

Appendix E Memorandum of Agreement among the Bureau of Land Management, Nevada State Historic Preservation Officer, Fallon Paiute-Shoshone Tribe, and Neva-Rite, LLC, Regarding the Nevada Royal Jasper Quarry Project

**MEMORANDUM OF AGREEMENT
AMONG
THE BUREAU OF LAND MANAGEMENT,
NEVADA STATE HISTORIC PRESERVATION OFFICER,
FALLON PAIUTE-SHOSHONE TRIBE, AND NEVA-RITE LLC,
REGARDING THE NEVADA ROYAL JASPER QUARRY PROJECT**

WHEREAS, on March 15, 2013, Neva-Rite, LLC (Proponent) submitted a Mineral Material Sales Application and Preliminary Plan of Operations for consideration to the BLM and provided additional maps and an Amended Plan of Operation to the BLM on March 27, 2013 (collectively the Application) which is an undertaking under applicable law (Undertaking); and

WHEREAS, Stillwater Field Office of the Bureau of Land Management (BLM) has determined that the Undertaking proposed by the Proponent in the Application within T. 18 N., R. 30 E., within Section 24 will require BLM to authorize mining activities on BLM-managed lands and will have an adverse effect on historic properties which may be eligible for the National Register of Historic Places (NRHP) in the Area of Potential Effect (APE) for the Undertaking (Appendix 1); and

WHEREAS, BLM is responsible for ensuring that this Undertaking is in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 CFR § 800, as well as section 110 of the NHPA 16 USC § 470(a-b) and has consulted with the Nevada State Historic Preservation Officer (SHPO) pursuant to the NHPA; and

WHEREAS, a cultural resources inventory and records review and an ethnographic study for the Undertaking has been completed and BLM, in consultation with SHPO, have determined that the Wonderstone Quarry (CrNV-03-7166) is eligible under Secretary's criterion a and (c) (4), and one additional cultural resource, identified by the Fallon Paiute-Shoshone Tribe as Eagle's House, is currently unevaluated but treated by the BLM, in consultation with SHPO, as a historic property pending a formal NRHP evaluation to be conducted as part of this Agreement will be adversely affected by the Undertaking; and

WHEREAS, BLM has not invited the Advisory Council on Historic Preservation (ACHP) to consult on this Undertaking as it does not reach the threshold of ACHP involvement, pursuant to the Programmatic Agreement among the BLM, ACHP, and the National Conference of State Historic Preservation Officers dated February 9, 2012 and a State Protocol Agreement (Protocol) between BLM and the SHPO dated February 2012 regarding the manner in which BLM will meet its responsibilities under the NHPA; and

WHEREAS, BLM is responsible for conducting Native American tribal consultation on a government-to-government level and ensuring that it complies with the BLM manual 8120 and BLM Handbook, H-8120-1, guidelines for conducting tribal consultation. BLM has consulted with the Fallon Paiute-Shoshone Tribe on the Undertaking; and

WHEREAS, the Fallon Paiute-Shoshone Tribe and the Proponent have participated in the development of, and will be a Concurring Party to, this Memorandum of Agreement (Agreement); and

WHEREAS, BLM, SHPO, the Proponent, and the Fallon Paiute-Shoshone Tribe (hereinafter collectively referred to as the Signing Parties) agree that this Agreement may be signed in counterparts and the executed Agreement, and each signature, will be effective and binding just as if all signing parties had signed the same document. Each Signing Party shall transmit four counterpart copies of the respective signature page signed by that party to BLM; and

NOW, THEREFORE, the Signing Parties agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties.

STIPULATIONS

I. ROLES AND RESPONSIBILITIES

- a. BLM is responsible for administering this Agreement and will ensure that all of its stipulations are carried out. This includes but is not limited to ensuring that all parties carry out their responsibilities; overseeing all cultural resources work; and assembling all submissions to the SHPO and consulting parties during the implementation of this Agreement. The Stillwater Field Manager is the BLM Authorized Officer for the Undertaking. The Authorized Officer, or their designee, is the Undertaking point of contact for BLM.
- b. The Proponent's Signatory, or their designees, will be the responsible point of contact for the Undertaking and provide BLM with any and all information needed to implement this Agreement and in the Proponent's possession or reasonably available to the Proponent.
- c. The Proponent shall bear the expense of identification, evaluation, and mitigation of all historic properties directly or indirectly affected by the Undertaking's activity to achieve and sustain BLM resource and value objectives. Such costs shall include, but not be limited to, pre-field planning, fieldwork, post-fieldwork analysis, research and report preparation, interim and summary report preparation, publications for the general public as appropriate, and the cost of curating project documentation and artifact collections as appropriate. Prior to the initiation of any ground-disturbing portions of the Undertaking, the Proponent shall provide BLM with a letter assuring BLM that the Proponent will fund all of the required work stipulated in this Agreement. The Proponent will be responsible for hiring a

qualified contractor (CRM firm) meeting the requirements of Stipulation I.e. below no later than sixty (60) days after approval of the Application.

