

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 Pahranaagat 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 Pahranaagat 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.

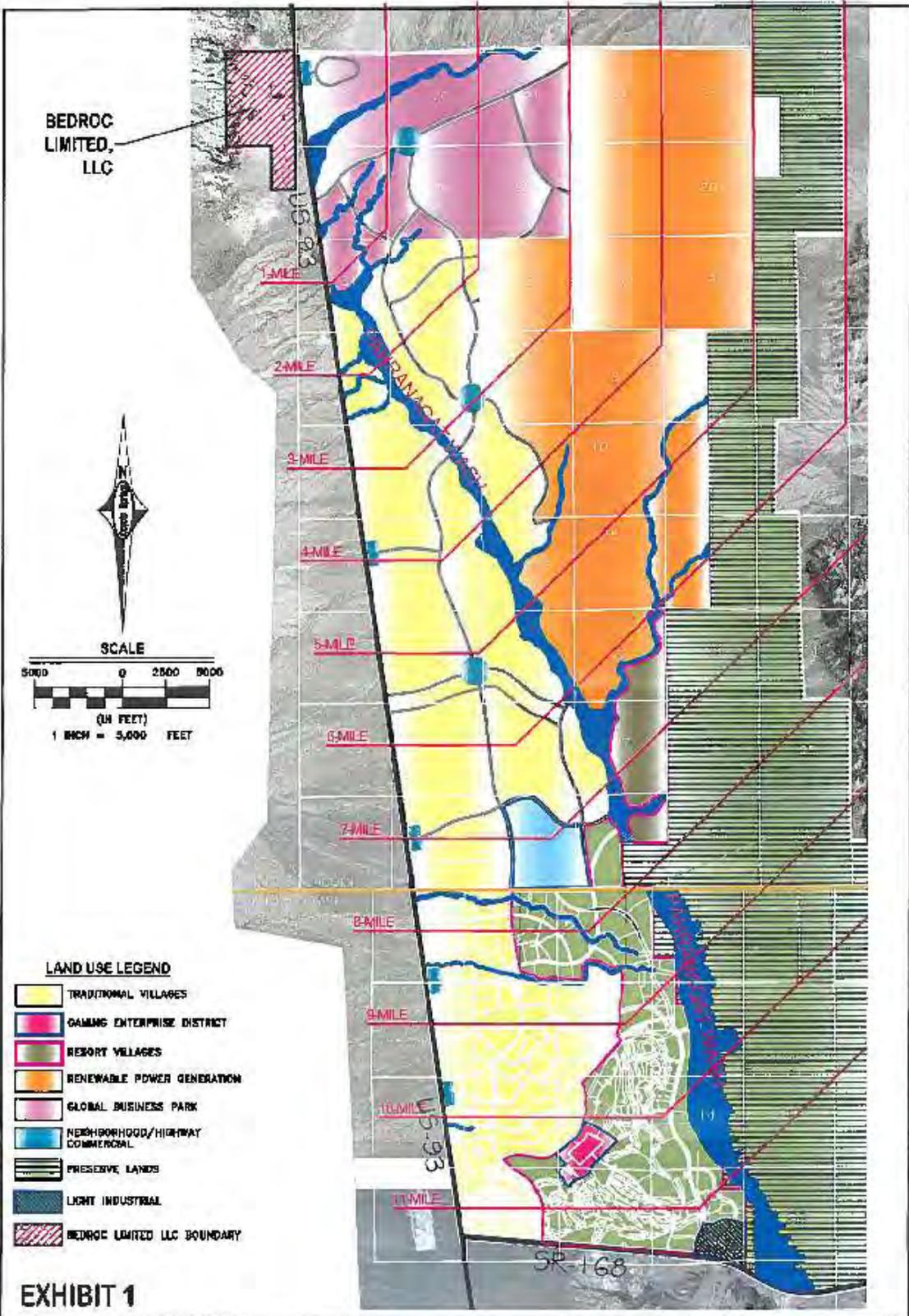
- d. Oral comments made at the July 7, 2014 public hearing by Doug Lamoreaux (local resident):

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.

