

Date: March 28, 2013

To: Nevada Mining Oversight & Accountability Commission

From: Joe McCarthy, Comstock Residents Association

Subject: Agenda item for possible action: *Information regarding possible degradation of the Virginia City National Historic Landmark as a result of mining operations.*

My name is Joe McCarthy, board member of the Comstock Residents Association, a 6-year resident of Silver City, a 30-year resident of Carson City, former executive director of the Brewery Arts Center for nearly a decade and Carson City's economic development & redevelopment director for more than a decade. I've been honored to serve our great state throughout my career.

Thank you for inviting us to present to you today. You have graciously given us the opportunity to engage with you, in good faith, to discuss in a clear and forthright manner the degradation that is currently happening to the Virginia City National Historic Landmark.

The Comstock Residents Association (CRA), is an incorporated Nevada non-profit with a mission to preserve and protect the 17,000 plus acres of the Virginia City National Historic Landmark and its timeless cultural communities, Virginia City, Gold Hill, Silver City, Spring Valley and Dayton Nevada. Through educational programming and scientific research, CRA has the inherited wisdom and organizational capacity to ameliorate the negative impacts of full-scale, open-pit mining on the Landmark, while also becoming the landmark's citizens steward and its storyteller.

Our national landmark received its federal designation from the Secretary of the Department of Interior in 1961, an honor unrivaled in the history of Nevada's historic preservation successes. The landmark has evolved into a tourism powerhouse and recreational jewel. Its assets include historic landforms, artifacts,

an impressive cultural landscape and the historic towns nestled in a stunning visual setting.

The landmark is essential an “Archive,’ a special library, the keeper of the flame of Nevada history and knowledge. It provides the clues to our past, enriches our present, ensures our future.

To preserve the landmark is to resist the shoehorning of history, the twisting of truth, and the leveraging of the landmark as an asset to raise Wall Street money for open-pit profits. Comstock Mining, Inc (CMI) is the current mining company that is profiting from excavating the Comstock, creating a lasting mess, permanently scarring the landscape.

**This mining company will tell you that its version of open-pit mining is good for the Comstock.**

What they will not tell you is that when this open-pit mining project comes to its inevitable bust, as they always do, our rural communities will be hit hard. Fact is, those communities that open their doors to such open-pit mining ventures have dismal economic results. The “rising tide does not lift all boats.”

Communities invariably become the losers and individuals in those communities are displaced or left behind. This evidence comes from decades of credible, persuasive economic development research. Those communities whose economies become dependent on commodity-based, open-pit mining, end up worse off than they would have been without exploiting their mineral reserves. We in Nevada readily use the expression “boom-and-bust” to describe such yoyo economics.

Comstockers have watched open-pit mining projects come and go. The decline of the Comstock as a mining community actually began as far back as 1877, 136 years ago, when hard times hit the Comstock and discoveries were made in other mining districts in Nevada and California. There were more than 11,000 residents and 1,200 buildings on the Comstock. Soon after, most of the mines closed. By 1900, the population of the Comstock had dwindled to 2,700, by 1930 500 souls were left.

More recently, the Comstock has transitioned into a viable tourist destination, anchored by the National Landmark and the retelling of history. Most current Comstock residents and businesses are not affiliated with present-day mining. In fact, most current residents and local businesses have been on the Comstock for more than twice as long as any mining operation has ever existed on the Comstock.

Now, the latest myth that's swirling around says that there is another "bonanza" on the Comstock. Absurd. More than 1,000 mining companies have been formed over the 150-year stretch of the history of the Comstock. Only 29 mining millionaires were ever created. Only 19 mining companies ever paid a dividend to its shareholders. More money was lost thru Wall Street stock market manipulations than was ever produced in gold and silver. Here we have the classic definition of insanity, coined by Albert Einstein, "Insanity is doing the same thing, over and over again, and expecting different results." The current myth of a bonanza on the Comstock is further proof of this truism.