- d. BLM will be responsible for all submissions to the Signing Parties and other consulting parties as appropriate. Any submission to SHPO or interested parties not from BLM will be considered as informational only and will not trigger any compliance timelines or other actions.
- e. The BLM will provide the CRM firm with previous cultural resource inventories and ethnographic studies relevant to the Undertaking.
- f. BLM shall ensure that ethnographic, historic, architectural and archaeological work conducted pursuant to this Agreement is carried out by or under the direct supervision of persons meeting qualifications set forth in the draft Secretary of the Interior's Professional Qualification Standards dated June 20, 1997 (62 FR 33707-33723) and who have been permitted for such work on public lands by BLM.
- g. The Proponent, in cooperation with BLM and SHPO, shall provide in-house training to ensure that all its personnel and all the personnel of its contractors and subcontractors are directed not to engage in the illegal collection of historic and prehistoric materials. Subsequent hires will also be required to be subject to similar training. Training can be in association with the Proponent's safety and or related job training and project orientation. The Proponent shall cooperate with BLM to ensure compliance with the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470) on Federal lands and with Nevada Revised Statutes (NRS) 381 and 383 for private lands.
- h. The Proponent will be responsible for costs of rehabilitation or mitigation, and may be subject to penalties under applicable federal, state or local law, should damage to cultural resources inside or outside the APE occur during the period of construction, mine operation or reclamation due to the unauthorized or negligent actions of the Proponent, their employees, contractors or any other project personnel operating under the Proponent's supervision, direction, or control.
- i. The Fallon Paiute-Shoshone Tribe will coordinate fieldwork and interview opportunities to the CRM firm hired by the Proponent to conduct ethnographic research.
- j. If the Undertaking is sold or otherwise transferred to another proponent other than the Proponent, the Signing Parties will determine within 90 days of the sale or transfer if the Agreement will remain in effect, be amended per Stipulation VII, or be terminated per Stipulation VIII. All provisions of the Agreement will remain in effect until such a determination is made.

II. MITIGATION:

- a. A CRM firm hired by the Proponent will complete a report which will include, but not be limited to the following:
 1. a compilation of relevant known ethnographic and archaeological information and discovered relevant information to delineate areas of cultural and religious importance to the Fallon Paiute-Shoshone Tribe for the continuation of traditional tribal practices within the Study Area identified in Appendix 2; and
 2. An identification and NRHP evaluation of all properties of traditional religious and cultural importance (TCPs) in the Study Area; and
 3. All necessary TCP forms identified and provided by any of the Signing Parties; and
 4. A NRHP evaluation of the Grimes Point Archaeological District, the boundaries of which are depicted in Appendix 3; and
 5. An outline of a draft NRHP nomination for the TCPs and archaeological districts within the Study Area prepared following NRHP Bulletin 36 and 38.
- b. The CRM firm will submit the draft report described in Stipulation II.a to the BLM, SHPO, and the Fallon Paiute-Shoshone Tribe within eleven (11) months after the execution of a contract between the Proponent and CRM firm, unless otherwise negotiated between all Signing Parties.
- c. The BLM, SHPO, and the Fallon Paiute-Shoshone Tribe as appropriate will have thirty (30) days from receipt to provide comments on the draft report.
- d. The CRM firm will make all changes to the draft report requested by the BLM, SHPO, and the Fallon Paiute-Shoshone Tribe.
- e. A final report will be due from the CRM firm sixty (60) days after receiving BLM, SHPO, and Fallon Paiute-Shoshone Tribe comments.
- f. The CRM firm will submit to BLM, SHPO, and the Fallon Paiute-Shoshone Tribe a draft NRHP nomination for the TCPs and archaeological districts within the Study Area consistent with the outline provided in the report (Stipulation II.a.5) within ninety (90) days of BLM acceptance of the final report (Stipulation II.d).

