unnecessarily large working face makes it more difficult to control litter, and is unsightly. The area of the working face should be the smallest area practicable while still allowing for safe and efficient operation of vehicles and equipment. Incoming wastes are unloaded as near as possible to the working face. The unloading area is adjacent to the working face to help minimize pushing distance. With the exception of inclement weather or a new transition phase, there will be only one unloading area and one working face.

Depositing waste outside the unloading area will be prohibited. Any waste mistakenly deposited outside the unloading area will be promptly removed and transported to the working face. Once deposited in the unloading area, waste will be pushed to the working face, spread and compacted on a slope no steeper than three horizontal to one vertical. In accordance with NAC 444.686 (4), waste will be spread in thin layers that do not exceed 2 feet before compaction. Bulky waste material will not be placed within 3 feet of the final surface of the slide slopes.

Equipment operators are to operate the compactor and waste moving equipment up and down the working face and fill in any holes that develop with loose waste in order to achieve good compaction. If several types of wastes are deposited in the unloading area, the equipment operator will mix the various waste types while pushing. A high degree of compaction extends the life of the landfill, reduces cover

material, and reduces wind-blown litter. The equipment for compaction is appropriately sized and will make a minimum of 2 full passes over each layer of waste.

Periodic visual inspections of the visible tail of the liner will be conducted by site personnel for confirmation that no slippage has occurred

6.5. Daily Cover - NAC 444.688(1)(a)

The site has an adequate quantity of earth cover (NAC 444.678(4)) that is workable and compactable and does not contain organic material of quantity and distribution conducive to harboring and breeding disease vectors. Cover material will be obtained from cell construction activities and adjacent borrow areas where the soil material is silty, gravelly sands. The borrow areas and soil balance are shown on Drawing No. 19 of the permit application. The cover material will be clean soil, not previously mixed with waste materials or an alternate daily cover (ADC) material that has been approved by NDEP.

A minimum of six inches of cover material will be placed over exposed compacted waste at the end of each operating day to control fires, odors and blowing litter. The integrity of the cover material will be maintained until further filling is resumed or the final cover is constructed. The cover material will be routinely inspected and erosion, cracks and depressions will be repaired as soon as possible. The cover material will be graded to promote drainage of surface water with slopes of not less than three (3) percent.

6.6. Intermediate Cover - NAC 444.688(1)(d)

Intermediate cover will consist of a minimum of a 12-inch compacted soil layer and will be placed in areas that have not reached their final closure elevations. This cover will be applied whenever another lift of waste will not be placed for more than 90 days. The cover material will be spread, compacted, and graded to promote drainage of surface water with slopes of not less than three (3) percent. Also, intermediate cover will be applied to as soon as practicable to areas which exhibit erosion, cracking, or excessive settlement. The condition of the exposed intermediate cover will be evaluated by landfill personnel on a monthly basis.

6.7. Final Cover

The final cover will be applied to areas where final elevation has been attained. Final cover will be placed in accordance with the facilities approved closure plan. The condition of the final cover will be evaluated by landfill personnel on a monthly basis.

6.8. Litter Control Plan - NAC 444.684(2)(b)

Litter at the site is controlled by several measures. Vehicles transporting waste are required to have their loads adequately covered in accordance with all transportation regulations. Once the waste is unloaded in the disposal area, it is compacted by heavy equipment and covered to prevent free blowing litter. Litter control fences/berms will be located as close as practical to the active working face. The

entire facility perimeter will be inspected daily and any discovered scattered litter will be returned to the working area.

Additional litter control fences may be constructed and placed in strategic locations around the working face to capture wind-blown material. The perimeter berms will also serve to capture and contain wind blow debris from the landfill. During extremely windy conditions, all activities that could lead to blowing litter will be curtailed. In accordance with NAC 444.686(2), the working face of the landfill will be restricted in width and will be as narrow as possible.

6.9. Vector Control Plan - NAC 444.6678, NAC 444.694

An effective vector control plan involves preventing vectors from living and becoming established on the landfill by not providing sources of food, water, and/or shelter. The most important measures taken at the facility to minimized vector problems is prompt placement, compaction, cover and intermediate cover of all exposed waste. Slopes will be graded to a minimum of 3% for drainage purposes to prevent ponding of water. Waste accepted at the landfill such as dead animals and other highly putrescible wastes will be placed in a separate trench or area and covered immediately.

If vectors become a nuisance, additional measures will be taken to correct the problem. These measures may include the services of a pest control contractor who will be responsible to select the appropriate control measure(s) for the specific type of vector creating the nuisance.

7. Acceptable Waste

The following section describes the types of waste that are received at the landfill.

7.1. Acceptable Wastes

- Solid waste as defined in NRS 444.490
- Special Waste as identified in this Operations Plan

7.2. Unacceptable Wastes

No hazardous waste as defined in Title 40 of the Code of Federal Regulations (40 CFR) Part 261 or materials offering an undue hazard to landfill personnel or the landfill operations will be accepted at the facility. The following are examples of unacceptable waste.

- Liquid waste as defined by NAC 444.692(4)
- Hazardous waste, as defined by NAC 444.580 & State and Federal Regulations
- Septic tank pumpings and raw sewage as defined in NAC 444.654 (2)
- PCB waste, as defined by State and Federal Regulations

8. Special Wastes - NAC 444.684(2)(c)

8.1. Sand-Oil Separator and Waste Soaked Oils (NAC 444.650)

Sand-oil separator and oil-soaked waste will be disposed in the Class I facility. These materials will be analytically sampled at a certified laboratory before they are loaded onto any trucks destined for Bedroc's Class I landfill to ensure that they do not exceed regulated hazardous constituent levels. The hauler will be responsible for the acceptance of this material and must provide documentation and manifests to operators at Bedroc before the materials can be accepted. Bedroc requires that the generator of this material provide certified analytical results that demonstrate compliance or absence of hazardous constituent levels. It is Bedroc protocol that all wastes being unloaded at the facility be screened to insure that neither hazardous waste nor PCB wastes will be deposited at the lined, Class I landfill.