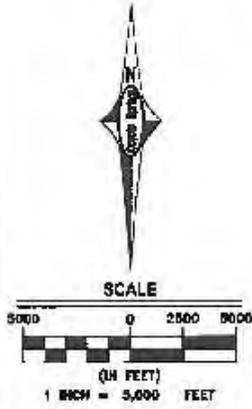
NDEP Response

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



BEDROC LIMITED, LLC



- LAND USE LEGEND**
- TRADITIONAL VILLAGES
 - GAMING ENTERPRISE DISTRICT
 - RESORT VILLAGES
 - RENEWABLE POWER GENERATION
 - GLOBAL BUSINESS PARK
 - NEIGHBORHOOD/HIGHWAY COMMERCIAL
 - PRESERVE LANDS
 - LIGHT INDUSTRIAL
 - BEDROC LIMITED LLC BOUNDARY

EXHIBIT 1

SHEET 1 OF 1	COYOTE SPRINGS MASTER PLANNED COMMUNITY	COYOTE SPRINGS INVESTMENT, LLC 3100 State Route 168 Coyote Springs, Nevada 89037 (702) 422-1400 (702) 422-1419 Fax
	LINCOLN COUNTY & CLARK COUNTY LAND PLAN	

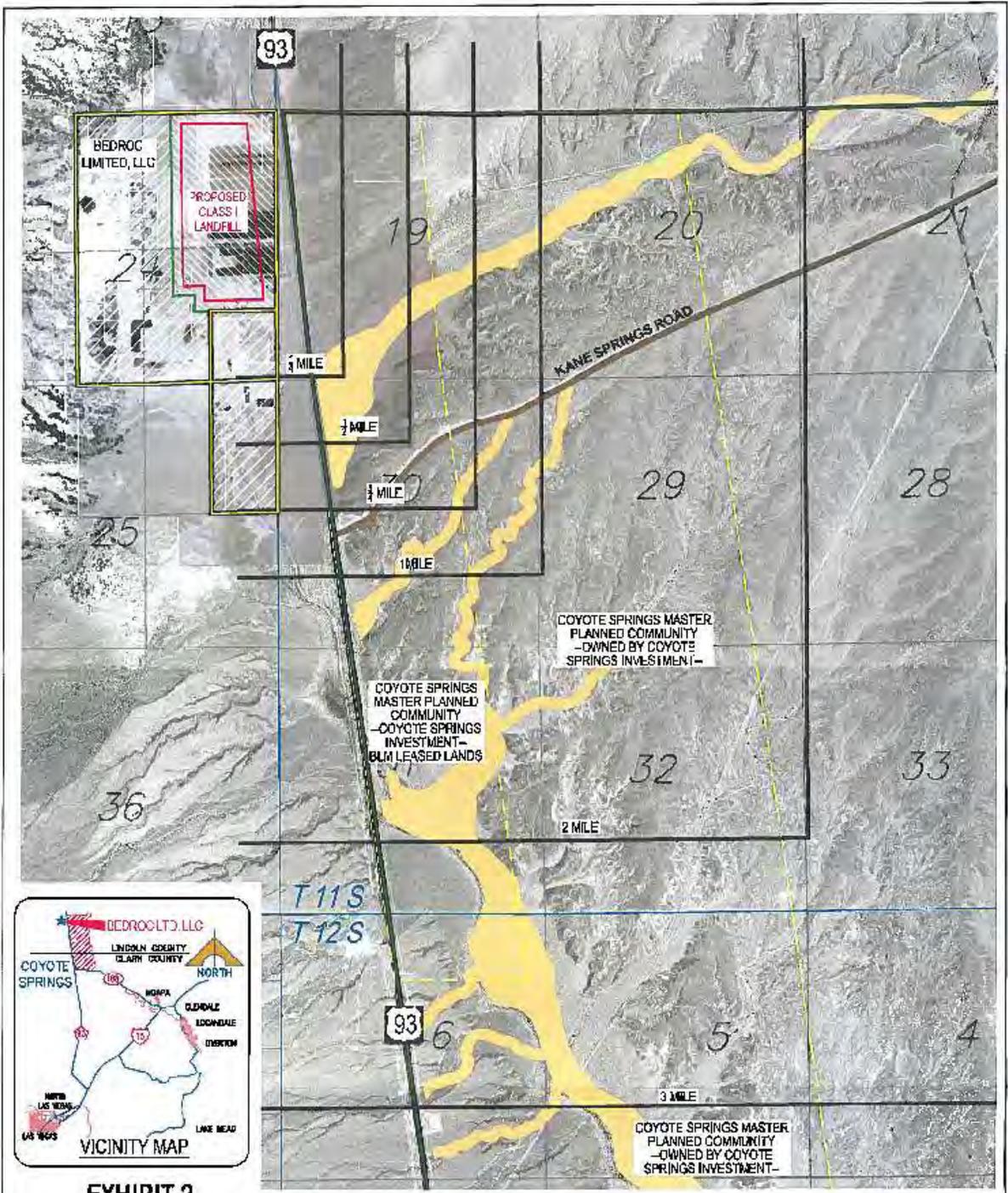


EXHIBIT 2

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: DRAWN BY: TR CHECKED BY: BNC/DC JOB NO.: SCALE: NTS DATE: 07/10/2014		REVISIONS														
	BEDROC LIMITED, LLC		<table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DATE	BY													
NO.	DATE	BY																	

