

**Attachment E**  
**Comments and Responses to Public Comments Table**

Total	Comment Summary	Response	Letter (L) and Comment (C) Numbers
1	The commenters express support for the Project's separation of mine traffic from public traffic and the Project's safety improvements.	Comment noted.	L1-C1, L2-C1, L3-C1, L6-C1, L7-C1
2	The commenter expresses general support for the Project.	Comment noted.	L4-C1, L5-C1
3	The commenter expresses concern with the Draft EA and states that the document violates the National Environmental Protect Act (NEPA) and the Federal Land Policy and Management Act (FLPMA), should be rescinded, an Environmental Impact Statement (EIS) should be prepared, and all comments should be addressed before the Project moves forward.	<p>As described in Section 7.1 of the BLM NEPA Handbook (H-1790-1), one of the purposes of an environmental assessment (EA) is to determine whether a project would have "significant effects" as defined in 40 CFR 1508.27. The term "significant" relies on the <i>context</i> and <i>intensity</i> of a project. The Revised Draft EA provides the analysis that supports the conclusion that this proposed ROW amendment would have "less than significant effects." Along with the Revised Draft EA, the BLM has now published a "draft" Finding of No Significant Impact (FONSI) (see Attachment F). The basis for the draft FONSI is the following considerations:</p> <p><i>Context</i> –modern mining operations, consisting open pit mining, haul road construction, modification, and use, and processing mined material have been occurring in the Project Area since at least 1978, in addition to those mining activities of earlier historic periods. As detailed in Section 5.2.1 of the Revised Draft EA, there have been the following modern mining operations in the Project Area since 1978:</p> <ul style="list-style-type: none"> <li>• In 1977, the Houston Oil and Minerals Corp. (HOM) acquired the New York Mine. In 1978 work occurred to reopen access to the underground workings. HOM acquired the leases on all of the Gold Hill properties held by the Union Pacific Railroad and later by Minerals Engineering Co. In July 1978, HOM announced that operations at the Imperial Mine in Gold Hill would begin. Ore would be processed at a newly constructed 1,000-ton processing facility (known as the "Comstock Mill") in American Flat. The mill site (approximately five acres) consisted of a secondary crusher, agitator pond and eight other buildings. HOM constructed the American Flat Road between State Route 342 and their site (just east of Comstock Mining LLC's existing heap-leach processing facility), including the ancillary road to the south of the existing road, in 1978 as a part of their operations. In February 1980, massive rock slides occurred in the high wall of the open pit, causing excavation to be suspended. To continue to operate, the pit would have to be expanded east and State Route 342 would have to be relocated. Although these activities were approved by the Storey County Planning Commission, in February 1981 the plans were abandoned;</li> <li>• In early 1983, United Mining Corp. obtained the HOM holdings (the Comstock Mill and mining claims NMC 189979, NCM 10291, NCM 15110-15115) and restarted mining operations at the New Savage Mine. In April 1985, stating that the mill was operating at a loss because of the drop in gold and silver prices, United Mining Corps closed its operations (Smith, 1998). Between August and October 2006, the abandoned HOM structures were removed from public lands and the former tailings impoundment was reclaimed by El Paso Corp. Concrete, scrap metal, glass, plastic, etc. were buried on site;</li> <li>• On July 8, 1991, the BLM approved an environmental assessment for a Plan of Operations for Oliver Hills Mining Company (NVN 069300, N37-89-008P). The Plan was for the Billie the Kid and Lucerne Cut Project. The project included the removal of mined material from the Billie the Kid Pit, with waste rock placed into the Lucerne Cut Pit, and ore would be processed at the Haywood Process Facility in Moundhouse, Nevada. The project also included the construction and widening of an existing haul road (the existing haul road that is in use by Comstock Mining, LLC) (BLM, 1991);</li> <li>• In 1998 under Notice (N30-98-020N, reassigned as N 70048 in 2002) Plum Mining Co., LLC began to conduct exploration activities (18 drill holes) on public lands proximal to the unpatented mining claims in the Billie the Kid pit (NMC 108773) and Hartford-Lucerne Fractions (NMC 41460 and NMC 416042) . The Notice N 70048 was amended in January and September 1999 for the development of a small open pit mine on the Billie the Kid mining claim . The amendments included the construction of haul road segments, one that would cross through Lot 51 (now considered a "bypass road," different than the haul road currently used by Comstock Mining, LLC) and tie into the HOM road and American Flat Road under ROW N 56178. The haul road through Lot 51 was constructed by Plum</li> </ul>	L9-C1, L9-C2, L9-C3, L9-C42, L11-C28, L12-C16, L13-C10

Total	Comment Summary	Response	Letter (L) and Comment (C) Numbers
		<p>Mining Co., LLC in 1999 under Notice N30-98-020N;</p> <ul style="list-style-type: none"> <li>• In January 2001, Plum Mining Co., LLC notified the BLM of its intent to conduct exploration activities on public lands under Notice (N 74191) in T16N R21E, Section 5;</li> <li>• In November 2003, GoldSpring Inc. acquired Plum Mining Co., LLC and the "Billie the Kid Project," which included the Billie the Kid, Lucerne and Hartford Pits, as well as a 40-acre private land parcel in American Flat. In November 2003, Plum Mining Co., LLC began construction of the heap-leach processing facility in American Flat and improved the existing haul road through Lot 51 leading to the Lucerne and Hartford Pits;</li> <li>• On February 23, 2004, Plum Mining Co., LLC filed an application to install an above ground temporary, four-inch water pipeline from an existing well (on public land), to Plum Mining Co., LLC's new heap leach processing facility being constructed on nearby on private lands (located in T16N R21E, Section 6, the site of Comstock Mining, LLC's existing processing facility). On March 23, 2004, the BLM issued a categorical exclusion for the ROW, and on April 15, 2004, the amended ROW grant (N 78108) was issued for the water pipeline and well. The grant for the water pipeline was for