III. MONITORING AND REPORTING

- a. The BLM shall provide to all Signing Parties an annual summary report detailing work carried out pursuant to its terms on or about the anniversary of the effective date of this Agreement. Such report shall include scheduling changes proposed, problems encountered, and disputes and objections received in BLM's efforts to carry out the terms of this Agreement.

- b. Any Signing Party may monitor actions carried out pursuant to this Agreement. To the extent practicable, every effort will be made to minimize the number of monitors involved in the undertaking.
- c. Any areas that BLM, in consultation with the SHPO and the Fallon Paiute-Shoshone Tribe, identifies as sensitive will be monitored during construction related activities of the Undertaking by a qualified individual (Monitor). Monitors shall be empowered to stop work to protect resources if that work is inconsistent with the terms of this MOA or any corresponding treatment or monitoring plan.

IV. EFFECTIVE DATE AND DURATION

- a. This Agreement shall become effective on the date on which the Agreement has been executed by BLM and SHPO.
- b. The Signing Parties agree that the failure or refusal to sign this Agreement by any party invited to become a Concurring Party to this Agreement will not invalidate or otherwise affect the Agreement.
- c. The Agreement will expire if its stipulations are not carried out within two (2) year from the effective date.
- d. BLM shall consult with all Signing Parties prior to expiration in order in one (1) year from the effective date to re-examine terms of the Agreement, determine if those terms remain acceptable, and renew the Agreement for another period of time not to exceed five years. Or, at the time of expiration, and prior to work continuing on the undertaking, BLM shall either (a) execute a MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the Advisory Council on Historic Preservation (ACHP) under 36 CFR § 800.7. Prior to such time, BLM may consult with the other Signatories to reconsider the terms of the BLM shall notify the Signatories as to the course of action it will pursue.

V. DISPUTE RESOLUTION

- a. If any Signing Party or other consulting party, objects to any activities proposed pursuant to the terms of this Agreement, BLM shall consult with the objecting party and SHPO to resolve the issue within thirty (30) days of receiving such objection.
- b. A Signing Party or other consulting party can request participation by the ACHP should consultation not resolve the issue.
- c. If there is an objection by SHPO to the manner in which the terms of this Agreement are implemented, SHPO shall notify the Stillwater Field Manager in writing of the objection. BLM will consult with SHPO to resolve the objection. If BLM determines that the objection cannot be resolved, it shall request

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consultation by the BLM Nevada State Office to help resolve the objection. The BLM Nevada State Office shall have the authority to make the final decision in such dispute resolution.

- d. For all post-review discovery disputes, the Stillwater Field Manager shall request consultation by the BLM Nevada State Office to help resolve the objection. The BLM Nevada State Office shall have seven (7) days to provide the Stillwater Field Manager with comments.
- e. The Signatories shall continue all actions under this Agreement that are not the subject of the dispute.

VI. POST-REVIEW DISCOVERIES

Stipulations of this Agreement and Protocol are intended to identify and mitigate adverse effects to historic properties. Unplanned discoveries of buried cultural resources are not anticipated, however if there is an unplanned discovery, the BLM will ensure that provisions in the Protocol (Section VI.B) are met.

VII. AMENDMENTS

This Agreement may be amended when such an amendment is agreed to in writing by the Signatories. The amendment will be effective on the date a copy signed by all of the Signatories is filed with the ACHP.

VIII. TERMINATION

If any Signatory to this Agreement determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatory to attempt to develop an amendment per Stipulation VII, above. If within thirty (30) days (or another time period agreed to by all Signatories) an amendment cannot be reached, any Signatory may terminate the Agreement upon written notification to the other Signatories.

Once the Agreement is terminated, and prior to work continuing on the Undertaking, BLM must either (a) execute an MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. BLM shall notify the Signing Parties as to the course of action it will pursue.

EXECUTION of this Agreement by the BLM and SHPO and implementation of its terms evidence that BLM has taken into account the effects of this undertaking on historic properties.