**Comstock Mining will tell you that they are fully complying with - and even exceeding - regulatory requirements to mine and mill on the Comstock.**

What they do not tell you is that their own consultant, Behre Dolbear, in its January 2013 technical report, states that once feasible plans are finalized, "CMI should move expeditiously toward preparing and submitting a Plan of Operations to the BLM to initiate permitting for expansion." Why is CMI avoiding a Mine Plan of Operation, a standard practice for doing business in rural Nevada? Why? Because such a plan will trigger a requirement for an programmatic environmental impact statement, that's why.

A programmatic EIS ought to include: the EPA, NDEP, SHPO, NPS, the BLM, NV Conservation League, our local communities and the CRA. Nevada's mining industry touts itself as a "good neighbor that is good for Nevada." How is it then, that a junior mining company, of essentially non-miners, is able avoid scrutiny, while it actively open-pit mines and then processes the ore in Nevada's most cherished national historic landmark, on the infamous Carson River Mercury Superfund Site

and within spitting distance of well-established, deeply-rooted Nevada communities? How can it be allowed to continue unabated? Good question? This is the same mining company that promised, on the record, at a Silver City town board meeting more than two years ago that it would begin the EIS process immediately.

**As recently as two weeks ago, Comstock Mining informed the local press, that “the company has shown itself to be responsible over the last year and that much criticism by critics is simply not true.”**

**To further quote Corrado De Gasperis, CEO of Comstock Mining, in the same RGJ article, “I don’t know of anything that we’ve done that demonstrates anything but social responsibility. We’re getting much more genuine support for the economic activity we are engaging in.”**

I will remind Mr. De Gasperis that this couldn’t be further from the truth. Comstock Mining’s actions have created a movement in which the voices of resistance are gathering, and getting louder and louder. It’s obvious that our citizen-based organization continues to be outgunned by their Wall Street money, by high powered lawyers and public relation types that tout they “eliminate unforeseen opposition,” and by Comstock Mining’s principal investor, a Southern California real estate developer.

But CRA punches above its weight. And our eyes don’t lie.

CRA is determined to defend our history, the legacy, the communities of the Comstock: home to renowned filmmakers, visual artists, musicians, newspaper and magazine editors, writers, university professors, scientists, business owners and operators, archeologists, teachers, nurses, firefighters, school board trustees, parks commissioners, social service community leaders, all those who helped build these uniquely important Nevada communities of Virginia City, Gold Hill, Silver City, Spring Valley and Dayton.

These Nevadans moved here, built lives here, raised their native-Nevadan families

here. Who would have anticipated that the residential communities of the Comstock, zoned residential for ¾ of a century, in a Mild-Wild-West, already removed from the spectre of the defunct Gold and Silver Rush, are still threatened by the instability of history that is, at times, provides us with an irrational, disingenuous cultural narrative, a narrative that devalues all of us?

**Comstock Mining will tell you that it plans to honor the history and preserve and reclaim the environment.**

What they will not tell you is that there's much more to the story.

For the record. The CRA supports responsible mining on the Comstock - the type of mining operations that gives a sense of orientation to Nevadans and actually complements the historic value of the entire district - as should be the case in comprehensive landmark historic preservation. Responsible mining in our historic district has to be underground mining that uses vertical shafts with headframes, horizontal tunnels with portals, spoil piles adjacent to the mining entrances and a series of conditions that mitigate industrial noise, blasting, pollution. The conditions must include negotiated protections to keep intact the Landmark's viewshed, hiding mining and milling operations and ore hauling activities from the public and protecting the cultural landscape and our communities from open-pit mining entirely. That's what we call honoring the history. It's the preservation of this irreplaceable heritage, both history and prehistory, conducted in the public interest so that the vital legacy of cultural, educational, aesthetic, inspirational and economic benefits will be maintained and enriched for future generations of Americans. Not too much to ask.