six months and the well for 30 years. The ROW for the water pipeline expired on October 15, 2004. The heap leach facility was constructed during the summer of 2004. At the same time, Plum Mining Co., LLC requested a modification to their existing Storey County Special Use Permit (SUP) to include year round processing in American Flat, and year-round mining in the Lucerne pit, in addition to their on-going mining in the Billie the Kid pit;</li> <li>• On November 20, 2008, and amended on December 11, 2008, GoldSpring Inc. filed an exploration Notice (NVN 086559), after-the-fact, with the BLM for 29 drill holes and 21 drill pads in T16N R21E, Sections 5 and 8. These areas are on public land adjacent to, and east of State Route 342. The Notice would cover exploration between April 2008 and November 2010. Late in 2008 the BLM determined that the Notice was incomplete. During a compliance inspection in September 2010, the BLM determined that exploration was no longer occurring, however all surface reclamation activities had not been completed. A total of 2.57 acres of surface disturbance occurred on public land. In 2010 GoldSpring Inc. changed its name through a merger acquisition of Comstock Mining Inc., a wholly owned subsidiary; and</li> <li>• On July 6, 2012, the BLM issued a ROW for Comstock Mining LLC's use of the American Flat Road under ROW NVN 091237. Under this ROW, Comstock Mining, LLC was been able to haul mined ore from the Lucerne pit to their heap-leach processing facility in American Flat. From July 2012 until February 2013, haul trucks transported material from the Lucerne pit north on State Route 342 onto the American Flat Road, then west to Comstock Mining LLC's existing heap-leach processing facility in American Flat.</li> </ul> <p><i>Intensity</i> – the Proposed Action would consist of haul road modification and use. Details of resources potentially affected by these activities are described in the Revised Draft EA. As a result of haul road modification, eight historic sites would be adversely affected by the Project. To resolve (i.e., “mitigate”) potential adverse effects to eight historic properties from the Project, the BLM, the SHPO, and other consulting parties have prepared a draft Memorandum of Agreement (see Attachment D). Through execution of the MOA, the BLM will have mitigated any potential significant effects to historic sites in the Project Area.</p> <p>On the basis of the project’s effects as included in the Revised Draft EA, and in consideration of their context and intensity, the BLM has preliminarily determined that there would be no significant effects from the ROW amendment (see Attachment F).</p>	

4	<p>The commenter expresses concern that the current right-of-way (ROW) issued in 2012 and renewed in 2014 violates NEPA in that they do not meet the criteria for a Categorical Exclusion (CX). The commenter states that the ROW approvals did not meet the “extraordinary circumstances” test since the BLM knew longer term use of the road was needed and that the use of the road is directly related to the operation of the mine pit and processing facility. The commenter expressed concern that the BLM used the CX process to piecemeal its review and approval of the ROW, and to exclude public comment.</p>	<p>On June 28, 2012, the BLM issued a categorical exclusion to support ROW NVN 091237 issued to Comstock Mining, LLC on July 6, 2012. The BLM relied upon 516 DM 11.9 Appendix 4-152, Realty (E) (16) which states, “Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for use of existing facilities, improvements, or sites for the same or similar purposes.” See response to comment #3. The BLM determined that this action could be categorically excluded from NEPA. In making this determination, the BLM concluded that the ROW would have no adverse effects to historic properties.</p> <p>The ROW was issued for an existing road (the American Flat Road). As described in Section 5.2.1, a number of mining operations have occurred in the area. These operations consisted of open pit mining, haul road construction, modification and use, and delivery of mined material to processing facilities on and off-site. See response to comment #3.</p> <p>The BLM evaluated all extraordinary circumstances and determined that no significant effects would occur from the authorization of the ROW. The term of the original ROW was until December 31, 2014. As stated in the categorical exclusion worksheet, “This would be a standard FLPMA 3-year authorization with the right to renew at the Authorized Officer’s discretion.” ROWs issued under FLPLMA can be issued for up to 30-year intervals.</p> <p>When it became apparent that the BLM would be unable to complete processing the ROW amendment by December 31, 2014, the BLM issued a new categorical exclusion and on October 6, 2014, renewed the ROW until December 31, 2017. The BLM relied upon 516 DM 11.9 Appendix 4-152, Realty (E) (9) which states, “Renewals and assignments of leases, permits, or other rights-of-way where no additional rights are conveyed beyond those granted in the original authorizations.” The BLM determined that this action could be categorically excluded from NEPA. As in the case of the original categorical exclusion, the BLM determined that the ROW renewal would have no adverse effects to historic properties.</p> <p>The BLM was able to use this category because no new rights beyond those previously granted, and no new modifications to existing roads would be permitted. The BLM adhered to current policies in approving ROW NVN 091237 in 2012 and renewing the ROW with no changes in 2014. As described in Section 5.2.1, under previous Notices and rights-of-ways granted by the BLM, construction, modification, and use of haul roads in the American Flat, Lucerne and Billie the Kid, and Hartford pit areas had occurred since at least 1978. Road construction, modification and use occurred by HOM between 1978 and 1980, United Mining Corp. in 1983, and Plum Mining LLC. Between 1998 and 2003, to name a few examples. The existing haul road through Lot 51 on the Lucerne Haul Road was constructed by Plum Mining Co., LLC in 1999 under a Notice.</p> <p>As stated in Section 5.2.1, mining and exploration activities were not under the regulatory purview of the BLM until 1981. Between 1981 and 2001 mining was allowed under a Notice. Notice-level activities were and continue to be activities that are not “major federal actions” under the NEPA, nor are they an “undertaking” under the NHPA.</p> <p>The BLM did not piecemeal its review of the ROW. In 2012 and 2014, the BLM authorized the interim use of existing facilities and improvements for a similar purpose as stated above. The BLM did not authorize any new ground-disturbing activities in 2012 or 2014. The proposed Project is much different than that applied for and authorized under ROW NVN 01237 in 2012 and 2014. For example, the term of the grant would be for much longer, likely 30-years, and would involve substantial ground-disturbing activity and the exclusive use of part of the ROW. Due to the nature of the proposed Project, the BLM determined that an environmental assessment must be prepared to determine if the proposed Project would significantly affect the quality of the human environment.</p>	L9-C4a