8.2. Medical Waste

Wastes generated in the medical industry consist of a wide variety of materials, ranging from office paper, packaging and food wastes to sharps, chemotherapeutic and pathological wastes. These materials are referred to as Regular Medical Waste ("RMW"). Medical waste, as defined in NAC 444.589, will be accepted at the facility. This material will not be disposed of less than 4 feet from the top of the final lift. These wastes will be accepted only by approved medical waste generators that maintain the appropriate sampling and records. Per NAC 444.646 (and the fact sheet entitled "Treatment Collection and Disposal of Infectious Medical Waste"), this waste will be managed in the same manner as Class I wastes, with the exception that when this waste arrives at the facility they will be placed and covered with a layer of suitable cover material compacted to a min uniform depth of 36 inches..

RMW is defined as described in 49 CFR pt. 173, App G.

8.3. Petroleum Contaminated Soil

Bedroc will accept petroleum contaminated soil (PCS) at the Class I facility. The generator of this material is responsible to determine the characteristics of their material and will demonstrate through sampling and analysis that it is not a hazardous waste and can be disposed of at the landfill. All loads will be inspected to ensure no free liquid is present. The volume of PCS accepted at the landfill will be a maximum of 5,000 tons per calendar year.

The generator must make an initial characterization of each source of PCS prior to potential acceptance of the material. In addition, a hazardous waste determination will also be performed on each source pursuant to 40 CFR 262.11. The analysis and hazardous waste determination of each PCS source type will be performed by a laboratory certified by the State of Nevada to perform those analyses.

The facility will consider accepting Petroleum Contaminated Soils within the Landfill Disposal Area as identified in two categories as shown below.

Categories:

- Petroleum Contaminated Soils less than < 600 PPM ORO/DRO, and < 300 PPM GRO;
- Petroleum Contaminated Soils greater than > 600 PPM ORO/DRO or > 300 PPM GRO.

Permitting and Acceptance Criteria: (Reference bullets shown below).

The generator/source of the waste must submit a Non-Hazardous Waste Determination for review and screening of the soil for acceptance. The profile will identify the material source and generator, tests results, soil quantity, and other information pertaining to the soil treatability (less < than or greater > than 600/300 PPM). Only shipments accompanied by the appropriate documentation and transported in compliance with applicable regulations will be accepted at the facility. No storage of any PCS will occur at the facility.

- Petroleum Contaminated Soils Less than < 300/600 PPM:
Petroleum contaminated soils under 600 PPM DRO and ORO and under 300 PPM GRO accompanied by the appropriate analytical testing results as described within this plan will be accepted at the facility.
- Petroleum Contaminated Soils greater than > 300/600 PPM:
Contaminated soils over 600 parts per million (PPM) DRO or ORO or over 300 PPM GRO as described within this plan will not be accepted at the facility.

9. Waste Screening - NAC 444.6665

The Class I landfill will have the following program in place for detecting and preventing the disposal of regulated hazardous waste, PCB wastes, and other unauthorized wastes.

9.1. Waste Delivery

The scale house is located at the entrance and controls access to the facility and monitors all vehicles entering and exiting. Signs are posted at the entrance of the facility informing customers of the acceptable and unacceptable types of waste. The scale operator is responsible to visually monitor and ensure that all incoming solid waste is weighed and appropriate records are maintained. Records include the customer name, hauling company, date, time, and quantity (weight and/or volume) of all in-coming solid waste.

9.2. Pre-Screening and Inspections

Inspection of incoming loads at a minimum will consist of a visual inspection while waste is on the vehicle. In the case of closed container trucks waste may be dumped and spread at the operating face and a visual inspection made of the contents to check for unauthorized and suspect materials. Facility personnel will be trained to identify unauthorized waste, the proper steps to take if unauthorized waste is accepted, how to report the unauthorized waste, and how to conduct the proper response actions. In addition, waste unloaded on the active face is inspected by the equipment operators

before and during placement and compaction. Prior to placement, salvage operations to recover recyclable material may be performed.

Incoming loads will be inspected by facility personnel on a random basis, but no less than 4 loads per month. Drivers will be directed to dump in the area of the working face, where the waste will be spread and inspected for unauthorized wastes. Documentation of these inspections will be maintained at the landfill. Facility personnel are trained and familiar with acceptable and unacceptable wastes. In most cases, unacceptable wastes will leave the landfill on the vehicle it arrived on. An exception to this procedure may occur for explosives in which the local law enforcement officials will be called.

Every effort will be made to preclude the inadvertent acceptance of unauthorized waste through pre-screening and inspections. However, in the case of inadvertent receipt of these wastes, facility personnel will take appropriate response measures. These personnel will be trained to conduct the waste inspections, identify unauthorized waste, perform appropriate response actions, and document the incidents.

9.3. Training and Procedures

The objective of the training program is to teach facility personnel to recognize, remove and report receipt of unauthorized and hazardous solid waste. All on-site personnel involved with waste acceptance and disposal activities including, but not limited to, the site manager, scale house attendant, waste spotter, and equipment operators will be trained to identify such waste and to take the correct response. Training in these procedures will take place within three months of implementing this Program, or within three months of the date of hire.

A refresher, training course will be performed annually, and will include any changes to this Program. Employees are trained to identify and exclude materials that may be considered hazardous. Documentation of the training will be maintained in the facility Operating Record, available for review by the NDEP. The following sections discuss each component of the training program.

9.4. Recognize Unauthorized Waste

A waste inspection program will be in effect at the facility to identify unauthorized waste. Every incoming waste hauler will stop at the scale house prior to proceeding to the tipping area. The scale house attendant will review waste manifests, if applicable, to verify that only acceptable waste is listed. Facility personnel will visually examine the contents of waste hauling vehicles prior to allowing them to tip, during tipping, and while spreading and compacting with waste.

Personnel will be trained to recognize wastes that are not acceptable for disposal at the facility, such as hazardous waste and PCB waste. Some indicators of unauthorized wastes include:

- Hazardous labels and/or markings
- Waste that may be contaminated with PCBs
- Batteries
- Powders, dyes, chemical odors, smoke, solvents, paints cans
- Drums or commercial-size containers,
- Containers holding free liquids and/or excessive or unusual moisture

9.5. Removal of Unauthorized Waste

Facility personnel will be trained in the proper steps to take if unauthorized waste is accepted at the facility. The training will include procedures for segregating and containing the waste. Personnel will immediately notify the Facility Manager if unauthorized waste is discovered or accepted at the facility.

