

Appendix D Response to Comments

The *Nevada Royal Jasper Quarry Project* Environmental Assessment (EA) DOI-BLM-NV-C010-2013-0038-EA was scoped internally by Bureau of Land Management (BLM) resource specialists in April 2013 and externally scoped through a press release issued to the public in June 2013. The project was presented at a Churchill County Commissioners Meeting on June 19, 2013. Coordination with the tribes has occurred on the location of the proposed project since July of 2000. No official comments were received during the scoping period for the project.

The EA was sent out for public comment and review on July 24, 2013. The comment period ended on August 25, 2013. During the comment period, comment submissions were received from the Fallon Paiute-Shoshone Tribe, the Nevada Division of State Lands, State Land Use Planning Agency, the State Historic Preservation Office (SHPO), the Nevada Division of Water Resources (NDWR), and the Nevada Division of Environmental Protection (NDEP), Bureau of Safe Drinking Water (BSDW). Minor changes were made to the EA document for clarification purposes based on comments received during the comment period. Additionally, on September 26, 2013 a Memorandum of Agreement (MOA) was initiated between the SHPO and the BLM, with the Fallon Paiute-Shoshone Tribe and Neva-Rite, LLC (the proponent) signing as concurring parties to this agreement. This MOA is located in Appendix E of the document. Refer to the table below for a list of comments and BLM's responses to those comments.

Although not required for an EA by regulation, an agency may respond to substantive and timely comments. Substantive comments: 1) question, with reasonable basis, the accuracy of information in the EIS or EA; 2) question, with reasonable basis, the adequacy of, methodology for, or assumptions used for the environmental analysis; 3) present new information relevant to the analysis; 4) present reasonable alternatives other than those analyzed in the Environmental Impact Statement (EIS) or EA; and/or 4) cause changes or revisions in one or more of the alternatives. No response is necessary for non-substantive comments (BLM, 2008). All comments were reviewed, considered, and responded to in the following table.

**Appendix D Table 1: Response to Comments Received
On the Nevada Royal Jasper Quarry Project EA**

#	Commenter	Comment	BLM Response
1	NDWR	<p>All waters of the State belong to the public and may be appropriated for beneficial use pursuant to the provisions of Chapters 533 and 534 of the Nevada Revised Statutes (NRS), and not otherwise. No use of surface water or groundwater is to occur unless a permit is issued for such, or a waiver for groundwater use for mining and milling exploration is granted by this office. Any water or monitor wells, or boreholes that are proposed to be drilled within the described lands are the ultimate responsibility of the entity allowing the drilling to occur and must be plugged and abandoned as required in Chapter 534 of the Nevada Administrative Code. If artesian water is encountered in any well or borehole it shall be controlled as required in NRS § 534.060(3).</p> <p>Permit #77348 is valid for mining and milling purposes. Current owner of record is under the name Randy and Patricia Messer.</p>	<p>Comment noted. This is discussed on pages 6-7 of the EA in the description of the Proposed Action.</p>
2	NDEP, BSDW	<p>Please be aware that if the proposed Nevada Royal Jasper Quarry Project will have 15 or more service connections or serve 25 or more people at least 60 days out of a year, the facility will need to become permitted as a public drinking water system. Providing bottle water to the workforce does not relieve a facility of the requirement of becoming permitted as a public drinking water system. Plans and specifications for the drinking water system will need to be submitted to the Nevada Division of Environmental Protection (NDEP), Bureau of Safe Drinking Water (BSDW) for review and approval prior to construction of any drinking water system infrastructure.</p>	<p>Comment noted. Page 6 of the EA under the description of the Proposed Action states “The number of employees for the mine would range from one during short-term suspensions up to six during operation.” Therefore a public drinking water system would not be required for this Proposed Action.</p>
3	SHPO	<p>This document contains an error in the interpretation of regulation and the Statewide Protocol Agreement between this office and the Bureau of Land Management. On page 27 of this Environmental Assessment the document states: Per 36 CFR Part 800 and 43 CFR Part 8100 (BLM), as amended, BLM is required to identify and evaluate cultural resource within the area of potential effect</p>	<p>Refer to Section 3.4. The text in this section of the EA has been revised to read “In accordance with regulation (36 CFR 800.5.b) unless all effects to eligible historic properties can be avoided, mitigation measures will not reduce an adverse effect to a no adverse effect where the character</p>

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		<p>from an undertaking. Any historic properties within a proposed project area will be avoided. If this cannot be accomplished, mitigation measures will be designed to result in no adverse effect [emphasis added] to historic property (ies) pursuant to 36 CFR Part 800, and in consultation with the local tribal entity and the Nevada State Historic Preservation Office.</p> <p>In accord with regulation (36 CFR 800.5.b) unless all effects to eligible historic properties can be avoided, mitigation measures as contemplated here will not reduce an adverse effect to a no adverse effect where the character of the property’s setting that contribute to its significance are altered by an undertaking (36 CFR 800.5.a.2. iv).</p>	<p>of the property’s setting that contribute to its significance are altered by an undertaking (36 CFR 800.5.a.2. iv). The Protocol Agreement addresses adverse effects to properties of religious and cultural significance in Stipulation V.D.2.d. Fallon Paiute-Shoshone representatives have stated that they believe this undertaking may pose an adverse effect to historic properties eligible for their traditional religious and cultural significance. The proposed mitigation has been outlined in a MOA between the BLM and SHPO. Therefore, pursuant to Section II.B.2.a, of the <i>State Protocol Agreement between the Bureau of Land Management, Nevada and The Nevada State Historic Preservation Office for Implementing the National Historic Preservation Act, 2009</i>, adverse effects would be resolved through this MOA. The proponent, Neva-Rite, LLC, and the Fallon Paiute-Shoshone Tribe are invited to participate as concurring parties.</p>
4	SHPO	<p>On page 32 of the Environmental Assessment, the document also states: “However, the setting would still be impacted by the presence of a mining activity in this sacred area.”</p> <p>The Protocol Agreement addresses adverse effects to properties of religious and cultural significance in Stipulation V.D.2.d. Since your document indicates that the Fallon Paiute Shoshone representatives have stated that they believe this undertaking may pose an adverse effect to historic properties eligible for their traditional religious and cultural significance (page 26-27), it is unlikely that a finding of No Adverse Effect could be supported by the evidence presented in the Environmental Assessment.</p>	<p>Comment noted. The text on page 32 has been revised to reflect this.</p>