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<p>5</p>	<p>The commenter expresses concern that an exclusive-use haul road would not be necessary if not for the mine, so it is a connected action. This extraordinary circumstance should have excluded the ROW from being analyzed as a CX. The comments expresses concern that the BLM uses the 2012 and 2014 approvals as justification for not preparing an EIS and conducting the limited scope of review in the Draft EA.</p>	<p>The existing mining operation by Comstock Mining, LLC consists of an “open pit” mine in the Lucerne pit, a heap-leach processing facility, and a haul road connecting the two. The mine and heap-leach processing facility are located entirely on private lands owned by Comstock Mining LLC. The existing haul road partially crosses public and private lands. As detailed in Section 5.2.1 and Figure 20, there are a number of land tenure issues in the Project Area:</p> <ul style="list-style-type: none"> <li>• In 2013, the BLM Nevada State Cadastral confirmed the White House town lots were patented in December 1872 and February 1873, respectively (Figure 20). Approximately 297 feet of the American Flat Road crosses through the White House town lots. During a case file review, the BLM was unable to locate these patents in the Public Land Survey System (PLSS). According to the BLM Nevada State Cadastral, the townsite that encompasses the patents is not tied to the PLSS. It is likely that the patents were originally intended to be in Section 5; however, they could be partially in Section 6 (Morlan, 2012). Therefore, the location of the patents on the ground cannot be verified until a Cadastral survey is completed. In 2013, the BLM initiated the processing of the Cadastral survey to confirm the location of the White House patents. As the BLM has already verified the existence of the patents, no further action would be needed by the BLM once the Cadastral survey is completed. In 2014 Comstock Mining, LLC renovated the White House and uses it for administrative purposes;</li> <li>• On February 13, 2013, the BLM Nevada State Office allowed Comstock Mining, LLC's Class I Color of Title (COT) claim to proceed for Lot 51, which is located at the intersection of the American Flat Road and Lucerne Haul Road (Figure 20 of the Revised Draft EA). The result of the COT claim determination allowed for the removal of haul trucks from State Route 342 and Comstock Mining LLC's use on the non-exclusive Lucerne Haul Road through Lot 51. Approximately 1,485 feet of the American Flat Road and 860 feet of the Lucerne Haul Road are within Lot 51. A cadastral survey of Lot 51 is in-progress. A Class I COT claim is non-discretionary. Upon the conclusion of the survey, the BLM would proceed with the appraisal of the fair market value for the 25-acre parcel, then issue a patent to Comstock Mining, LLC;</li> <li>• On December 19, 2014 the National Defense Authorization Act for Fiscal Year 2015 (Act) was signed into law (Public Law [PL] 113-291). Included in this Act is Section 3009 (d), a provision affecting public lands managed by the BLM. Under Section 3009 (d) (3) the BLM shall convey to Storey County through a "quitclaim deed" all surface rights of the U.S. in and to the federal land within the conveyance boundary. The boundary of this conveyance area includes approximately 1,745 acres of public lands in Gold Hill and Virginia City (Figure 20 of the Revised Draft EA). The conveyance of lands by quitclaim deed would be subject to valid existing rights. The southern portion of this conveyance area includes the northern portion (approximately 2,435 feet) of the American Flat Road, between Lot 51 and State Route 342. The timeframe for this conveyance is unknown, although Congress expressed a sense that the conveyance should be completed in 18-months (June 19, 2016).</li> </ul> <p>Under NEPA, a federal agency must consider “connected actions” in their analysis of a project. Connected action means that the actions are closely related; and therefore, should be discussed in the same environmental document (40 Code of Federal Regulations [CFR] 1508.25 (a)(1)). Actions are connected if they:</p> <ul style="list-style-type: none"> <li>• Automatically trigger other actions which require environmental clearance;</li> <li>• Cannot or will not proceed unless other actions are taken previously or simultaneously; or</li> <li>• Are interdependent parts of a larger action and depend on the larger action for their justification.</li> </ul> <p>Generally, in the Ninth Circuit, the courts have adopted an “independent utility” or “but for” test to determine if actions are connected. <i>See, e.g., Thomas v. Peterson</i>, 753 F.2d 758 (9<sup>th</sup> Cir. 1985) (concluding that "the timber sales cannot proceed without the road, and the road would not be built but for the contemplated timber sales").</p>	<p>L9-C4b, L9-C7, L9-C20</p>
