

**MEMORANDUM OF AGREEMENT
AMONG
THE BUREAU OF LAND MANAGEMENT, CARSON CITY DISTRICT OFFICE
THE NEVADA STATE HISTORIC PRESERVATION OFFICER
AND THE CITY OF YERINGTON
REGARDING
THE YERINGTON LANDS CONVEYANCE**

WHEREAS, the National Defense Authorization Act for Fiscal Year 2015 (Act) was signed into law (Public Law 113-291), and Section 3009(a) of the Act, titled “Northern Nevada Lands Conveyances” requires the Bureau of Land Management (BLM) to convey approximately 10,170 acres of public lands to the City of Yerington (City); and

WHEREAS, the BLM has determined that this land conveyance (Conveyance) is an undertaking under the National Historic Preservation Act of 1966, as amended (NHPA); and

WHEREAS, the BLM has defined the Conveyance’s area of potential effect (APE) as all geographic areas within which the Conveyance may have direct or indirect effects to historic properties (Attachment 1). The BLM has determined that the APE is the area of land to be conveyed to the City, approximately 10,170 acres; and

WHEREAS, a Class III cultural resources inventory has been completed for the Conveyance’s APE and the BLM has determined that three archaeological sites within the APE are eligible for listing on the National Register of Historic Places (NRHP) (eligible sites hereinafter referred to as “historic properties”); and the BLM has determined that the Conveyance will have an adverse effect to these historic properties within the APE:

CrNV-03-8634, 26LY2060: Historic mining/prospecting site (criteria A and D),
CrNV-03-8663, 26LY2088: Historic geoglyph: Yerington “Y” (criterion A),
CrNV-03-8679, 26LY2104: Prehistoric flaked stone assemblage (criterion D),

and has consulted with the State Historic Preservation Officer (SHPO) pursuant to 36 CFR § 800 and Section 106 of the NHPA (54 USC § 306108); and

WHEREAS, the BLM has determined that two additional archaeological sites remain unevaluated pending testing:

CrNV-03-8607, 26LY2034: Prehistoric flaked stone assemblage,
CrNV-03-8623, 26LY2049: Prehistoric quarry/single reduction assemblage,

with testing and consultation on determinations of eligibility for these two sites to be defined in this Memorandum of Agreement (MOA); and

WHEREAS, the BLM, in consultation with the SHPO, has determined that conveyance

of lands out of federal ownership is an adverse effect to historic properties as defined in 36 CFR § 800; and

WHEREAS, the City of Yerington, as the lands recipient identified in the Act, is assuming responsibilities under this MOA and is an Invited Signatory; and

WHEREAS, the BLM has consulted with the Walker River Paiute Tribe (WRPT) and the Yerington Paiute Tribe (YPT) on the Conveyance, and has invited both Tribes (hereinafter collectively referred to as Tribes) to participate in the MOA as Concurring Parties with both Tribes choosing to participate; and

WHEREAS, the BLM has consulted with Nevada Copper, Inc. (NCI) on the Conveyance and invited NCI to participate in this MOA as a Concurring Party; and

WHEREAS, the Signatories, Invited Signatories, and Concurring Parties (hereinafter collectively referred to as the Parties) agree that this MOA may be signed in counterparts and the executed MOA, and each signature, will be effective and binding as if all Parties had signed the same document;

NOW, THEREFORE, the BLM and the SHPO agree that the Conveyance shall be implemented in accordance with the following stipulations in order to resolve adverse effects of the Conveyance on historic properties.

STIPULATIONS

BLM shall ensure that the following measures are carried out:

I. Roles and Responsibilities

A. BLM:

1. The District Manager for the Carson City District Office is the BLM Authorized Officer for the Conveyance. The District Manager, or designee, is the point of contact for the BLM.

B. City of Yerington:

1. The Mayor of the City of Yerington, or designee, is the point of contact for the City.
2. The City shall be responsible for all expenses associated with carrying out the provisions of this MOA, except for costs incurred by the Parties during fulfillment of the responsibilities assigned to them in this MOA. The City is responsible for costs incurred by the BLM in accordance with the cost recovery agreement between the City and the BLM.
3. The City, in cooperation with the SHPO, shall ensure compliance with NRS 381 regarding curation of artifacts recovered during testing and treatment.