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Regarding The Nevada Royal Jasper Quarry Project

Signatories:

Bureau of Land Management, Stillwater Field Office



Teresa Knutson, Field Manager

9/26/2013
Date

Nevada State Historic Preservation Officer



Rebecca Palmer, State Historic Preservation Officer

9/26/2013
Date

Concurring Parties:

Fallon Paiute-Shoshone Tribe

Len George, Fallon Paiute-Shoshone Tribal Chairman

Date

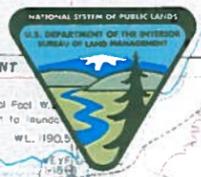
Neva-Rite, LLC

Randy Mossor, President

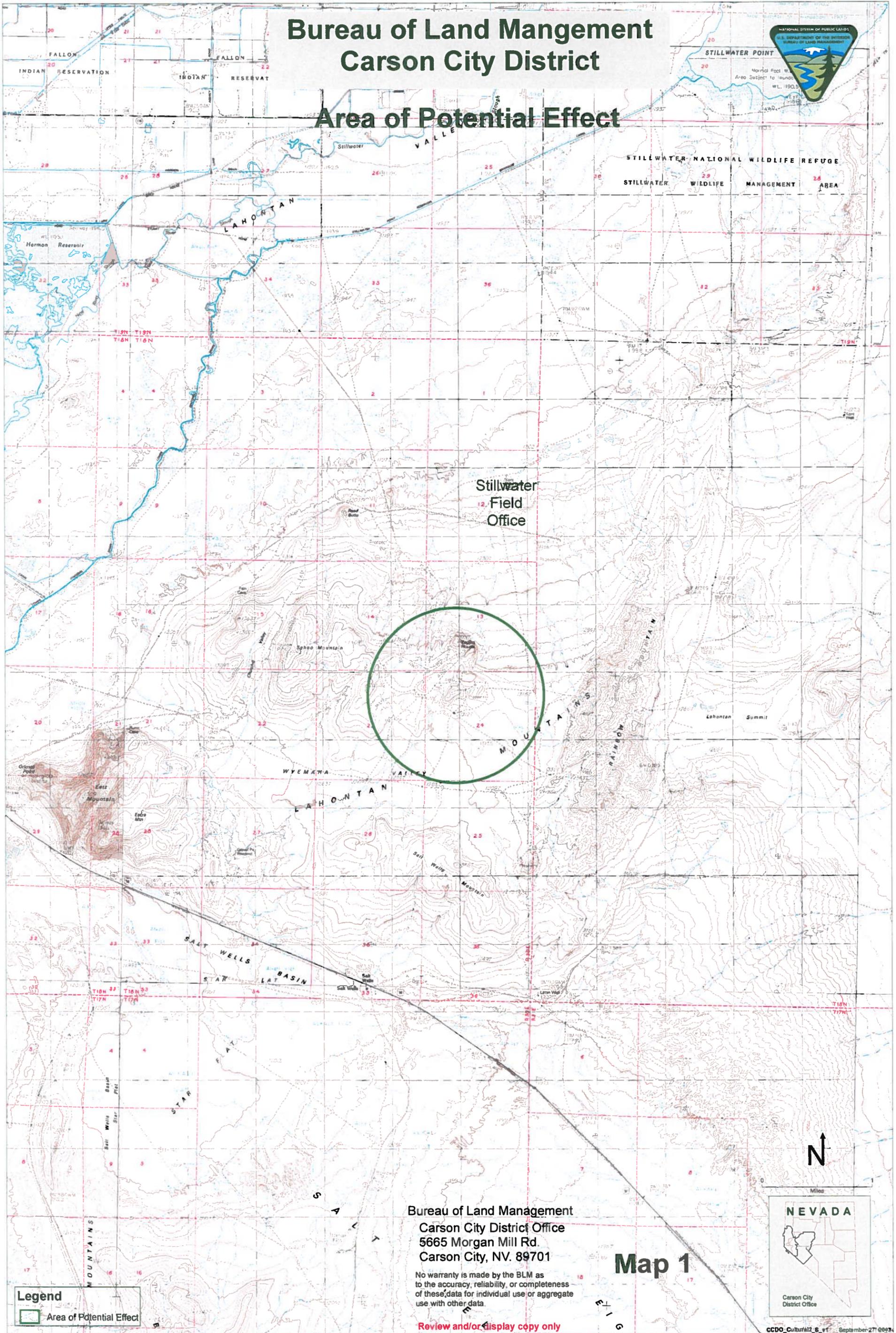
Date

APPENDIX 1:
Area of Potential Effect

Bureau of Land Management Carson City District



Area of Potential Effect



Stillwater
Field
Office



Bureau of Land Management
Carson City District Office
5665 Morgan Mill Rd.
Carson City, NV. 89701