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5 cont'd		<p>In this case, the proposed Project would include the construction, maintenance, and use of the existing American Flat Road as well as the existing Lucerne Haul Road between Comstock Mining, LLC's existing Lucerne Pit mining operation and the existing processing facility. The exclusive-use haul road would not be necessary if not for the mine and mining operations, but mining operations could continue without the existing ROW or proposed ROW amendment. Comstock Mining, LLC, proposed to the BLM a Non-Federal Alternative in the draft POD (Attachment C and detailed in Section 2.2.2). As part of the NEPA process for the proposed Project, the Non-Federal Alternative has been described in detail and analyzed. The Non-Federal Alternative includes the construction of a new processing facility located on private land in Section 16, T16N, R21E, in Lyon County (Figure 11). Under this alternative, Comstock Mining, LLC would haul ore from the Lucerne Pit on private land to the new processing facility by traveling south on State Route 341/342. The processing facility would consist of the same features as the existing facility located on private land in Section 6, T16N, R21E, which is currently utilized by Comstock Mining, LLC for processing.</p> <p>Implementation of the Non-Federal Alternative proposed by Comstock Mining, LLC, would allow the current operations at the mine and the continued processing of mined material to proceed without any BLM action on the proposed Project. Thus, unlike the case in <i>Peterson</i>, the mining operations could continue without the ROW amendment and, thus, have independent utility such that they are not considered a connected action to the proposed Project. For that reason, impacts of the mine and processing facility are not included in the analysis of the proposed Project's direct and indirect impacts. Rather, they have been disclosed as a cumulative project. As described in Section 4.0, implementation by Comstock Mining, LLC of the Non-Federal Alternative would likely result in adverse impacts greater in scale than those described in the Proposed Action.</p> <p>Because the operation of the mine operation and heap-leach processing facility have independent utility and are not connected to the proposed Project, the BLM has properly disclosed the effects from these activities in Section 5.2.1 and 5.2.2 of cumulative effects. The BLM cannot prevent or modify Comstock Mining LLC's activities on private lands because there is a reasonable non-federal alternative. The Revised Draft EA has been revised to clarify that Comstock Mining, LLC's mining operations are considered and disclosed as a cumulative project.</p>	
6	The commenter expresses concern that the mine and processing of mined materials should be considered connected to the Proposed Action, but the Draft EA does not analyze those impacts. The commenter requests that the analysis of the connected action should be included even with the analysis of the Non-Federal Alternative.	See response to comment #5.	L9-C5a, L9-C7, L9-C8, L9-C9
7	The commenter expresses concern that by not considering the connected impacts from the mine and mill, the Draft EA violates FLPMA by not including an analysis of all federal land affected by approval of the ROW.	See response to comment #5.	L9-C5b
8	The commenter expresses concern that the Project violates FLPMA because it does not make a case that the ROW amendment protects the public interest.	For this Project, the Authorized Officer has properly considered the protection of the public interest in accordance with the multiple-use mandate of FLPMA and the CRMP. The CRMP does not identify lands within the Project Area as avoidance or exclusion areas from lands and realty actions (nor for mining related activities). At the time the CRMP was issued in 2001, the BLM had considered the earlier designation of the National Historic Landmark in 1961; the designation of the NHL did not cause changes to the BLM's mission in accordance with FLPMA's multiple land use mandate or the CRMP in the Project Area.	L9-C4b, L9-C5b
9	The commenter expresses concern that the Draft EA violates NEPA because the BLM did not prepare a "detailed statement" assessing the environmental impacts of the Project.	See response to comment #3.	L9-C6
10	The commenter expresses concern that the Draft EA references approved permits rather than analyzing the cumulative impacts of the mining and milling activities on private land.	Analysis in the Revised Draft EA is both qualitative and quantitative, quantification is included when information is available to the public (in the case of non-federal activities). The BLM has revised the cumulative impacts sections to include the acreages of activities that are analyzed including Comstock Mining, LLC's activities on private land. These acreages are included in the text of each resource section as well as in Table 5-2.	L9-C10
11	The commenter expresses concern that the Draft EA should not dismiss cumulative impacts from the mining and milling activities on private land just because the activities are not subject to BLM approval.	See response to comment #10.	L9-C11, L9-C13
12	The commenter expresses concern that the cumulative analysis includes acreages but lacks supporting analysis.	See response to comment #10.	L9-C12
13	The commenters express concern that the Non-Federal Alternative is not fully described and analyzed in the Draft EA, and questions whether it includes ore hauling or is limited to activities on the road and facility.	Section 2.2.2 has been revised to include reference to State Route 342 and 341 as well as to clarify the area analyzed for this alternative. The following text has also been added to Section 2.2.2, "The area analyzed for this alternative includes potential impacts from mine-related traffic along the existing pavement corridor of State Route 341/342, construction and operations on the 41-acre area on private land, and construction and use of the Access to the Non-Federal Alternative Road (Figure 11)."	L9-C14, L11-C2, L11-C6, L11-C9, L11-C10, L11-C29

14	The commenter expresses concern that the Draft EA references approved permits rather than analyzing the water and air quality impacts of the Non-Federal Alternative's activities on private land.	The following text has been added to Section 3.1.3, "Comstock Mining, LLC would operate approximately 118 trucks per day (round trips per day) from the Lucerne Pit to the proposed processing facility." In Section 4.1.3 the BLM has analyzed the potential effects to air quality from the Non-Federal Alternative to the extent possible. In Section 4.6.3 the BLM has analyzed the potential effects to water quality from the Non-Federal Alternative to the extent possible..	L9-C15
15	The commenter expresses concern that the Draft EA does not describe the baseline conditions of the connected mine, mill, and other facility areas which violates FLPMA and eliminates the public's ability to participate in the NEPA and FLPMA processes.	The BLM has reconsidered its determination since the Draft EA. The ongoing open pit mine operation and heap-leach processing facility are not connected to the proposed Project. The operations of those facilities have been considered and disclosed as cumulative effects. See response to comment #5.	L9-C16, L9-C19
