

COMSTOCK RESIDENTS ASSOCIATION

PO Box 387 Virginia City NV 89440 ♦ comstockresidents@gmail.com

In this packet are letters submitted to the DA and Planning Department regarding violations with the current SUP. We have never received a formal response from the county.

One area a particular concern is the disturbance that exceeds the "less than one acre" stipulated in the SUP200-222. We were told verbally and via an email from Austin Osborne, that the Law of Apex from the Mining Law of 1872 allowed this excess. However upon legal consultation with several authorities, this is incorrect. The Law of Apex applies to Federal Land, not private land which is where the violation is occurring.

Additionally, in a letter to Dean Haymore, Dennis Anderson, Senior Engineer for Comstock Mining, invokes this law as a justification for the excess disturbance from exploratory drilling. This misinformation, whether intentional or due to lack of knowledge is particularly egregious because the county has relied on it erroneously. In either case, the county cannot be relying on Comstock Mining to explain how they are in compliance and what laws and regulations govern their activity.

We have included a research memo on the Law of Apex done by a paralegal for our attorney.

Attachments include:

March 15, 2011 Letter to DA regarding noncompliance

Response from DA Maddox to March 15, 2011 letter

April 18, 2011 Letter to Austin Osborne regarding exploratory drilling noncompliance

May 16, 2011 email from Austin Osborne citing the Law of Apex

May 20, 2011 Letter to DA seeking response to our letters

April 6, 2011 Letter to Dean Haymore from Dennis Anderson erroneously citing Law of Apex

~~Research Memo on Law of Apex~~

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COMSTOCK RESIDENTS ASSOCIATION

PO Box 387 Virginia City NV 89440 ♦ comstockresidents@gmail.com

March 15, 2011

William Maddox
Storey County District Attorney
Storey County Courthouse
Virginia City NV 89440

Dear District Attorney Maddox,

It is our belief based on research, examination of records at the Storey County Building Department and visits to various exploration sites in the County, that Comstock Mining aka Goldsprings aka Plum Mining is in violation of Storey County mining ordinances, in particular the Special Use Permit Ordinances.

There are two drilling operations that we believe are in violation of county ordinances (and there may be more revealed upon further investigation) that preclude mining or drilling activity within 1000 feet of residences without a special use permit.

The first is the drilling site, with many new roads built on the west side of Highway 342 opposite the "Gold Canyon" billboard. This site is within 600 feet of the nearest residence, that of Sheriff Antinoro.

The second is the drilling site, with many new roads built, on the east side of Highway 342 just north of the "shack" erected by Daniel Bowers. This site is within 1000 feet of the Bowers residences.

We have confirmed these distance by GPS, references available upon request.

We also could not verify that correct ownership documents have been filed with the county as the above-named company went through several changes of ownership. We found no such documents at the Building Department.

We ask that you investigate these possible violations and, if they are confirmed that you, in accordance with Storey County Ordinance 17.88.010 immediately enjoin Comstock Mining Inc. (formerly Goldsprings Inc. and Plum Mining Co. LLC) from any drilling operations within Storey County, revoke all existing Special Use Permits they possess, fine them in accordance with Storey County Ordinance 17.88.020 for the creation of roads and for drilling operations within 1000 feet of residences without a Special Use Permit as specified in Storey County Ordinance 17.92.090, and, if appropriate, prosecute the company and its

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officers for misdemeanor violations.

These drilling operations have been conducted within the last three years and the roads have been in place for at least two years. (The exact dates can easily be obtained through the third-party drilling contractors who carried out the work.) We estimate that Comstock Mining and its predecessors may have been in violation of 17.92.090(B) for at least 300 days and are thus subject as per Ordinance 17.88.020 to a minimum of \$300,000 in fines.

We will contact your office to arrange a meeting with you to discuss these and other serious legal issues related to the resumption of large scale mining.

Sincerely,

Robin Cobbey

Comstock Residents Association

cc: County Commissioners
cc: County Planning Commissioners
cc: Dean Haymore

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COMSTOCK RESIDENTS ASSOCIATION

PO Box 387 Virginia City NV 89440 ♦ comstockresidents@gmail.com

April 18, 2011

Mr. Austin Osborne
Storey County Building Dept.
PO Box 526
Virginia City, NV 89440

Dear Austin,

I am inquiring as to the status of our complaint of March 15, 2011 regarding the possible violations of county ordinance 17.92.060, 17.92.070, 17.92.080 and 17.92.090, and the enforcement of 17.88.010. I understand you are extremely busy however we would just like to have an update on this.