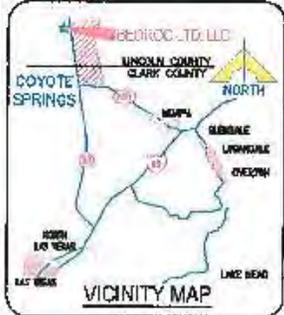
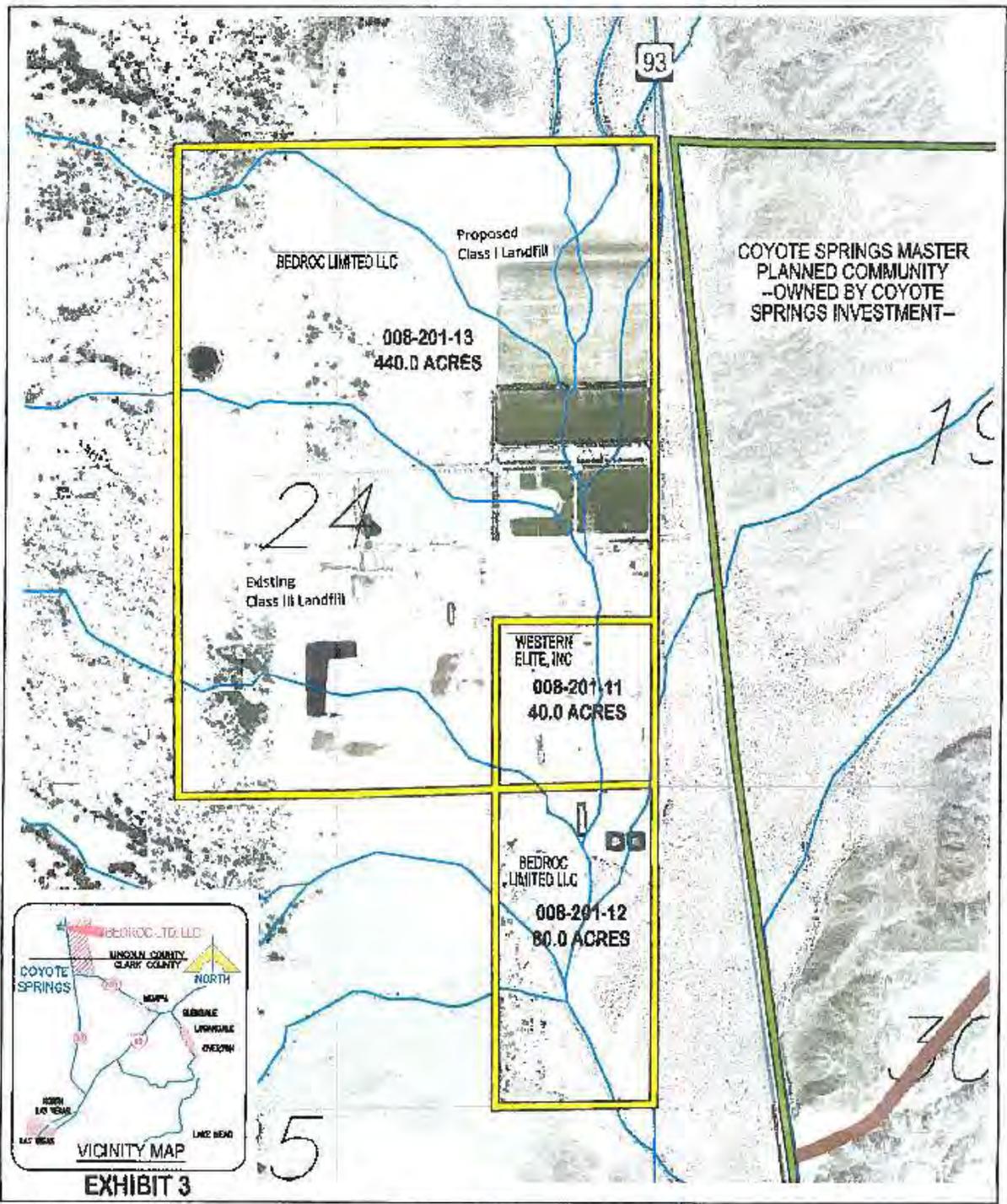