16	The commenter expresses concern that ground water quality is not described in the Draft EA, although the mine and mill have the potential to affect this resource.	Section 5.8 has been revised to include the following text, "With the depth of groundwater at approximately 100 feet below the surface, no impacts to ground water are expected from the Project. Past, present, and RFFAs particularly from mining could have impacts to ground water quality if water were encountered; however, the Lucerne and Billie the Kid pits have not encountered groundwater and are not expected to (BLM, 1991)."	L9-C17
17	The comment requests the BLM include a map illustrating NDOW's mule deer winter habitat located 3.5 miles from the Project and an analysis of migration routes and conditions in and around mining operations.	As stated in the Revised Draft EA, data from the NDOW identifies year round habitat in the Project Area. There are no impacts expected to migration routes from the Project or alternatives analyzed in the Revised Draft EA. The BLM would note that the NDOW commented on the Draft EA and did not identify this issue as a concern of theirs.	L9-C18
18	The commenter expresses concern that since the Draft EA is inadequate (lacks baseline conditions and cumulative impacts from the mine and mill, and other NEPA requirements) the BLM cannot legally issue a FONSI.	See responses to comments #3, 5 and 15.	L9-C21, L9-C22, L9-C40, L9-C41
19	The commenter expresses concern that the BLM does not justify the size of the Area of Potential Effects (APE) for the impacts analysis, and the APE is not large enough to encompass all the effects from the Proposed Action.	The Area of Potential Effect (APE) was established through BLM and SHPO consultation. The public was afforded the opportunity to comment on the Direct/Indirect Effects and Viewshed APEs during public scoping of the Project in January/February 2013 as described in Section 1.3.	L9-C23
20	The commenter expresses concern that the APE does not consider the potential impacts of the Project to the National Historic Landmark (NHL) as a whole and that the boundary of the Virginia City National Landmark Historic District (VCNLHD) should be used as the APE.	The Area of Potential Effect was established through BLM and SHPO consultation. The public was afforded the opportunity to comment on the Direct/Indirect Effects and Viewshed APEs during public scoping of the Project in January/February 2013 as described in Section 1.3. Each cultural resource recorded within the Area of Potential Effect was evaluated as an element of the Virginia City Historic District.	L9-C24
21	The commenter expresses concern that the analysis for visual resources in the Draft EA relies on the 2001 Resource Management Plan (RMP) which inadequately characterized concerns for the visual resources of the VCNLHD.	The Project Area lies in VRM Class IV as depicted in Figure 19. VRM Class IV allows for the greatest changes to the visual character of the landscape. A land and realty authorization for a haul road is consistent with VRM Class IV.	L9-C25a
22	The Draft EA does not address visual resources in a comprehensive fashion, and a Historic American Land Survey (HALS) survey should be completed.	A Historic American Land Survey is a mitigation strategy used to mitigate adverse effects to landscape resources. As the impacts from the project to cultural resources have been determined to be "less than significant" with the execution of the MOA, a Historic American Land Survey is not within the scope of the Project.	L9-C25b, L12-C8
23	The commenter expresses concern that the Project lies within a Class III visual landscape and should be managed to achieve Class III standards.	See response to comment #21.	L9-C26, L12-C9
24	The commenter expresses concern about the timing of the use and reclamation of the ROW and its relationship to the mine's operational timeline. The commenter requests that the Draft EA clarify the operational and reclamation timeline of the ROW and mine.	As stated in Section 5.2.1, "The current SUP is effective for a period of ten years and authorizes up to 120 acres of disturbance for active mining (including surface and underground mining) at any given time."	L9-C27
25	The commenter requests additional detail on the effects the ancillary road alternative would have on sensitive resources, as well as a comparison of this alternative to other alternatives analyzed in the Draft EA.	In the initial Project design, the BLM reviewed whether this resource (a historic site) would be affected by the Project. The BLM does not describe in detail nor disclose the location of historic sites. Since then, the BLM and SHPO have determined that this site would potentially be adversely affected by the Project and the site has been included in the draft MOA.	L9-C28
26	The commenter expresses concern that the Draft EA's analysis of the use of cyanide in the Non-Federal Alternative is not consistent across resources for this alternative, and by not including impacts from cyanide under the Proposed Action, the analysis makes the Non-Federal Alternative appear to have greater environmental consequences.	Impacts to migratory birds from processing solution on heap-leach pads have been added in the Revised Draft EA in Section 4.4.3. Section 4.14 and Table 4-1 have been added to compare the impacts from the three alternatives analyzed in the EA.	L9-C29
27	The commenter expresses concern that the Project Area lies within the VCNLHD which is listed as "endangered" by the National Park Service (NPS) largely because of surface mining activities, and the impacts from the EA should review and consider impacts to the entire District.	The commenter refers to the 1988 Barker report submitted to the NPS in response to surface mining activities by the Houston Oil and Minerals Company (see Section 5.2.1). This report was never finalized. The BLM disagrees with the assertions made by the commentator that the preliminary findings in the Barker report are applicable to today's circumstances. The Area of Potential Effect was established through BLM and SHPO consultation. The public was afforded the opportunity to comment on the Direct/Indirect Effects and Viewshed APEs during public scoping of the Project in January/February 2013 as described in Section 1.3.	L9-C30, L12-C1, L12-C6, L13-C3