In addition, we believe strongly that to mine on the Comstock, a mining company needs to follow Nevada's "golden rules" as they pertain to the mining business:

**First:** Obtain, free, prior and informed consent of the affected communities.

**Second:** Ensure that the project practices responsible mining, situated far removed from residential communities, not on property with long histories of residential

zoning and use, and not forcing communities off their land.

**Finally:** Ensure that the project is not located in an endangered and protected area or a fragile ecosystem of significant conservation, historic and ecological value.

Comstock Mining's dry corporate-speak continues to understate the potential environmental damage, the destruction of precious, sensitive habitats, hillsides & waterways, the noise pollution, the air pollution, the huge loss of irreplaceable cultural resources, removed, buried or destroyed. Just to read Comstock Mining's website is to know that the national landmark and our towns are earmarked for the slag heap of extinction. It is crystal clear that Comstock mining is promising its Wall Street investors that it will eventually mine the full stretch of the Landmark from Dayton to Virginia City.

Mounting evidence continues to show that historic preservation and conservation is a powerful economic development strategy that generates both private-sector investment and a high return for municipal dollars spent. To truly compute the net economic loss attributable to open-pit mining on the Comstock, we must measure historic geography, character, landscape architecture and community folklife by using the following attributes:

- For every million dollars spent on historic preservation, 15 jobs are created, while for every million spent on mining, 9 jobs are created
- Residential properties in historic districts command a premium of 23 percent over comparable properties not in historic areas. Property taxes are 10 percent higher and annual increases in property values are 9 percent higher. Imagine the long-term property tax losses to local governments and school districts for properties that are forced to be neighbors to open-pit mining.
- The Landmark draws more than one million visitors per year. Heritage tourism is a clean, robust, growing industry. And it is not just the historic buildings that attract the heritage tourist. The backbone of heritage tourism is the communities themselves. Seventy-five percent of all tourists say it is the towns themselves, and the views of preserved and protected historic landscapes, that mattered most in their visit, and the main reason for them to

make a return visit.

- The elusive multiplier effect that economists grapple with, is universally considered much higher when calculating the contributions made by heritage tourists than for any other traveler. Heritage tourists spend more and stay longer.
- While preservation economic impacts are measurable, positive and significant, both fiscally and economically, how, in fact, do we value - in any economic analysis - the loss of community? A community without memory is a meaningless place. The culturally rich communities of the Comstock are the physical manifestations of our memories, our quality of life and our competitive edge.

It is a simple measurement of “opportunity costs:” Costs that include nature’s riches & the wealth of land. Prosperity to us means stopping the harvesting of non-renewable minerals by the irresponsible scraping away of our land, hauling it away by the truckload, crushing it, mixing with with cyanide & various acids, poisoning the residents with mad science, blasting that destabilizes the foundations of residential and commercial buildings, polluting our air, atmosphere, stream beds and animal habitats, while ruining our dark skies and our noise-free communities.

Our hillsides, valleys, streams, wetlands and other ecosystems are nature's ancient infrastructure that supply water, control floods, protect the balance of wildlife habitats. By altering that delicate & prosperous ecosystem, we damage our neighbors, our investments, our communities and our lives. Unfortunately, at a time of high unemployment and a moribund economy, our policy makers fall prey to promises and forget to invest in what we already have - a sustainable cadre of communities in the shadow of McClellan Peak. Instead, we are exposed to the blight of a short-term industrial use.

Yet, it seems as if misplaced economic and fiscal reasoning is the only vocabulary we have at our disposal. It truly is an impoverished conversation.

What does it say about us that we do not talk about celebrating our communities, investing in them, and leveraging their importance long-term? Instead, we are stuck

in a conversation with an out-of-state developer taking fictional liberties to promote open-pit mining as a tool to “revitalize the Comstock.” We are asked to believe, on faith, that this mining operation will be an agent for change.