EXHIBIT 3

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

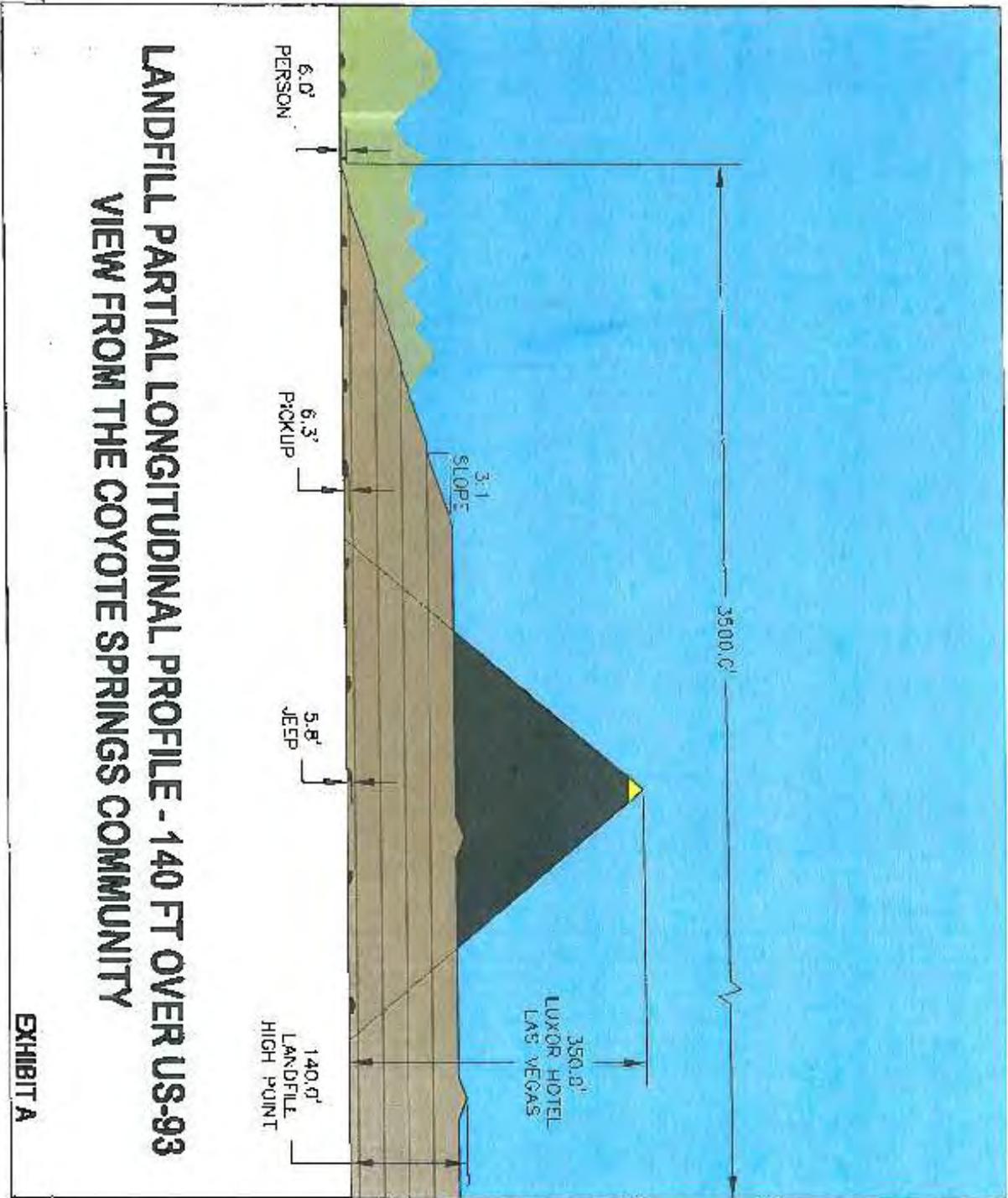
Page # 1

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:

PROJECT NO.	1X
DATE	02/20
JOB NO.	
SCALE	H 1"
DATE	07/20/2011

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 Peckel Street Las Vegas, Nevada 89119
	GES

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 .