When a suspicious waste or container is detected in vehicles prior to tipping or during inspections, the driver of the vehicle will be directed to leave the site. If unauthorized waste is detected after tipping, the load will not be accepted and it will be segregated from acceptable waste. If possible, the unauthorized waste will be reloaded into the vehicle that transported the waste to the site. In the event unauthorized waste is discovered, access to the area will be restricted and the situation carefully assessed. Such waste will be adequately segregated from acceptable waste, secured and contained to prevent leakage or contamination to the environment. Such wastes will be isolated from other incoming waste using mobile equipment such as a backhoe or loader, and properly contained until it can be transported off-site for disposal or treatment at an approved facility.

If the unauthorized waste cannot be segregated using equipment, the area will be isolated and fill operations moved to another location, or halted until a licensed contractor can be contacted to properly remove the unauthorized waste. In cases where manual segregation will not pose unacceptable risk to facility personnel, under the direction of the Facility Manager, personnel may selectively segregate waste manually, while exercising caution to avoid exposure or injury. Wherever possible, positive identification of the material and its source will be obtained.

If hazardous waste or PCB waste is discovered, it will be contained to prevent spills or leaks, or any contact with other materials. If the hazardous or PCB waste is already in a container, the container will be inspected for leakage, contained by another means if necessary, and segregated from acceptable waste in an area where any spills or leaks will be contained. Facility personnel NDEP shall notify NDEP if hazardous waste or PCB waste is discovered at the facility.

All employees that are handling hazardous waste or waste of questionable character are required to use protective clothing and equipment in accordance with Occupational Safety and Health Administration (OSHA) standards. The Facility

Manager will remove the unauthorized waste from the site as soon as practicable, but not to exceed 90 days after discovery. The Facility Manager will provide to the NDEP, via the operating record, a record identifying the waste and its final disposition.

9.6. Recordkeeping

Each incident of unauthorized waste refusal or acceptance will be recorded. The records will include information such as the date and time of the incident, waste type(s), generator, hauler, facility personnel involved, response actions (including records of transportation and ultimate disposition), regulatory interaction and correspondence, and other relevant documentation. All reports and resulting correspondence will be maintained at the facility or other designated location throughout the life of the facility and the post-closure care period, and will be available to NDEP for review.

10. Run-on and Run-off Control - NAC 444.6885, NAC 444.6887

These controls are described in the design report.

11. Erosion and Dust Control - NAC 444.696

Adequate water will be available at all times from an onsite well for dust control and for compaction of cover material. The landfill site has the potential for wind erosion. Since the site receives nominal amounts of rain, hydraulic erosion poses little threat to the site.

The perimeter berm will prevent overland flow of water onto the landfill. Neither run-on of water from the surrounding area, nor run-off from the landfill area is expected to be a problem due to the design of the landfill and the low frequency of precipitation events.

The design of the final cover has taken wind erosion into consideration. The final cover has been designed to have 24 inches of native material above the flexible membrane cap with native plant species in addition to native gravels and mulch produced on site (See Closure Plan). Bedroc will inspect the landfill on a quarterly basis to evaluate the integrity of the final cover. If the integrity of final cover is damaged, Bedroc will restore the lost material and reseed.

Sources of dust at the facility include the delivery of material, material handling, and material screening. Dust from incoming vehicles will be minimized by periodic wetting of roads. Incoming loads will be sprayed down before unloading if necessary. The existing gravel driveway also minimizes dust generation. A water truck is maintained onsite to provide dust control and moisture addition to the materials. Bedroc pumps water from the onsite well to the water truck, via the standpipes located strategically on the property. Facility workers will be provided OSHA-approved dust masks upon request when working in dusty conditions.

12. Odor Control - NAC 444.686(1)

The operation and maintenance of the site is in such a manner as to not create odors, unsightliness or other nuisances. While some odor is to be expected at landfills, nuisance-level odors should not be produced at a properly managed facility. Measures taken at the facility to control odor are properly covering the waste and limiting the size of the working face. Nuisance odor problems are diminished further by prevailing on-site winds and by the absence of nearby sensitive receptors (neighbors).

13. Miscellaneous Requirements and Reports - NAC 444.702

Scavenging at the Class I facility and at the working face is prohibited. The site will be inspected daily and all scattered paper and other lightweight debris returned to the fill area and covered. Bedroc will maintain records onsite documenting the weight or otherwise adequately measuring and recording all solid waste delivered to the site. Records will be kept at the site for one month and thereafter will be stored at 2745 N. Nellis Blvd. Bedroc will prepare a quarterly report detailing the type and weight of solid waste received at the site on a form prescribed by the Division. The report will be submitted to NDEP on a quarterly basis. A volumetric survey will be conducted at least once every 5 years until the site is closed and submitted to NDEP in accordance with NAC 444.702(7).

14. Operating Records

All information contained in the operating record will be furnished upon request to NDEP or be made available at all reasonable times for inspection by NDEP. These records will be kept for the life of the facility. In accordance with NAC 444.7025, the Facility will record and retain the following documentation in the operating records:

- a) Any demonstration of restrictions on location required by NAC 444.678 to 444.6795

NAC requires that a Class I Disposal Site be located at least one-fourth mile from the nearest inhabited domestic dwelling or place of public gathering or 1,000 feet from a public highway, unless special provisions for the beautification of the site and the control of litter and vectors are included in the design and approved by the solid waste management authority.

The Class I site is located approximately 30 miles from the nearest inhabited dwelling and place of public gathering. However, because the proposed boundary of the facility falls within the 1,000 foot setback from U.S. Highway 93, the facility has prepared a beautification plan to address the activities to provide visual screening of landfill activities from the general public. This plan will be maintained in the facilities operating record and has been submitted with this application under separate cover.

- b) Records of inspection, training procedures and procedures for notification required by NAC 444.6665

Records of inspection, training procedures and procedures for notification identified in this operating plan are maintained in the facilities operating record.