28	The commenter is concerned the Proposed Action would allow for expansion of mining activity and result in impacts to a National Historic Landmark that is not consistent with NEPA and the National Historic Preservation Act.	Both the National Environmental Policy Act and National Historic Preservation Act are procedural laws. Neither law prohibits impacts to resources. As procedural laws, a federal agency is required to “look before you leap.” Also see response to comment #20.	L9-C31a, L12-C3a
29	The Draft EA should identify impacts to the District to ensure compliance with the RMP and FLPMA.	See response to comment #8.	L9-C31b, L12-C3b
30	The commenter is concerned that because the Project is located on steep slopes, impacts from the Proposed Action to the historic landscape would be significant and truncate the District.	Comment noted. The 500-foot Direct/Indirect Effects APE corridor width (described in Section 3.0) takes into consideration the movement of sediments downslope during ground disturbing activities.	L9-C32, L12-C12
31	The commenter is concerned that the Draft EA’s conclusions that:  1) historic mining activities were essentially modern in character; and  2) open pit mining does not detract from the historic integrity of contributing properties within the District are not consistent with the NPS’s analysis which states the District is actually threatened by these activities. The commenter states the analysis of visual impacts from the Project should describe current conditions.	1) this was already discussed and supported in the Revised Draft EA Section 4.2.1.2; and  2) the NPS (Barker, 1988 <sup>1</sup> ) condition report provides an assessment of the conditions at the time of the report, as well as recommendations for future management. The BLM’s current analysis is consistent with the recommendations in the NPS condition report, including detailed documentation, synthesis of research, and evaluation of resources as contributing elements of the District. The BLM’s analysis of the Project under NEPA and NHPA is also consistent with the recommendations of the NPS report.	L9-C33, L10-C1, L10-C2, L13-C4, L13-C6
32	The commenter expresses concern that a Cultural Landscape Report has not been prepared, and recommends that one be prepared and included in an EIS.	A Cultural Landscape Report is a management document for cultural landscapes and is used to guide preservation efforts. As the impacts from the project to cultural resources would be resolved through the execution of an MOA, a Cultural Landscape Report is not within the scope of the Project.	L9-C34
33	The commenter recommends the BLM explore the potential of inviting the NPS to initiate a “Planning, Environment & Public Comment” (PEPC) for the VCLHD.	According to <a href="http://parkplanning.nps.gov/links.cfm">http://parkplanning.nps.gov/links.cfm</a> , the Planning, Environment and Public Comment (PEPC) program provides the National Park Service with information technology tools for efficient park planning and resource compliance, project tracking, and public engagement to support collaboration and informed decision making. As such the PEPC is not applicable to the BLM in considering land and realty authorizations.	L9-C35, L12-C17
34	The commenter expresses concern that the Draft EA only references Section 106 of the NHPA and should also reference Section 110 which relates to National Landmarks.	To address the determination of adverse effect to historic properties that was derived through BLM and SHPO consultation, the BLM initiated the development of a Memorandum of Agreement (MOA). The BLM invited the Advisory Council on Historic Preservation (ACHP) to comment on the Undertaking and participate in the development of a MOA to address the determination of adverse effects to historic properties by the Undertaking. The ACHP elected to participate in the development of a MOA for the Undertaking. This fulfills the BLM’s obligation under (Section 110) 54 USC 306107. Section 110 of the NHPA directs federal agencies to undertake planning to minimize harm to NHLs and to consult with the ACHP when a NHL is involved.  The following text has been added to Section 1.4 of the Revised Draft EA, “The BLM initiated consultation with the ACHP and NPS on August 14, 2014, under the provisions of Section 110 of the NHPA. However, the NPS is not participating in this Project.”	L9-C36, L12-C4
35	The commenter requests that the NEPA document also consider and follow Section 9(a) of the National Parks Act of 1976, Section 8 of the National Park System General Authorities Act of 1976, and the National Historic Landmark program at 36 CFR 65.	The Proposed Action is a ROW amendment and not an application to conduct mining operations on public lands. Section 9(a) of the National Parks Act of 1976, Section 8 of the National Park System General Authorities Act of 1976, and the National Historic Landmark program at 36 CFR 65 are not applicable to the Project. The Project is not an application to conduct mining and the impacts from the project to cultural resources would be resolved through execution of an MOA.	L9-C37, L12-C5
36	The commenter expresses concern that the Non-Federal Alternative is not a viable alternative because it is not financially feasible, and requests that the BLM include a discussion of the financial feasibility of the alternative in the NEPA document.	According to the Council on Environmental Quality, a “reasonable” alternative is one that is ‘technically’ and ‘economically’ feasible. Comstock Mining, LLC owns property in Spring Valley, the site depicted in Figure 11. A heap-leach processing facility could be constructed on this site. Comstock Mining, LLC would need to first obtain any State and local permits in order to construct the facility. These permits do not need to be in place in order for the BLM to consider this a technically feasible alternative.  Whether the expense to obtain local and State permits and zoning, construct a new heap-leach processing facility and transport mined ore on State Route 342 is economically feasible is for the determination of Comstock Mining, LLC and not the BLM. Comstock Mining LLC in their August 2012 draft POD requested consideration of the Non-Federal Alternative.	L9-C38