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		In addition, the cover sheet provided to our office 11/3/09 from the Bureau of Land Management clearly states that this undertaking will have an adverse effect to historic properties.	
5	Nevada Division of State Lands/ State Land Use Planning Agency	Please consider the cumulative visual impacts from development activities (temporary and permanent). Some notable activities include proliferation of new roads, poorly-sited and designed structures, lack of co-location of infrastructure and improper lighting, to name a few.	Comment noted. Cumulative impacts are analyzed in Chapter 3 of the EA.
6	Nevada Division of State Lands/ State Land Use Planning Agency	<p>The following mitigation measures are suggested:</p> <ul style="list-style-type: none"> • Utilize appropriate lighting: • Utilize consistent lighting mitigation measures that follow “Dark Sky” lighting practices. • Effective lighting should have screens that do not allow the bulb to shine up or out. All proposed lighting shall be located to avoid light pollution onto any adjacent lands as viewed from a distance. All lighting fixtures shall be hooded and shielded, face downward, located within soffits and directed on to the pertinent site only, and away from adjacent parcels or areas. • A lighting plan should be submitted indicating the types of lighting and fixtures, the locations of fixtures, lumens of lighting, and the areas illuminated by the lighting plan. • Any required FAA lighting should be consolidated and minimized wherever possible. 	Comment noted. As stated on page 6 of the EA, mining operations will occur during the day and would therefore not need a lighting plan.
7	Nevada Division of State Lands/ State Land Use Planning Agency	<p>In addition, the following mitigation measures should be employed.</p> <ul style="list-style-type: none"> • Utilize building materials, colors and site placement that are compatible with the natural environment: • Utilize consistent mitigation measures that address logical placement of improvements and use of appropriate screening and structure colors. Existing utility corridors, roads and areas of 	Refer to section 3.14 Visual Resources Management regarding proposed mitigation measures to reduce impacts from operations.

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		<p>disturbed land should be utilized wherever possible. Proliferation of new roads should be avoided.</p> <ul style="list-style-type: none"> • For example, the use of compatible paint colors on structures reduces the visual impacts of the built environment. Using screening, careful site placement, and cognitive use of earth-tone colors/materials that match the environment improve the user experience for others who might have different values than what is fostered by built environment activities. • Federal agencies should require these mitigation measures as conditions of approval for all permanent and temporary applications. 	
8	<p>Fallon Paiute-Shoshone Tribe</p>	<p>The proposed Royal Jasper Quarry is located within the traditional boundaries of the Fallon Paiute Shoshone and is located in the heart of one of the most culturally sensitive areas of our Tribe. This project was initially proposed to the Fallon Paiute Shoshone Tribe in approximately 1999 which the Tribe was adamantly opposed and since then has continued to consistently oppose this project due to the catastrophic impacts to our cultural resources which our Tribe relies on and still uses today.</p> <p>In an effort to address the Tribes concerns there have been several potential mitigation measures discussed with our Tribe. It has been determined that our Tribe cannot support any type of mitigation measures in regard to this project due to the fact that this project will create permanent and irreversible damage to this sacred cultural area which mitigation will be not be able to repair.</p> <p>The BLM in accordance with federal law has a trust responsibility to protect the cultural traditional properties on behalf of the Fallon Paiute Shoshone Tribe. I request that the BLM take official action to deny this material sale due to the fact that the material is not locatable and this material sale will create</p>	<p>On September 26, 2013 a Memorandum of Agreement (MOA) between the BLM and the SHPO became effective. The Fallon Paiute-Shoshone Tribe and Neva-Rite, LLC are Concurring Parties to the MOA.</p> <p>This MOA outlines mitigation and stipulations that must be adhered to in order for the project to move forward.</p> <p>The mitigation outlined in the MOA includes identification and a National Register of Historic Places (NRHP) evaluation of all properties of traditional and cultural importance (TCP) in the Study Area and an NRHP evaluation of the Grimes Point Archaeological District.</p>

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		<p>irreparable harm to our Tribe and the sacred cultural resources we use and area responsible to protect for our future generations. I further request that the BLM take action to remediate this site to address the damage that has occurred as a result of the material testing. Remediation was mandated as part of the testing plan however based on our latest site visit the remediation plan was never implemented or completed.</p> <p>The Tribe has opposed this project for many years and we are hopeful that BLM will recognize its trust responsibility and take the necessary action to protect this sacred area for our future generations.</p>	