We are also aware of several other violations:

SUP 2000-222 allows for exploratory drilling with a total surface disturbance of less than one acre. Currently the surface disturbance above Devil's Gate on the east side of the highway exceeds several acres. Additionally this disturbance has interfered with a water course along the east side of the highway as much of the dirt which is now unstable is falling into this drainage area. Section 17.92.090 section B and C, specifically state that a SUP is required. Is there an SUP for this? And does SUP2000-222 cover the east side of the highway?

According to Sheriff Antinoro, drilling was being conducted within 100 yards of his residence over the past year. Additionally, documents in the Technical Report on the Comstock Mine Project Gold Hill, prepared by Behre Dolbear for CMI, (p. 46) show numerous drill sites where samples were taken. It appears that many of these were within 300 feet of residences.

Table 25.1 in the Behre Dolbear reports summarizes the permit status of Comstock Mining. The only permit listed for Storey County is **SUP2000-222A**. Reference is made to an Excavation Permit however no reference number is given. Is there such a permit?

SUP2000-222 stipulation 21 states that violations of the SUP make it null and void and the drilling activity should be stopped until there is compliance. We would consider the interference with the water course to be an environmental violation thus

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making the SUP immediately null and void.

This is a public records request to obtain copies (at our expense) of any permits that have been issued to Gold Spring, Plum Mining or Comstock Mining other than the one referenced above.

Sincerely Yours,

Robin Cobbey

Enc. 3

cc: William Maddox
Storey County District Attorney
PO Box 496
Virginia City, NV 89440

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Correspondence w/ Storey County Planner

Robin Cobbey

From: Austin Osborne [aosborne@storeycounty.org]
Sent: Monday, May 16, 2011 8:45 AM
To: cobbey
Cc: Dean Haymore; Donna Giboney
Subject: RE: Our Letter of March 15, 2011

on Applying Law of Apex -
False information was
given to the County by
CMF

Robin,

It is the Law of Apex for mining.

Thanks,
Austin

From: Robin Cobbey [mailto:cobbey@cobbey.com]
Sent: Monday, May 09, 2011 10:21 PM
To: Austin Osborne
Subject: RE: Our Letter of March 15, 2011

Is this in the state statutes? Can you cite the statute?

From: Austin Osborne [mailto:aosborne@storeycounty.org]
Sent: Monday, May 09, 2011 5:32 PM
To: cobbey
Cc: Donna Giboney
Subject: RE: Our Letter of March 15, 2011

Robin,

The "discovery drilling" below is in reference to the Law of Apex which allows the mine owner the right to an indefinite extension of a dip of the vein beyond the vertical plane. I will get back to your other stated concerns as indicated in the prior message to you and your team earlier today.

Thank you,
Austin

. This law gives the owner of a properly located claim on a vein the right to an indefinite extension on the dip of the vein beyond the vertical planes through the side lines of the claim.

From: Robin Cobbey [mailto:cobbey@cobbey.com]
Sent: Thursday, April 28, 2011 6:27 AM
To: Austin Osborne
Subject: Our Letter of March 15, 2011

Austin,

Can you give me an estimate on the time it is going to take to respond to our inquiry of March 15, 2011? We were under the impression we would have this by now.

Can you also cite the NRS that allows for the discovery drilling? Maybe you can just send that today.

Thank you for your time,

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May 20, 2011

William Maddox
Storey County District Attorney
Virginia City, NV 89440

Dear District Attorney Maddox,

This letter is in response to our two previous letters of March 15, 2011 and April 18, 2011 in which we outlined two SUP compliance violations.

Our letter of March 15, 2011 raised two issues of noncompliance with the drilling activity in Gold Canyon by Plum/Comstock Mining. These drilling operations have been conducted over the past year in violation of 17.92.090(B) and are subject to fines per Ordinance 17.88.020.

Our letter of April 18, 2011 inquired as to the status of the March 15, 2011 complaint and raised another violation of the Section 17.92.090 sections B and C. The SUP issued to Plum/Comstock in SUP 2000-222 and SUP200-222-A-1 clearly state that for "exploratory drilling areas will be reclaimed at the conclusion of the drill program. **Total surface disturbance will be less than one acre.**" The total disturbance in this exploratory drilling grossly exceeds the 1 acre limit and it continues on a daily basis.