37	The commenter expresses concern that the Draft EA does not identify Cumulative Effects Study Areas (CESA) for surface and groundwater, and it does not identify whether the biological CESA covers all the wildlife categories as well as soils.	Table 5-1 states that the Biological Resources CESA is for the following resources: noxious, invasive plant species; migratory birds; hazardous and solid wastes; vegetation; general wildlife; special status species (animal); water quality (surface/ground); and soils. Text has been added under each resource in cumulative effects (Chapter 5) to identify the name of the CESA analyzed and refers the reader to Table 5-1.	L9-C39
38	The commenter identified that the spelling of the Project’s email address was incorrect in the Dear Reader letter dated November 6, 2014.	Comment noted. The BLM would ensure that the spelling of the Project’s BLM email address is correct in future notifications.	L11-C1

39	The commenter expresses concern that the description of the Non-Federal Alternative in the Draft EA only mentions SR 342, and should also include the portion of SR 341 between Silver City and the proposed processing facility south of Silver City in Spring Valley.	The Non-Federal Alternative description in the Revised Draft EA now refers to both SR 341 and 342 in Sections 2.2, 4.1.3, 4.3.3, 4.4.3, 4.7.3, 4.8.3, and 4.9.3.	L11-C3
40	The commenter expresses concern about the description of the Non-Federal Alternative and the area analyzed for this alternative. The commenter questions whether SR 341/342 are physically part of the Non-Federal Alternative, the 41-acre parcel, and the Access to the Non-Federal Alternative road?	See response to comment #13.	L11-C4, L11-C7
41	The commenter expresses concern that the Draft EA does not analyze physical and socioeconomic impacts to Silver City from the Non-Federal Alternative's use of the highway and from the proposed processing facility.	Section 2.2.2 has been revised to clarify that impacts from the Non-Federal Alternative would occur in Storey and Lyon counties with use of State Route 341/342, along the proposed access road, and on the proposed processing facility. Section 4.0 has been revised to include analysis of impacts to the community of Silver City located adjacent to the processing facility in the Non-Federal Alternative, where appropriate. For the consideration of socioeconomic resources, the BLM relies on U.S. Census data; no U.S. Census data is available for Silver City.	L11-C5, L11-C12, L11-C25, L11-C26, L11-C27
42	The commenter expresses concern of what constitutes the width of the highway that is analyzed for the Non-Federal Alternative.	See response to comment #13.	L11-C8
43	The commenter expresses concern that traffic-related impacts, including air quality and safety to Silver City, from the Non-Federal Alternative are essentially the same as for the No Action Alternative; however, these impacts are not analyzed in the Draft EA.	See response to comment #41.	L11-C11, L11-C13, L11-C23, L11-C24
44	The commenter expresses concern that the impact and cumulative analysis for air quality under the Non-Federal Alternative does not include impacts from the use of SR 341/342.	See response to comment #41 for revisions to Section 4.1.3. Section 5.3.3 has been revised to clarify that analysis includes emissions from travel along State Route 341/342 under the Non-Federal Alternative.	L11-C14
45	The commenter expresses concern that the Draft EA does not analyze impacts to cultural resources from ore hauling on SR 341/342 even though the road is included in the CESA and APE.	The BLM has revised Section 3.2.3 to include the following statement: "Because there is no undertaking for the Non-Federal Alternative, there is no APE for the Non-Federal Alternative." State Route 342 is only within the Proposed Action APE due to buffering the haul road centerline to 300 feet on each side of the proposed Lucerne Haul Road.	L11-C15
46	The commenter expresses concern about what area is covered by the APE for the Project, whether the inventory for cultural resources within the Project APE included the SR 341/342 elements for the Non-Federal Alternative, and why one portion of SR 342 was analyzed for cultural resources but no analysis was conducted for the portion of SR 341/342 south of the Lucerne pit to the Non-Federal Alternative.	See response to comment #45.	L11-C16
47	The commenter expresses concern that the portion of SR 341/342 from Devil's Gate through Silver City to the Non-Federal Alternative's processing facility is not included in the Cultural Resources Viewshed APE; therefore, analysis of impacts from the Non-Federal Alternative to cultural resources was not comprehensive.	See response to comment #45.	L11-C17
48	The commenter expresses concern that impacts from noxious weeds as a result of ore hauling under the Non-Federal Alternative is not analyzed in the Draft EA.	Section 4.3.3 has been revised to include potential impacts along State Route 341/342 and the access road for the Non-Federal Alternative, as well as potential impacts to Silver City.	L11-C18
49	The commenter expresses concern that impacts to migratory birds, special status species, wildlife, and vegetation as a result of ore hauling under the Non-Federal Alternative are not analyzed in the Draft EA, and only impacts to land use authorization are considered.	Sections 4.4.3 (Migratory Birds), 4.7.3 (Special Status Wildlife), and 4.8.3 (General Wildlife) have been revised to identify mortality to wildlife from haul traffic, and clarify that lack of suitable habitat along the road and observation of posted speed limits would minimize these impacts. No impacts to vegetation are expected in the Non-Federal Alternative from ore hauling traffic on SR 341/342.	L11-C19, L11-C20, L11-C21, L11-C22
50	The commenter expresses concern that Comstock Mining filed the application for this ROW amendment after a notice of trespass was issued by the BLM for unauthorized use of the ROW by Comstock Mining.	The ROW amendment application was submitted to the BLM on July 23, 2012, after the trespass was resolved on July 6, 2012. The ROW amendment application was a condition to the resolution of the trespass.	L12-C2
51	The commenter expresses concern that the Draft EA does not analyze impacts from the Proposed Action to other historic mining features and cemeteries in the existing APE.	All historic properties located within the Direct/Indirect Effects and Viewshed APEs were evaluated for adverse effects from the Project (Spidell et al., 2014).	L12-C7