- c) Results from the monitoring of gas and any remediation plans required by NAC 444.667

A plan has been prepared for the Bedroc Landfill and Waste Management Facility to address the monitoring requirement for odors and explosive gases as required by the Nevada Administrative Code, which requires the owner/operator of Class I Disposal Facilities to provide safeguards against the uncontrolled migration of decomposition gases (methane, hydrogen sulfide, carbon dioxide), collectively referred to as landfill gas, originating from the waste being disposed of at the site.

Specifically, this plan addresses means for monitoring for the presence and concentration of decomposition gases, the concentrations limits, above which will require remedial actions for the control of decomposition gases, and establishes a schedule for the submission of a Decomposition Gas Remediation Plan in the event one is required based on routine monitoring results. The gas monitoring will be maintained in the facilities operating record and has been submitted with the application under separate cover.

- d) Any documentation relating to the design of the municipal solid waste landfill unit for the placement of leachate or gas condensate as required by paragraph (b) of subsection 2 of NAC 444.692

A plan has been prepared for the Bedroc Landfill and Waste Management Facility to address the requirements established in Nevada Administrative Code and provide information regarding the design and construction of the proposed Class I Disposal Facility. A drawing set has been prepared to illustrate the proposed construction and development of the facility. The proposed Class I Disposal Facility will be equipped with a synthetic liner and leachate collection system for the disposal of waste. The report of design will be maintained in the facilities operating record and has been submitted with the application under separate cover.

- e) Any demonstration, certification, finding, monitoring, testing or analytical data from the program for monitoring groundwater required by NAC 444.7481 to 444.7499, inclusive;

A Groundwater Monitoring and Reporting Plan has been prepared for the proposed landfill in accordance with the groundwater monitoring requirements of the Nevada Division of Environmental Protection (NDEP), Solid Waste Regulations (SWR). The Groundwater Monitoring and Reporting Plan is a guidance document for collection and analysis of representative groundwater

samples from the uppermost aquifer beneath the proposed Class I solid waste management unit, and for managing those data. The groundwater monitoring plan will be maintained in the facilities operating record and has been submitted with this application under separate cover.

- f) Plans for closure and post closure and any monitoring, testing or analytical data required by NAC 444.6891 to 444.6896, inclusive; and

A plan has been prepared for the Bedroc Landfill and Waste Management Facility to address the closure and post-closure requirements as required by the Nevada Administrative Code. This plan provides a description of the final cover and the actions associated with closure of the facility, an estimate of the area and quantity of waste subject to closure, and the maintenance and monitoring activities to be performed during the post-closure period.

Any changes or modifications to the Closure Plan will be approved by NDEP prior to implementation at the facility. The Closure Plan and future modifications or additions to the plan will be maintained in the facility's operating record. The closure and post closure plan will be maintained in the facilities operating record and has been submitted with this application under separate cover.

- g) Any documentation of cost estimates and financial assurance required by NAC 444.685

A plan has been prepared for Bedroc Landfill and Waste Management Facility to address the financial assurance requirements. This plan identifies the mechanism used to demonstrate financial assurance as well as the estimated costs for closure and post closure monitoring. The plan will be maintained in the facilities operating record and has been submitted with this application under separate cover.

Exhibit 23



THE STATE OF NEVADA

PERMIT TO CHANGE POINT OF DIVERSION, MANNER OF USE AND PLACE OF USE OF THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED

Name of applicant: BEDROC LIMITED, A NEVADA LLC
Source: UNDERGROUND
Basin: COYOTE SPRING VALLEY
Manner of Use: IRRIGATION
Period of Use: May 1st to August 31st
Priority Date: 01/22/1919

APPROVAL OF STATE ENGINEER

This is to certify that I have examined the foregoing application, and do hereby grant the same, subject to the following limitations and conditions:

Monthly records shall be kept of the amount of water pumped from this well and the records submitted to the State Engineer on a quarterly basis within 15 days after the end of each calendar quarter.

This permit does not extend the permittee the right of ingress and egress on public, private or corporate lands.

The issuance of this permit does not waive the requirements that the permit holder obtain other permits from State, Federal and local agencies.

Any application to change the manner of use granted under this permit will be subject to additional determination and evaluation with respect to the permanent effects on existing rights and the resource within the ground water basin.

This permit to change point of diversion, place and manner of use of the waters of underground percolating water heretofore appropriated under claim of vested right as evidenced by Proof of Appropriation of Water V04545, is issued with the understanding that no other rights on the source will be affected by the change proposed herein. A substantial headgate and measuring device (totalizing meter) must be installed at or near the new point of diversion to facilitate the measurement and control of water. The State reserves the right to regulate the use of the water under this proposed change at any and all times. This permit is issued subject to any determination of the waters of underground percolating water that may be made under adjudication proceedings under NRS 533.090 through 533.320.

This permit is issued for the irrigation of 25 acres within the described place of use.

(Continued on Page 2)

The point of diversion and place of use are as described on the submitted application to support this permit.

The amount of water to be appropriated shall be limited to the amount which can be applied to beneficial use, **and not to exceed 0.35 cubic feet per second for the irrigation of 25 acres of land within the described place of use and not to exceed 4 acre-feet per acre of land from any and/or all sources.**

Work must be prosecuted with reasonable diligence and proof of completion of work shall be filed on or before:

September 28, 2010

Water must be placed to beneficial use and proof of the application of water to beneficial use shall be filed on or before:

September 28, 2014

Map in support of proof of beneficial use shall be filed on or before:

September 28, 2014

IN TESTIMONY WHEREOF, I, TRACY TAYLOR, P.E.,

State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 28th day of September, A.D. 2009

Tracy Taylor, P.E.
State Engineer

Completion of work filed _____

Proof of beneficial use filed _____

Cultural map filed _____

Certificate No. _____ Issued _____

llb

**AMENDED
APPLICATION FOR PERMISSION TO CHANGE POINT OF DIVERSION, MANNER
OF USE AND PLACE OF USE OF THE PUBLIC WATERS OF THE STATE OF
NEVADA HERETOFORE APPROPRIATED**

Date of filing in State Engineer's Office JAN 30 2004

Returned to applicant for correction FEB 13 2004

Corrected application filed APR 13 2004

Map filed APR 13 2004

The applicant **Bedroc Limited**, a Nevada limited liability corporation, hereby makes application for permission to change the **point of diversion, place and manner of use** of water heretofore appropriated under **Proof No. V04545**