We have yet to receive a formal response from the county on these apparent SUP violations. We have received an email response from Austin Osbourne stating that the "Law of Apex" from the 1872 mining act covers this. Mr. Maddox, this law refers to claims "on the public domain" -- federal land. None of the drilling in question is on federal land. Mr. Osbourne is not in a position to offer legal opinions on these issues of noncompliance.

Because this possible illegal drilling continues on a daily basis, it is imperative that the county take some action. We have searched the county files repeated and have found NO document or SUP that allows for the drilling activity that continues in Gold Canyon.

In addition, it has recently come to our attention that in 2006, there was a spill of 100,000 gallons of cyanide-laced water from the Goldsprings leachpad. This was revealed in documents that the company sent to the EPA in November, 2009 as a toxic release inventory audit. It appears that the company never notified the county

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of this spill. According to the company's special use permit, any violation of environmental regulations should result in an immediate revocation of the company's SUP.

Sincerely,

Robin Cobbey

Comstock Residents Association

cc Dean Haymore

cc County Planning Commissioners

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April 6, 2011

Dean Haymore, Director, Community Development Department
P.O. Box 526
110 East Toll Rd.
Virginia City, NV 89440

Ref: The Plum Mine Activities in southern Storey County, Nevada

Dear Mr. Haymore,

Thank you for the opportunity to submit an explanation/interpretation of The Plum Mining Company, LLC operations in Storey County under the Storey County Special Use Permit 2000-222-A-1. Our actions under the Storey County SUP follow rational, reasonable and logical advancement of the mine project development and are supported by the use of nomenclature common in the mining industry (see attached terminology definitions as published by the US Department of Interior in the Dictionary of Mining Terms).

The Plum Mining Company, LLC is a wholly owned subsidiary of Comstock Mining, Inc. (CMI) which currently conducts two types of "mine development" drilling activities (see attached definitions). These include "in-fill drilling" and "step-out drilling" a third type of development drilling is "blast hole drilling" which we are currently not doing. The current activities underway at the project in southern Storey County include mine in-fill drilling, step-out drilling and limited exploration drilling. We consider in-fill drilling and step-out drilling part of mine operations, just as mine planning and blast hole drilling is coincident and part of mine operations. In-fill drilling activities include, drilling bore holes to obtain geologic data, samples for metallurgical testing, sample collection for geotechnical engineering, mine modeling, mine planning, mine and process equipment selection and environmental/reclamation planning. Most of the drilling has been done with reverse circulation drilling techniques for the assessment of the geologic model and mineral assays. The core hole drilling has been done primarily to collect metallurgical samples for process design or for geotechnical engineering to assess rock strengths for mine pit design. The in-fill drilling is conducted within the limits of the mine pit envelope, whereas step-out drilling includes activities designed to expand the pit limits or for condemnation of land for ancillary mine facilities such as mine waste dumps. These types of development drilling activities are permitted under the current SUP as mining activities.

The SUP allows mining activities at the Billie the Kid mineral deposit and the Lucerne mineral deposit. The Lucerne mineral deposit has well defined continuity on both sides of State Route 342. This was originally discovered during limited drilling activities on the east side of State Route 342 under a time limited permit to drill there and with drilling beneath the road from the west side of State Route 342. Drilling beneath the road has been discussed with the Nevada

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Department of Transportation and conclusion was that the drilling poses no engineering issues because a six-inch borehole 150 feet below the road is structurally insignificant. The road is a surface-cultural feature that has nothing to do with the precious metals deposition in the Lucerne mineral deposit. The SUP map predates the geologic model and mine development model that we presently are using to define the extent of mineralization in the Lucerne mine pit. The Apex Law provides the right to follow a mineralized structure down-dip, which is the case in the mineral material in the Lucerne pit as it dips approximately 50 degrees to the east and well beyond the State Route 342.

Limited exploration drilling (see attached definition) has been performed, which we define as exploration activities that are away from the mine project. These activities include drilling to evaluate mineral prospects in an attempt to discover additional mineralized material that could be developed for mining at a future time.

We have attached a map showing a boundary that is permitted for mining and exploration under the Nevada Division of Environmental Protection, Bureau of Mine Regulations and Reclamation, Mine Reclamation Permit # 0196. The present bond for operations is \$1,170,782 and it covers both mining and exploration activities.

Please call with any questions or to discuss the difference between mining activities and mineral exploration activities. We appreciate the opportunity to work in Storey County and will continue to be available to work within the laws and regulations. If amendment to the SUP is required, please let us know and will begin the amendment process immediately.

Sincerely yours,



Dennis M. Anderson, Senior Engineer
Comstock Mining, Inc.

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