Map 1

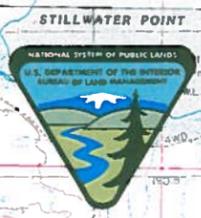
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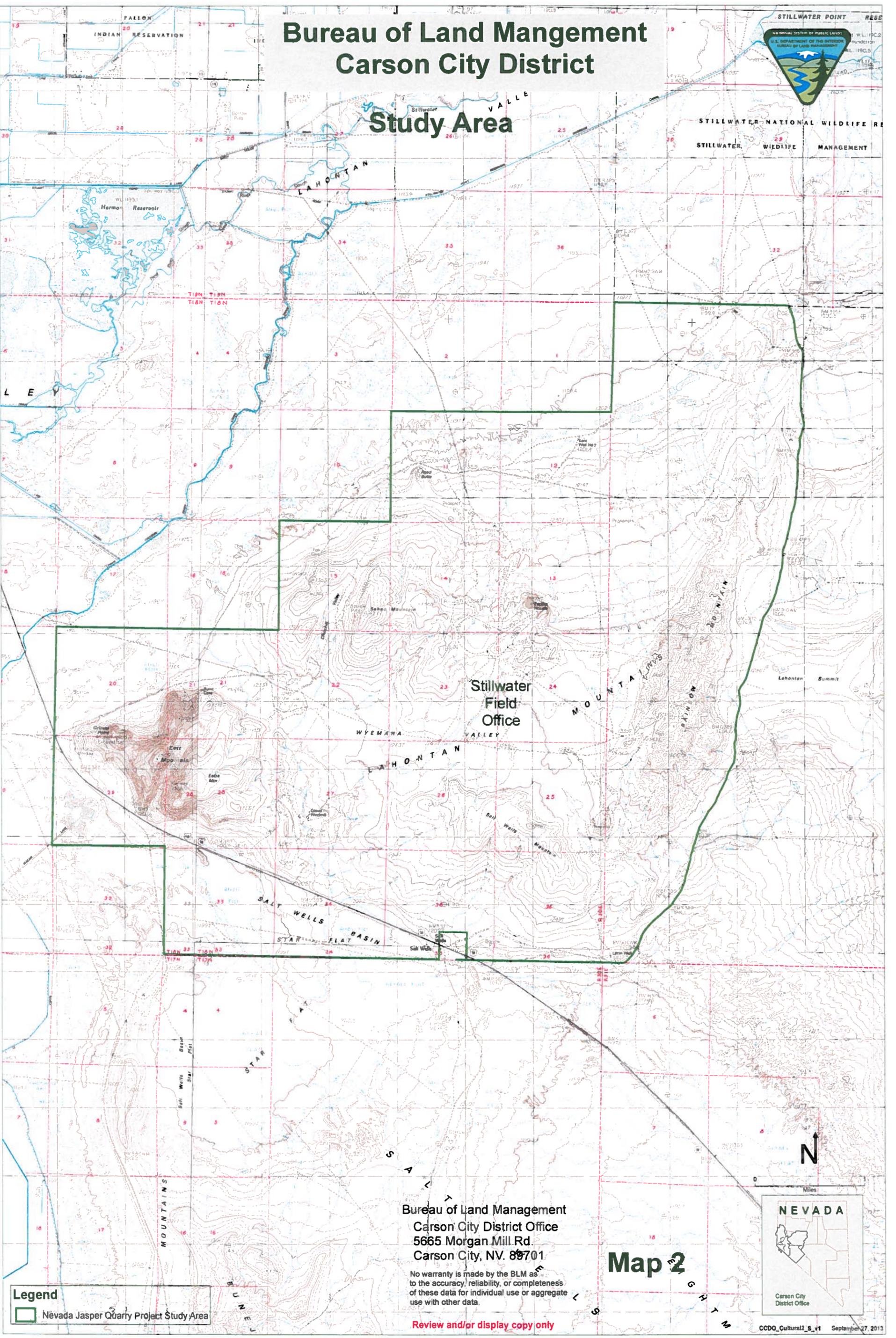
Legend
Area of Potential Effect

**APPENDIX 2:
Study Area**

Bureau of Land Management Carson City District



Study Area



Legend

Nevada Jasper Quarry Project Study Area

Bureau of Land Management
Carson City District Office
5665 Morgan Mill Rd.
Carson City, NV. 89701