1. The source of water is **Underground Percolating Water Appropriated Under Proof No. V04545**
2. The amount of water to be changed **0.35 cfs**
3. The water to be used for **Irrigation & Stockwater**
4. The water heretofore permitted for **Irrigation & Stockwater & State Highway construction**
5. The water is to be diverted at the following point w/in **NW¼ SE¼ Section 24 T11S, R62E, MDM or at a point from which the W¼ corner of said Section 24 bears N 81 degrees 33 minutes 06 seconds W, a distance of 2,893.29 feet. Location of sump pump.**
6. The existing permitted point of diversion is located within **Underground Percolating Water located under Proof No. V04545 within E½ W½ Section 24 T11S, R62E, MDM**
7. Proposed place of use **E½ and E½ W½ Section 24 T11S, R62E, MDM - 25 acres**
8. Existing place of use **E½ and E½ W½ of Section 24 T11S, R62E, MDM 25 acres of irrigated land per Proof No. V04545**
9. Use will be from **January 1 to December 31** of each year.
10. Use was permitted from **May to August** of each year.
11. Description of proposed works **water is collected by ditching and is directed to a sump pump. Water is pumped to the place of use.**
12. Estimated cost of works **Existing**
13. Estimated time required to construct works **Existing**
14. Estimated time required to complete the application of water to beneficial use **5 years**
15. Remarks: **Continued mining and milling has caused the water to flow into the mining area. Ditches have been constructed to direct the water to a sump pump and pipeline to the place of use. water is used for mining, milling and commercial purposes when irrigation is not utilizing water.**

By **s/Michael D. Buschelman
Michael D. Buschelman
Post Office Box 51371
Sparks, Nevada 89435**

Compared cmf/ag

Protested _____

Exhibit 24



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7 ENTRIES FOUND:

- irrigation
- irrigation efficiency
- basin irrigation

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ir·ri·ga·tion *noun* \ir-ə-'gā-shən\

Definition of IRRIGATION

8+1 Like

- 1 : the therapeutic flushing of a body part with a stream of liquid
 - 2 : the watering of land by artificial means to foster plant growth
- See irrigation defined for kids >

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First Known Use of IRRIGATION

1612

Other Agriculture/Gardening Terms

fallow, graft, heirloom, loam, potash, soilage, swath, tilth, windfall

Rhymes with IRRIGATION

abdication, aberration, abjuration, abnegation, abrogation, acceptance, acclamation, accusation, activation, adaptation, adjuration, admi...
[+] more

irrigation *noun* (*Concise Encyclopedia*)

Artificial supply of water to land, to maintain or increase yields of food crops, a critical element of modern agriculture. Irrigation can compensate for the naturally variable rate and volume of rain. Water is pumped from natural ponds, lakes, streams, and wells; basin systems and dams hold back larger streams and annual floods. Below the dam, gates to concrete-lined canals are opened, conveying the water over the land through gravity flow. More elaborate, expensive canals flow from huge constructed

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The commonly misspelled words quiz
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Should You "Flush Out" or "Flesh Out" Your Plan?
Top 10 Commonly Confused Words, Vol. 2



2014 Word of the Year: Culture
Here's What this Year's Top Look-ups Say About Us

reservoirs, which hold a year-round water supply. Today portable irrigation systems of lightweight aluminum pipe are in wide use. Drip irrigation, a newer method, uses narrow tubing to supply water directly to the base of each plant. Agricultural irrigation, water towers, and machines invented to lift and distribute water are ancient innovations. Early Egyptians were irrigating with Nile River water by 5000 BC, and such other ancient civilizations as Babylon and China seem to have developed largely as a result of irrigation-based agriculture.

Learn More About IRRIGATION

Spanish Central: Spanish translation of "irrigation"

SCRABBLE®: Playable words you can make from "irrigation"

Britannica.com: Encyclopedia article about "irrigation"

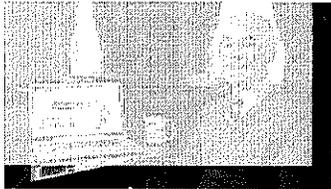
Browse

Next Word in the Dictionary: irrigational

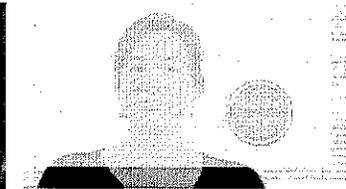
Previous Word in the Dictionary: irrigate

All Words Near: irrigation

Ask The Editor Videos



2014 Word of the Year: Behind the Scenes



How the Months Got Their Names

« Seen & Heard »

What made you want to look up *irrigation*? Please tell us where you read or heard it (including the quote, if possible).

Exhibit 25

RECEIVED
2014 SEP 24 AM 9:19
STATE ENGINEERS OFFICE

SETTLEMENT AGREEMENT

This Settlement Agreement is dated the ___ day of August, 2014 ("Execution Date") and is entered into by and between Jason King, P.E., Nevada State Engineer ("State Engineer") and the State of Nevada Department of Conservation and Natural Resources (collectively "State of Nevada") and Bedroc Limited, a Nevada limited liability company ("Bedroc").

RECITALS

(a) On February 14, 2014, Bedroc appealed from the portion of State Engineer's Ruling No. 6255, which denied Bedroc's pending Application No. 71031 to appropriate 0.35 cubic feet per second (cfs), not to exceed 200 acre-feet annually (afa), of underground percolating water for commercial and domestic use within the SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 24, T.11S., R.62E., M.D.B.&M. The appeal was to the Seventh Judicial District Court of the State of Nevada in and for the County of Lincoln in Case No. CV 0206014. The appeal has been opposed by the State of Nevada and is pending. The proposed point of diversion and place of beneficial use proposed in Application No. 71031 is on Bedroc's land in Coyote Spring Valley Hydrographic Basin.

(b) On March 3, 2014, Bedroc filed Application No. 83590 with the Sate Engineer to appropriate 0.35 cubic feet per second, not to exceed 200 acre feet annually (afa), of underground percolating water for commercial and domestic use within the same place of use as described under Application 71031. The proposed point of diversion and place of beneficial use is on Bedroc's land within the Coyote Spring Valley Hydrographic Basin.