C. SHPO:

1. The State Historic Preservation Officer, or designee, is the point of contact for the SHPO.
2. The SHPO, in coordination with Nevada State Museum and the City, and in consultation with the BLM, shall ensure that all work undertaken to satisfy the terms of this MOA meets the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716-44742, September 23, 1983) (Standards) and takes into consideration the ACHP's Section 106 Archaeology Guidance (2009) or any subsequent edition issued by the BLM, and any other applicable guidelines or standards. The SHPO assumes this responsibility because the lands upon which the historic properties and unevaluated sites are located will be transferred to private ownership prior to the completion of the mitigation plan detailed in this MOA.
3. The SHPO, in coordination with the Nevada State Museum and the City, and in consultation with the BLM, shall ensure that ethnographic, historic, architectural, and archaeological work conducted pursuant to this MOA is carried out by or under the direct supervision of persons meeting qualifications set forth in the *Secretary of the Interior's Professional Qualifications Standards* and who have been permitted for such work, as necessary, by the Nevada State Museum.

D. The Signatories

1. The Signatories agree that Nevada Revised Statute (NRS) 383 will be utilized for this MOA. NRS 383 is incorporated by reference.

II. Avoidance and Treatment of Adverse Effects to Historic Properties

- A. The BLM, in consultation with the SHPO, the City, and the Tribes, has designated an avoidance area of 100 meters around each historic property and unevaluated cultural resource to ensure protection of their NRHP values until adverse effects to the historic properties are addressed by appropriate mitigation in accordance with stipulations in this MOA or until SHPO determines the unevaluated cultural resources to be ineligible for the National Register consistent with the stipulations in this MOA. Prior to the Conveyance, the City shall work with their cultural resource management consultant (CRM) to avoid historic properties and unevaluated cultural resources. The BLM shall provide GIS shapefiles of these avoidance areas to the WRPT and YPT in accordance with existing data sharing agreements.
- B. Prior to completion of testing and treatment, the CRM shall monitor all avoidance areas at least monthly to ensure no unauthorized disturbances have occurred within the avoidance areas. The CRM shall report any such disturbances to the SHPO, the BLM, and the City within 24 hours of discovery. The SHPO shall contact the WRPT and the YPT (Chairman and designated representative) to report these disturbances.

- C. The City shall ensure that no ground disturbance is permitted inside the avoidance areas except that conducted by the CRM and the CRM's employees.
- D. The City shall direct its CRM to develop Historic Properties Treatment Plans (HPTPs) for all historic properties in the Conveyance area. The HPTPs shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 CFR 44716-37) and follow the guidance provided in the ACHP's Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites, dated June 17, 1999 and the Mitigation Standards for Historical Resources of Local and State Significance (BLM, 2014).
- E. Within three (3) months of the execution of this MOA, The City, through its CRM, shall submit any or all of the draft HPTPs to the SHPO for review. The HPTPs may be submitted separately for review. HPTP review will proceed in accordance with items E.1 through E.6 below.
1. The SHPO shall review and comment on any or all draft HPTPs within thirty (30) calendar days of receipt.
 2. The SHPO shall provide comments on any or all draft HPTPs to the City and the City, through its CRM, shall revise any or all of the draft HPTPs to address the SHPO comments within ten (10) calendar days of the City's receipt of those comments.
 3. Upon SHPO approval of any or all HPTPs, the SHPO shall submit the draft HPTPs to the BLM and the Tribes for review.
 4. The BLM and the Tribes shall provide comments to the SHPO within thirty (30) calendar days of receipt of any or all draft HPTPs. If no comments are received within the comment period, the SHPO may assume the BLM and the Tribes have no objection to the contents of any or all of the draft HPTPs.
 5. The City's CRM shall address any comments provided by the SHPO, and the Tribes, and supply final HPTPs to the SHPO within ten (10) calendar days of the City's receipt of those comments.
 6. Upon approval of a final HPTP by the SHPO, the SHPO shall provide final copies of the HPTPs to the BLM, and the Tribes, and authorize the City to initiate any or all reviewed and finalized HPTPs.
- F. Within thirty (30) calendar days of completion of fieldwork as defined in the specific HPTP, the City, through the CRM, shall provide the SHPO with a preliminary fieldwork summary report outlining fieldwork activities, sampling, and preliminary findings on any or all historic properties.