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Map 2

NEVADA

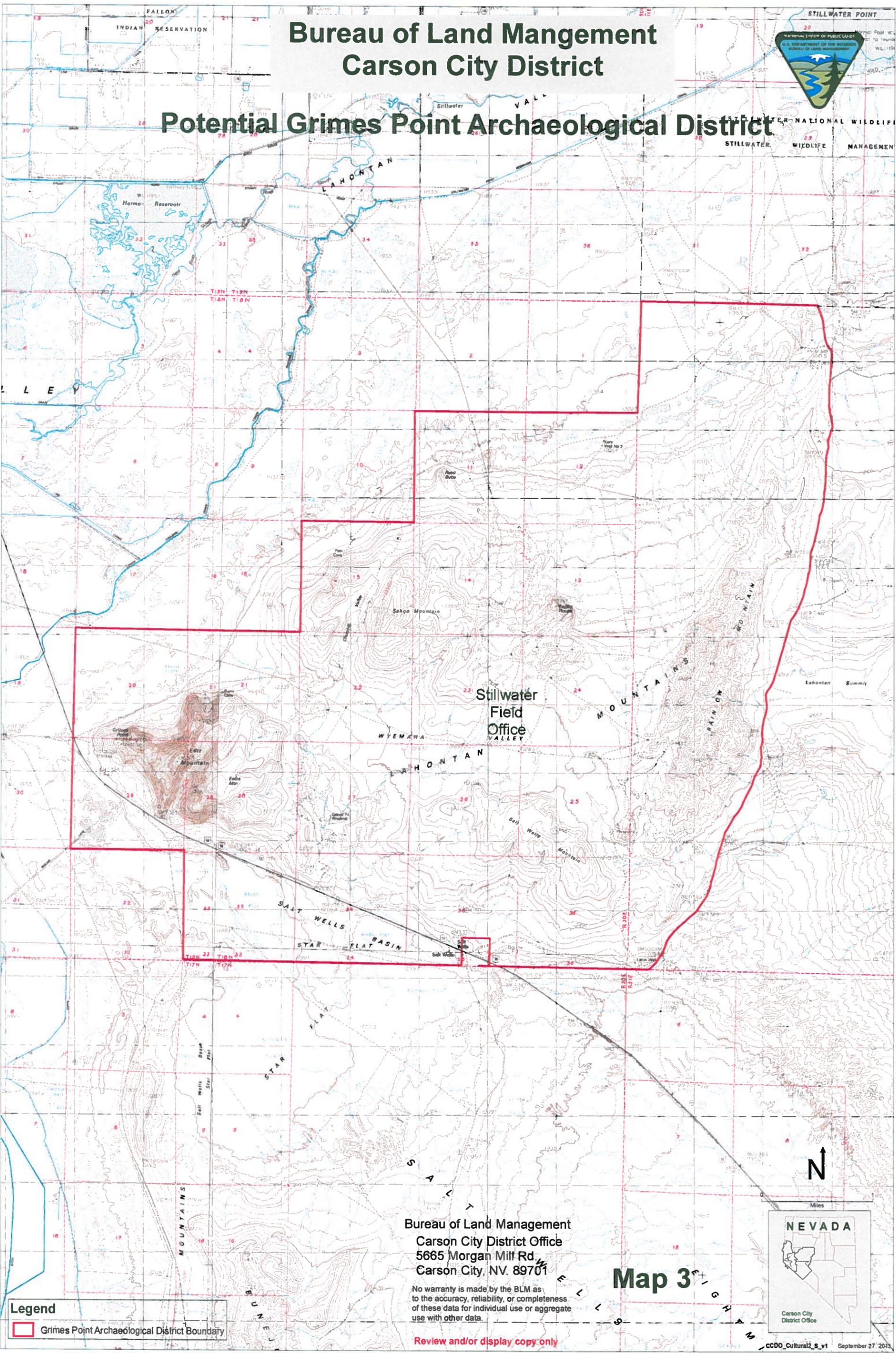
Carson City District Office

APPENDIX 3:
Potential Grimes Point Archaeological District

Bureau of Land Management Carson City District



Potential Grimes Point Archaeological District



Stillwater
Field
Office
VALLEY

Bureau of Land Management
Carson City District Office
5665 Morgan Mill Rd
Carson City, NV. 89701

Map 3

No warranty is made by the BLM as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data.

Legend
□ Grimes Point Archaeological District Boundary



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