(c) On August 26, 2013, Bedroc filed Application No. 83044 to change the point of diversion and place of use of a portion of the vested water right claiming a right to use underground percolating water covered by Amended Proof of Appropriation No. V-04545. Application No. 83044 was subsequently amended. Notice of filing of amended Application No.

KEM - PLEASE WORK THIS UP FOR RFA. SEE ME WITH ANY QUESTIONS

83044 was published as required by law and no protests to said application were filed within the time allowed by law. Amended Application No. 83044 is now ready for action by the State Engineer. The base right for amended Application No. 83044 is represented by Amended Proof of Appropriation No. V-04545.

(d) Coyote Spring Valley Hydrographic Basin was one of the hydrographic basins affected by the long-term pump test conducted pursuant to State Engineer Order No. 1169. The State Engineer in Ruling 6255 found that there is no unappropriated water in Coyote Spring Valley available for appropriation without conflicting with existing water rights in the hydrographic basins covered by Order No. 1169.

Now therefore, in consideration of the agreements of the State Engineer and Bedroc hereinafter set forth, the State Engineer and Bedroc hereby agree as follows:

1. Appeal. Contemporaneously with the execution of this Settlement Agreement, the State Engineer and Bedroc shall execute the Stipulation for Dismissal with Prejudice attached hereto and file the same with the Lincoln County Court Clerk, after obtaining the signature of the District Court Judge. File stamped copies shall be furnished to all parties hereto. Bedroc shall be responsible for undertaking the actions required by this section.

2. Pending Application No. 83590. Pending Application No. 83590 will be withdrawn by Bedroc forthwith on execution of this Settlement Agreement. The withdrawal will be by a letter requesting said withdrawal directed to the State Engineer.

3. Pending Amended Application No. 83044. Application 83044 states that the water will be used for commercial uses when not used for irrigation. NRS 533.330 does not allow for more than one manner of use. ^{Bedroc accepts irrigation as the manner of use as published} ~~and therefore Bedroc shall request of the State Engineer,~~ by the State Engineer and withdraws the reference to commercial use subject to subsequent change by letter, which manner of use it desires to permit, and which manner of use it withdraws from applications, if any. RW
the application. Pending Amended Application No. 83044 will be forthwith approved by the State Engineer with a permit issued for 343 acre-feet per year on the terms and for the manner of use chosen by Bedroc. The permit will be sent to Bedroc at the address on the Amended

Application with a copy to Bedroc's counsel, Robert W. Marshall, Parsons Behle & Latimer, 50 W. Liberty St., Suite 750, Reno, NV 89501. Since the base right for Application No. 83044 is amended claim of vested right V-04545, which is unadjudicated, both the amended claim V-04545 and Application (Permit) No. 83044 will be subject to any future adjudication of vested right claims within the Coyote Spring Valley Hydrographic Basin.

4. Bedroc shall complete the following obligations within nine (9) months of the date of execution of this Settlement Agreement with the following conditions:

- (a) Within 90 days of the date of execution of this Settlement Agreement, Bedroc will install a totalizing meter on the legal point of diversion authorized under Application (Permit) No. 83044.
- (b) Within 120 days of the date of execution of this Settlement Agreement, the State Engineer shall verify the proper installation of the totalizing meter. Any deficiencies shall be promptly remedied by Bedroc after notification thereof by the State Engineer.
- (c) Within 90 days of the execution of this Settlement Agreement, any illegal wells shall be identified by Bedroc. Such wells shall be plugged and abandoned in accordance with the rules and regulations for abandonment of wells within six (6) months after the 90-day period or shall have change applications on file with the State Engineer for the use of such wells. Use of such wells is illegal without a permitted water right on them. Totalizing meters will be required to be installed on all points of diversion covered by any permitted change applications.

5. Water usage and monitoring.

- (a) To the extent that Ruling No. 6255 denied Bedroc's Application 71031, the State Engineer shall reverse that Ruling and hold Bedroc's Application in abeyance for a period of two years, during which time Bedroc will employ best management practices in beneficially using its water granted under permit 83044. In the event that Bedroc needs to use points of diversion beyond that specified in Application 83044, Bedroc will file

any necessary change applications. The State Engineer shall monitor Bedroc's water usage during a two-year period following the installation of the meter required under Section 4 and any other point of diversion permitted under any change application (the "Monitoring Period").

(b) During the Monitoring Period, Bedroc shall submit meter readings to the State Engineer from all meters on a quarterly basis, commencing three months after installation of the meter required under Permit 83044.

(c) In the event Bedroc's usage exceeds 343 afa, Bedroc shall notify the State Engineer of such additional use and shall identify, by an engineering tie, the point(s) of diversion. Totalizing meters shall be located at all points of diversion.

(d) During the Monitoring Period, Bedroc will in good faith use its best efforts to limit its water usage to 343 afa. Bedroc acknowledges that one of the primary purposes of this Agreement is to provide Bedroc a period of time in which to implement best management practices to conserve water.

6. Completion of Monitoring Period. At the completion of the Monitoring Period, the State Engineer will make a determination as to whether Bedroc's ongoing annual water need is satisfied under Permit 83044. If additional water is needed to satisfy usage by Bedroc, the State Engineer will entertain application 71031 to appropriate water on a temporary basis. In making this evaluation, the State Engineer will consider:

- (a) Bedroc's total water usage during the review period.
- (b) The degree to which Bedroc has taken measures to economize water use.
- (c) The extent to which the State Engineer believes that Bedroc may further implement measures to increase efficiency.
- (d) The amount of any credit to which Bedroc is entitled for recharge to the basin.
- (e) All additional criteria found in Nevada Revised Statutes Chapters 533 and 534.

7. Terms to be included in any temporary permit that may be issued. If a temporary permit is needed, the State Engineer may issue application 71031 of finite duration, to Bedroc, subject to the following:

(a) The temporary permit will allow Bedroc to pump only enough water (beyond the 343 a.f.a. claimed in its proof of appropriation) to satisfy Bedroc's ongoing water needs, as determined by the State Engineer.