- G. The City, through the CRM, shall provide the SHPO with a draft data recovery and/or mitigation report on any or all historic properties within nine (9) months after the completion of the fieldwork associated with the activity, unless otherwise negotiated.
- H. The SHPO shall ensure that all such reports are consistent with contemporary professional standards and the Department of Interior's Formal Standards for Final Reports of Data Recovery Programs (48 CFR 44716-44740).
- I. The SHPO shall submit any or all draft data recovery and/or mitigation reports to the BLM and the Tribes. The BLM and the Tribes will have thirty (30) calendar days from their receipt to review and comment on any submission. If no comments are received within the comment period, the SHPO may assume the BLM and the Tribes have no comment on the contents of any submitted draft data recovery and/or mitigation report and may direct the CRM to finalize the report.
- J. The City's CRM shall provide the SHPO with a final draft data recovery and/or mitigation report within sixty (60) calendar days after receiving SHPO notification per Stipulation II.I above.
- K. The SHPO shall ensure that all final data recovery and/or mitigation reports resulting from actions pursuant to this MOA will be provided to the BLM and the Tribes.
- L. The SHPO shall ensure that all records and materials resulting from identification and treatment efforts are curated in a public repository or museum in Nevada that meets requirements of NRS 381. The City shall pay all curation fees and provide the SHPO with a copy of an agreement with, or other written commitment from, a curation facility to accept artifacts from this Conveyance. Any agreements concerning curation will be retained and available for audit for the life of the Conveyance.
- M. The SHPO shall coordinate with the WRPT and the Nevada State Museum, Carson City, to provide artifacts recovered through mitigation efforts for the Conveyance through a loan to the WRPT museum.
- N. Prior to the Conveyance, human remains and associated grave goods will be handled in accordance with the Native American Graves Protection and Repatriation Act (43 CFR 10, 25 U.S.C. 3001 et seq). After the Conveyance, human remains and associated grave goods will be handled according to the provisions of NRS 383.

III. Testing and Evaluation of Unevaluated Archaeological Sites

- A. Within three (3) months of the execution of this MOA, The City, through its CRM, shall submit a draft Unevaluated Sites Testing Plan (USTP) to the SHPO for review. USTP review will proceed in accordance with items A.1 through A.6 below.

1. The SHPO shall review and comment on the draft USTP within thirty (30) calendar days of receipt.
 2. The SHPO shall provide comments to the draft USTP to the City. The City, through its CRM, shall revise the draft USTP to address the SHPO comments within ten (10) calendar days of the City's receipt of those comments.
 3. Upon SHPO approval of the draft USTP, the SHPO shall submit the draft USTP to the BLM and the Tribes for review.
 4. The BLM and the Tribes shall provide comments to the SHPO within thirty (30) calendar days of receipt of the draft USTP. If no comments are received within the comment period, the SHPO may assume BLM and the Tribes have no objection to the contents of the USTP.
 5. The City's CRM shall address any comments provided by the BLM and the Tribes, and supply a final USTP to the SHPO within ten (10) calendar days of the City's receipt of those comments.
 6. Upon approval of a final USTP by the SHPO, the SHPO shall provide final copies of the USTP to the BLM and the Tribes, and authorize the City to implement the USTP.
- B. The City, through the CRM, shall provide the SHPO with the results of the testing including recommendations for the National Register eligibility of sites CrNV-03-8607/26LY2034 and CrNV-03-8623/26LY2049 within thirty (30) days of the completion of the testing.
- C. The SHPO, in consultation with the BLM and the Tribes, shall determine the NRHP eligibility of all unevaluated sites tested under the USTP. The BLM and the Tribes will have thirty (30) calendar days from their receipt to review these NRHP determinations. If no comments are received within the review period, the SHPO may assume the BLM and the Tribes have no comments or objections to the NRHP determinations.
- D. The City, through the CRM, shall implement the mitigation procedures found in Stipulation II.E through II.N for all historic properties identified through the testing defined in the USTP (Stipulation III).

IV. Ground-Disturbing Activities outside of Avoidance Areas and the Release of Avoidance Areas

Upon execution of the MOA, the City or its successors shall not proceed with ground disturbing activities in the APE for the Conveyance unless:

- A. Those activities are located fully outside of the avoidance areas as defined in Stipulation II.A-C; or
- B. The SHPO has provided the City with a written determination that the City has implemented the HPTP for an historic property in accordance with Stipulation II.E.6 and:
 - 1. The fieldwork phase of the HPTP has been completed; and
 - 2. The SHPO has accepted a summary description of the fieldwork performed and a reporting schedule for that work; and
 - 3. The SHPO has provided an electronic copy of the summary to the BLM and the Tribes and has called to alert the BLM and the Tribes that the summary has been sent; and
 - 4. The BLM and the Tribes shall review the summary and if the BLM and the Tribes do not respond within five (5) working days of receipt, the SHPO shall assume concurrence; and
 - 5. The SHPO shall provide the City with a written determination that the avoidance area may be released and any land disturbing activities inside the avoidance area for that historic property may proceed.
- C. The City shall not begin any ground disturbing activities within the avoidance area of any historic property until the SHPO has provided the City with a written determination that such activities may proceed within the avoidance area of that historic property.