52	The commenter requests that a process to create a Programmatic Agreement (PA) or Memorandum of Agreement (MOA) be initiated for the Project to guide the effects analysis and development of mitigation.	As described in Section 2.1.7.3, a Draft MOA has been prepared in coordination with the stakeholders and is attached as Appendix D to the Revised Draft EA.	L12-C10
53	The commenter expresses concern that the ROW design should also accommodate the safety of recreational users as well as residents by extending the physical road separation segment westward to where the road leading to the American Flat Mill intersects the ROW.	Due to the west-east alignment of the proposed ROW and the north-south alignment of the road leading to the former American Flat Mill site, The BLM identified reasonable alternatives through internal and public scoping for the Draft EA, and the Proposed Action reflects the safest option for an intersection of roads that run at right angles to each other.	L12-C11

54	The commenter expresses concern that the Proposed Action assumes that Comstock Mining has legal authority to utilize SR 342 for hauling ore; however, Comstock Mining was not allowed to use SR 342 to haul ore under its Storey County Special Use Permit for a decade until Storey County stated it did not have the authority to impose this condition. In a subsequent lawsuit challenging this conclusion, the Judge disagreed and stated that Storey County did have land use authority to impose such a condition.	The responsibility for the use of State Route 342 is within the jurisdiction of the NDOT and not the BLM.	L12-C13
55	The commenter expresses concern that the Draft EA does not reference information and data contained in the Storey County Master Plan.	Comment noted.	L12-C14
56	The commenter expresses concern that Comstock Mining has mined and modified the three southern parcels located on BLM land without authorization.	The commenter refers to the public land wedges depicted in Figure 3. Under Notice NVN-086559, Comstock Mining, LLC conducted exploration activities on these wedges between 2011 and 2013. Notice NVN-086559 expired for exploration activities at the end of 2013; however, reclamation activities continue under Notice NVN 093083. This Notice-level activity is outside the scope of this Revised Draft EA; however, the activities were disclosed in Section 5.2.1.	L12-C15
57	The commenter expresses concern that the cumulative impacts analysis for cultural resources and the visual impacts from the Proposed Action to historic properties are not justified in the Draft EA.	The BLM, in consultation with the SHPO and consulting parties, mitigates adverse effects to historic properties through the execution and implementation of a MOA, thus the impacts of the Project to cultural resources would be “less than significant.”	L13-C1
58	The commenter expresses concern that visual impacts are only evaluated from the line of sight from 13 contributing properties within the District.	Visual impacts were assessed from 18 contributing properties. This assessment would be appropriate to the scope of the Proposed Action.	L13-C2
59	The commenter expresses concern that the Draft EA does not explain the relationship between the Viewshed APE, District, and Virginia City National Historic Landmark, and it does not analyze visual impacts to landscapes or the wider historic property, and it limits impacts analysis to historic buildings in the District.	The APE was established through BLM and SHPO consultation. The public was afforded the opportunity to comment on the Direct/Indirect Effects and Viewshed APEs during public scoping of the Project in January/February 2013. The Visual Effects APE analyses included a characterization of the potential effect of the undertaking on historic properties and contributing elements of the District listed in the National Register of Historic Places. A Class III Cultural Resources inventory of the Visual Effects APE was not determined to be in the scope of the analysis for the Undertaking and is reflected in the Direct/Indirect Effects and Viewshed APEs developed through BLM and SHPO consultation.	L13-C5
60	The commenter expresses concern that text in the Draft EA stating how the open pit mine and haul roads are consistent uses and they would have no impact on integrity.	Comment noted. The text in the last paragraph of Section 4.2.1.2 has been changed from “consistent” to “similar” - “similar” is the wording found in National Register Bulletin: Guidelines for Evaluating and Documenting Rural Historic Landscape (McClelland et al., 1999).  The text in the third to last paragraph of Section 4.2.1.2 has been revised to read as follows, “Open pit mining occurred during the historic period of the Virginia City Historic during the Post Boom Renewal and L208 period of mining on the Comstock Lode (1900-1942) (Spidell et al., 2014). These historic operations were essentially modern in character, using extraction, transportation, and processing methods similar to present-day operations of the region.”	L13-C7
61	The commenter expresses concern that the Draft EA also implements the doctrine of consistent/non-consistent use in arguing for minimizing the Project’s potential visual impacts to the landscape.	Comment noted. The text in Section 3.2.1.2 has been revised to read as follows, “The aspects of setting, feeling, and association can potentially be affected by modern, non-compatible use of the region (McClelland et al., 1999 <sup>2</sup> ; Noble and Spude 1997 <sup>3</sup> ).” The text in Section 4.2.1.2 has been revised to read as follows, “The proposed function of the American Flat Road and Lucerne Haul Road is similar with the historic land use practices of the region (McClelland et al., 1999).”	L13-C8, L13-C9

<sup>1</sup> Barker, Leo R. 1988. Over the Lode: An Investigation of the Status of the Virginia City National Historic Landmark District, also known as the Comstock Historic District, Nevada." Draft report prepared by the Interagency Archeological Services Branch, National Park Service, San Francisco.

<sup>2</sup> McClelland, L. F, J. T. Keller, G. P. Keller and R. Z. Melnick. 1999. Guidelines for Evaluating and Documenting Rural Historic Landscapes. U. S. National Park Service, Washington, D.C.

<sup>3</sup> Noble, B. J., Jr., and R. Spude. 1997. Guidelines for Identifying, Evaluating, and Registering Historic Mining Properties. National Register Bulletin No. 42. USDI National Park Service, Washington, D.C.