(b) Any temporary permit shall be for water used at Bedroc's Coyote Spring Valley operations only.

(c) Bedroc will agree not to transfer, alienate, encumber, or hypothecate any temporary permit for any reason whatsoever.

(d) The temporary permit may be cancelled if the State Engineer determines that the use of the water is conflicting with existing rights in the six basins covered by Order No. 1169 and California Wash pursuant to State Engineer's Ruling No. 5115.

8. Time of the Essence. Time is of the essence hereof.

9. Successor. This Settlement Agreement is binding on the successors and assigns of the parties hereto.

10. Costs of Meters and Other Infrastructure. The cost of purchase and installation of all meters and other infrastructure shall be borne by Bedroc.

11. Applicable Law: This Settlement Agreement shall be construed and enforced in accordance with the laws of the State of Nevada, and venue for any court action to enforce the terms hereof, shall be the Seventh Judicial District Court of Nevada in and for the County of Lincoln.

12. Notices. Notices shall be sent to the parties hereto at the following addresses:

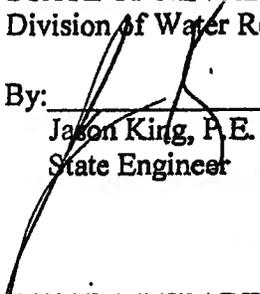
STATE OF NEVADA:
State Engineer
901 S. Stewart St., Suite 2002
Carson City, NV 89701-5250

BEDROC:
Bedroc Limited
2745 N. Nellis Blvd.
Las Vegas, NV 89115

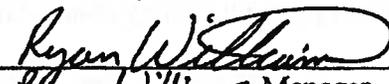
With a copy to:
Robert W. Marshall
Parsons Behle & Latimer
50 W. Liberty St., Suite 750
Reno, NV 89501

IN WITNESS WHEREOF the parties to this Settlement Agreement have executed this
Settlement Agreement as of the Execution Date.

STATE OF NEVADA
Division of Water Resources

By:  P.E.
Jason King, P.E.
State Engineer

BEDROC LIMITED, a Nevada limited
liability company

By: 
Ryan Williams, Manager

NEVADA DEPARTMENT OF
CONSERVATION AND NATURAL
RESOURCES

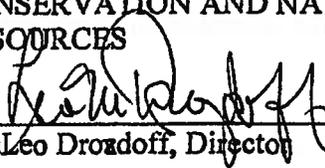
By: 
Leo Drazdoff, Director

Exhibit 26



THE STATE OF NEVADA

PERMIT TO CHANGE THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED

Name of Permittee: BEDROC LLC
Source: UNDERGROUND
Basin: COYOTE SPRING VALLEY
Manner of Use: IRRIGATION AND DOMESTIC
Period of Use: JANUARY 1ST THROUGH DECEMBER 31ST
Priority Date: 10/22/1919

APPROVAL OF STATE ENGINEER

This is to certify that I have examined the foregoing application, and do hereby grant the same, subject to the following limitations and conditions:

This permit, to change point of diversion and place of use of a portion of the waters of underground percolating water heretofore appropriated under Amended Claim of Vested Right V04545, is issued with the understanding that no other rights on the source will be affected by the change proposed herein. A totalizing meter must be installed at or near the point of diversion to facilitate the measurement of water used. The State reserves the right to regulate the use of the water under this permit at any and all times. This permit is issued subject to any determination of underground percolating water that may be made under adjudication proceedings under NRS 533.090 through 533.320.

Monthly records shall be kept of the amount of water pumped from this well and the records submitted to the State Engineer on a quarterly basis within 15 days after the end of each calendar quarter.

This permit does not extend the permittee the right of ingress and egress on public, private or corporate lands.

The issuance of this permit does not waive the requirements that the permit holder obtain other permits from State, Federal and local agencies.

Any application to change the manner of use granted under this permit will be subject to additional determination and evaluation with respect to the permanent effects on existing rights and the resource within the Coyote Spring Valley.

The issuance of Permit 83044 expires Permit 70859.

This permit is issued subject to the Settlement Agreement between Bedroc Limited and the State Engineer, dated August, 2014.

The point of diversion and place of use are as described on the submitted application to support this permit.

(Continued on Page 2)

The amount of water to be appropriated shall be limited to the amount which can be applied to beneficial use, and not to exceed 0.5 cubic feet per second or 343.0 acre-feet annually, but not to exceed 5.0 acre-feet per acre from all sources.

Work must be prosecuted with reasonable diligence and proof of completion of work shall be filed on or before:

December 22 2015

Water must be placed to beneficial use and proof of the application of water to beneficial use shall be filed on or before:

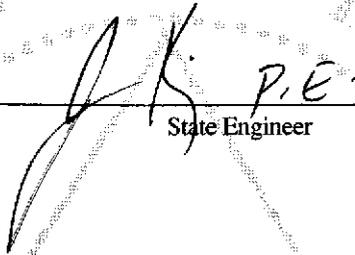
December 22 2017

Map in support of proof of beneficial use shall be filed on or before:

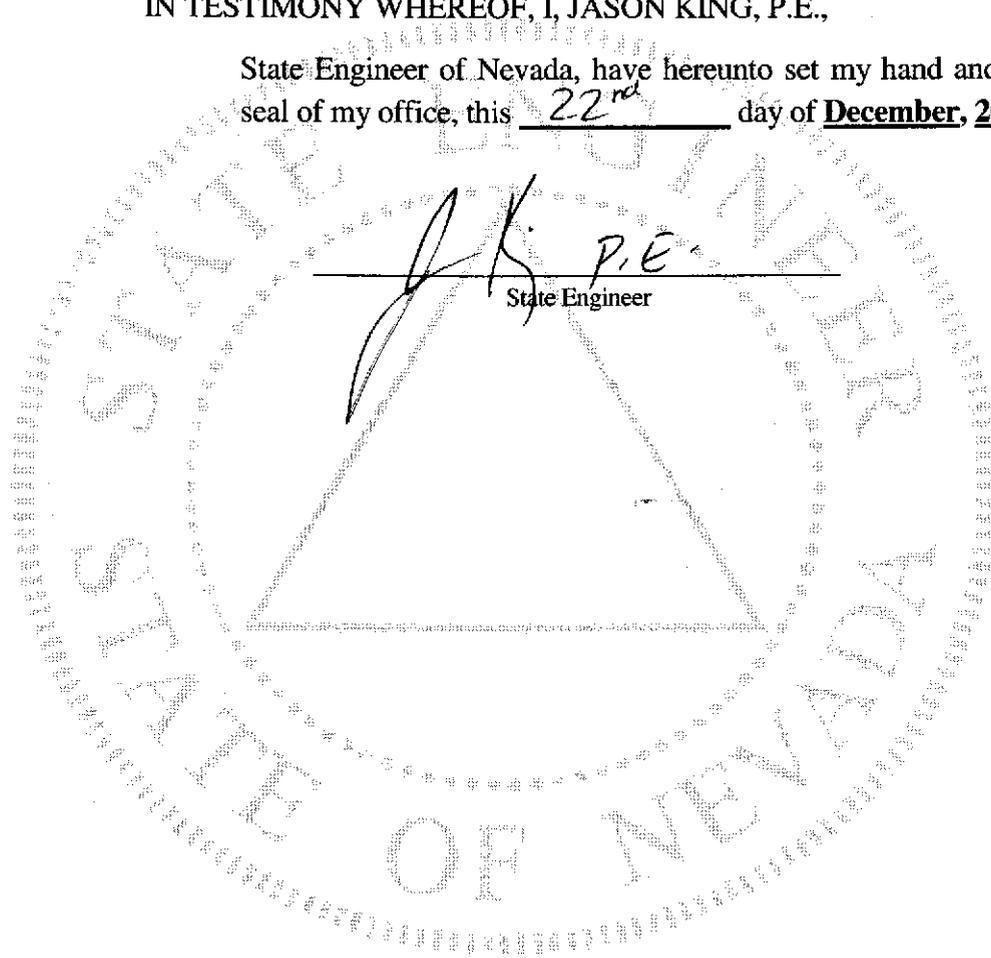
December 22 2017

IN TESTIMONY WHEREOF, I, JASON KING, P.E.,

State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 22nd day of December, 2014



State Engineer



APPLICATION FOR PERMISSION TO CHANGE POINT OF DIVERSION, MANNER OF USE AND PLACE OF USE OF THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED

THIS SPACE FOR OFFICE USE ONLY
Date of filing in State Engineer's Office AUG 26 2013
Returned to applicant for correction AUG 29 2013
Corrected application filed OCT 17 2013 Map filed SEP 26 2013

The applicant Bedroc Limited LLC, a Nevada limited liability company
2745 N. Nellis Blvd. of Las Vegas
Street Address or PO Box City or Town
Nevada 89115 hereby make(s) application for permission to change the
State and ZIP Code

Point of diversion Place of use Manner of use of a portion
of water heretofore appropriated under (Identify existing rights by Permit, Certificate, Proof or Claim Nos. If Decreed, give title of Decree and identify right in Decree.)
Amended Proof No. V04545

RECEIVED
2013 OCT 17 AM 11:47
STATE ENGINEERS OFFICE

1. The source of water is underground percolating water appropriated under No. V04545
Name of stream, lake, underground, spring or other sources.
2. The amount of water to be changed .5 c.f.s.
Second feet, acre-feet. One second foot equals 448.83 gallons per minute.
3. The water to be used for irrigation and domestic
Irrigation, power, mining, commercial, etc. If for stock, state number and kind of animals. Must limit to one major use
4. The water heretofore used for Same
If for stock, state number and kind of animals.
5. The water is to be diverted at the following point (Describe as being within a 40-acre subdivision of public survey and by course and distance to a found section corner. If on unsurveyed land, it should be stated.)
underground percolating water located under Proof No. V04545 within the NW 1/4 of the SE 1/4 of Section 24, T11S, R62E, MDM, or at a point from which the W 1/4 corner of said Section 24 bears N81°33'06"W, a distance of 2893.29 feet.
6. The existing point of diversion is located within (If point of diversion is not changed, do not answer.)
E 1/2 of W 1/2 of Section 24 T11S, R62E,

7. Proposed place of use (Describe by legal subdivisions. If for irrigation, state number of acres to be irrigated.) 52 acres within the NE 1/4 and the N1/2 of the SE 1/4 and the NE 1/4 of the NW 1/4 of Section 24; and within the NE 1/4 of the NE 1/4 of Section 25, T11S, R62E, MDM, as more particularly shown on the map submitted herewith.

8. Existing place of use (Describe by legal subdivisions. If changing place of use and/or manner of use of irrigation permit, describe acreage to be removed from irrigation)

E 1/2 and the E 1/2 of the W 1/2 of Section 24, T11S, R62S, MDM.

9. Proposed use will be from January 1 to December 31 of each year.
Month and Day Month and Day

10. Existing use permitted from January 1 to December 31 of each year.
Month and Day Month and Day

11. Description of proposed works. (Under the provision of NRS 535.010 you may be required to submit plans and specifications of your diversion or storage works.) (State manner in which water is to be diverted, i.e., diversion structure, ditches, pipes and flumes or drilled well, pump and motor, etc.)

12. Estimated cost of works Existing

13. Estimated time required to construct works Existing

If well completed, describe well.

14. Estimated time required to complete the application of water to beneficial use 5 years

15. Provide a detailed description of the proposed project and its water usage (use attachments if necessary): (Failure to provide a detailed description may cause a delay in processing.)

After the original tunnel dug by Mr. Butler in the late 1930's from which percolating water flowed, collapsed, water is collected from natural seeps and shallow wells (30-50 feet deep) and conveyed to a pond where it is pumped to a higher pond for gravity flow for irrigation and commercial purposes.

16. Miscellaneous remarks:

Water is used for commercial purposes when irrigation is not utilizing the water.

E-mail Address
(775) 323-1601
Phone No. Ext.

APPLICATION MUST BE SIGNED
BY THE APPLICANT OR AGENT

Robert W. Marshall, Agent

Type or print name clearly

Robert W. Marshall

Signature, applicant or agent

Parsons Behle & Latimer

Company Name

50 W. Liberty Street, Suite 750

Street Address or PO Box

Reno, NV 89501

City, State, ZIP Code