V. Duration

This MOA will expire if its terms are not carried out within two years from the date of its execution.

VI. Post-Review Discoveries

Stipulations of this MOA 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 SHPO shall ensure that provisions found in Stipulation II are met.

VII. Native American Consultation and Monitoring

The City shall allow a Native American monitor to be present, if requested, during all testing and treatment activities or unplanned discoveries. The City shall contact WRPT and YPT to coordinate monitoring efforts.

VIII. Monitoring and Reporting

- A. If testing and treatment are not fully executed within one year of the signing of this MOA, the City shall submit an Annual Report to the SHPO, the BLM, the Tribes and NCI within forty-five (45) calendar days of the anniversary of the execution of this MOA.
- B. The Annual Report will contain a summary of actions taken under the MOA, all findings, and determinations to date, accomplishments, objections, and unanticipated discoveries.
- C. All Parties shall review the Annual Report and provide any comments within thirty (30) calendar days of receipt to the SHPO. If no comments are received within the review period, the SHPO shall assume the BLM and the Tribes have no comment on the Annual Report and accept the findings.
- D. The SHPO shall provide all comments on the Annual Report to the City. The City shall address these comments and provide a response to the SHPO within ten (10) calendar days of receipt of the comments. Upon receipt, the SHPO shall provide the City's response to the commenting party or parties.
- E. Annual reporting requirements will remain in effect for the duration of the MOA.

IX. Dispute Resolution

- A. Prior to the Conveyance, should any Signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the BLM shall consult with such party to resolve the objection. If the BLM determines that such objection cannot be resolved, BLM shall:
 1. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and Parties, and provide them with a copy of this written response. The BLM shall then proceed according to its final decision.
 2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories to the MOA, and provide them and the ACHP with a copy of such written response.
 3. Carry out all other actions subject to the terms of this MOA that are not the

subject of the dispute.

- B. After the Conveyance, the Parties would consult with the SHPO to resolve disputes, with the SHPO making the final determination.

X. Amendments

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

XI. Termination

If any Signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatories to develop an amendment per Stipulation X, 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 MOA upon written notification to the other Signatories.

Once the MOA is terminated, and prior to work continuing on the Conveyance, the SHPO shall notify the Parties of the termination and consult with the Parties to determine how the remaining historic properties will be addressed under NRS 383. The SHPO shall notify the Parties as to the course of action it will pursue.

Execution of this MOA by the BLM and the SHPO, and implementation of its terms, evidence that the BLM has taken into account the effects of this Conveyance on historic properties.

Attachment 1

**1:80,000
scale**

Legend



Conveyance Boundary

Land Status

Abbreviation

BLM

PVT



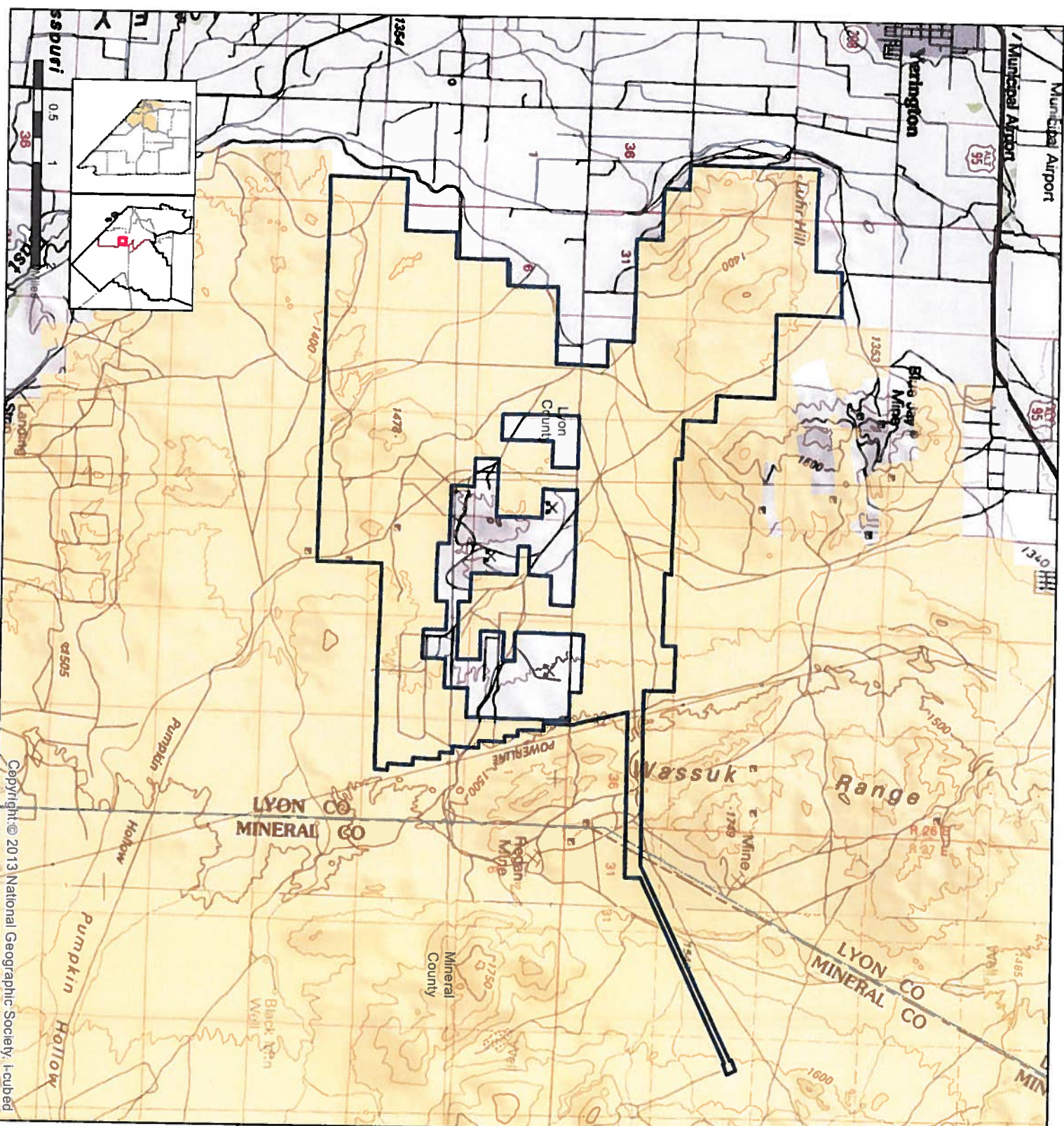
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07/01/2015**

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Carson City District Office



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SIGNATORIES:

Bureau of Land Management, Carson City District Office

Ralph Thomas Date 7/15/15
Ralph Thomas, District Manager

Nevada State Historic Preservation Officer

Rebecca L. Palmer Date 7/16/15
Rebecca L. Palmer, State Historic Preservation Officer

INVITED SIGNATORY:

City of Yerington

_____ Date _____
George Dini, Mayor

CONCURRING PARTIES:

Walker River Paiute Tribe

_____ Date _____
Bobby D. Sanchez, Tribal Chairman

Yerington Paiute Tribe

_____ Date _____
Linda Howard, Chairman

Nevada Copper, Inc.

_____ Date _____
Timothy M. Dyhr, Vice President - Environment & External Relations

SIGNATORIES:

Bureau of Land Management, Carson City District Office

_____ Date
Ralph Thomas, District Manager

Nevada State Historic Preservation Officer

_____ Date
Rebecca L. Palmer, State Historic Preservation Officer

INVITED SIGNATORY:

City of Yerington


_____ Date 7-13-15
George Dini, Mayor

CONCURRING PARTIES:

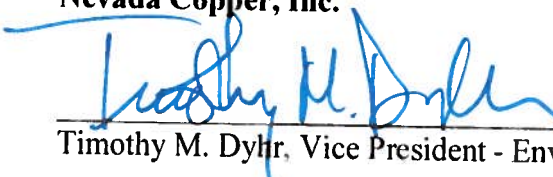
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_____ Date
Bobby D. Sanchez, Tribal Chairman

Yerington Paiute Tribe

_____ Date
Linda Howard, Chairman

Nevada Copper, Inc.


_____ Date 7-13-15
Timothy M. Dylr, Vice President - Environment & External Relations

SIGNATORIES:

Bureau of Land Management, Carson City District Office

_____ Date
Ralph Thomas, District Manager

Nevada State Historic Preservation Officer

_____ Date
Rebecca L. Palmer, State Historic Preservation Officer

INVITED SIGNATORY:

City of Yerington

_____ Date
George Dini, Mayor

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_____ Date
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