Hogwash and shameful malpractice. Open-pit mining on the Comstock is not a public good and will, in fact, be the death knell to the Comstock and its residential communities. Are we communicating to all Nevadans that the principle of community is not sacred, not a reflection of our good nature? Are our communities and its inhabitants expendable, exploitable, disposable, their values overridden by the promise of riches.

To add insult to injury, on the Comstock, right now, our hills and valleys, our recreational areas, have been systematically cordoned off, as our economy is being remade in the likeness of an out-of-state gold-digger. Is history really repeating itself right before our eyes?

It brings to mind the image of watching as Charlie Brown keeps trying to kick the football, hoping that maybe this time Lucy will cooperate.

Our land is now beginning to have an apocalyptic look, a strip-mined look, a blight of waste rock and tailings, an environmental calamity waiting to happen. A decade ago, you and I could have spent the day in quiet recreation amid a diverse and beautiful ecosystem. Today, you're halted from entering by flag men & guards, a fearful pause before entering a bad land.

Nevadans once again are forced to the margins, fearing future heaps of sulfurous waste. It's been said that we do not inherit the land from our ancestors, we borrow it from our children. Do we want our children to ask, 'What were you thinking? Didn't you care?'"

**Comstock Mining, in a rather plaintive way, asked that it not to be judged by the mistakes of the past?**

Mark Twain reminded us, "While history doesn't repeat itself, it does rhyme."

Isn't it ironic that citizens must continually re-state the truth, so as to not give in, once again, to open-pit mining and the poisonous chemical cocktail needed to process possibly 60 tons or more of our precious landscape to get one small ounce of gold. That's a wedding band for a bride in Mumbai. A wedding band extracted from a former hillside on the Comstock.

We hope the story doesn't turn out this way. That once there were towns in the heart of the Comstock where all life seemed to live in harmony with its surroundings. These prosperous towns were within a checkerboard of historic mining remnants, energy efficient homes, historic buildings & hillsides basking in sun & community gardens. The landscape itself offered safety, refuge, a barrier to the impulses of a "gold digger."

And what was making the Comstock special? It was a living research project, a struggle for truth, a challenge to memory and imagination in an extreme environment, a marginal place, half-way between safety and danger, the edge between the familiar and the unrecognizable, the gray area between the established and the unknown - a bit dicey, challenging, aesthetic and emotional. Sound like Nevada?

The communities of the Comstock have become real life tales, the mysteries of human character that are part of the Landmark's archive, distilling truth from conflict, expressing both reverence and sadness.

You have to see it yourself to believe it. To enjoy it.

Then a strange blight crept over the area and everything began to change. The real became merely a representation, a stagy, posed, self-aggrandizing fiction, a story that falsifies the truth, truly dulling our imagination with fakery. No more will you be able to lay your hands on the history, the culture, feel its heft, its weight, its meaning - what you care most deeply about.

It is a part of our world that matters. And must be saved.

Mr. Chairman, since you have agendized this item for possible action, may we suggest the following:

1. Have the Commission form a motion on the lines of directing all state regulatory agencies related to mining oversight and accountability in Nevada to work together to determine the cumulative effects already occurring as a result of the Comstock Mine Project. And, then determine the legal means by which those same regulatory agencies should pursue halting the project indefinitely, until a thorough analysis of the cumulative effects has been completed and approved by this Commission.
2. Form a motion to direct all state and federal entities to work together to insist that Comstock Mining be required to satisfactorily complete, for this commission's review and approval, a programmatic EIS, paid for by Comstock Mining and performed by third-party consultants who have no ties now or in the past with Comstock Mining.
3. Form a motion that requests that the Attorney General's office and the State Historic Preservation Office to work with the Comstock Residents Association to initiate a preservation planning process, with the following goals in mind:
  - a. To eliminate uncertainty or confusion about the purpose, meaning and content of our current community preservation statutes by allowing the CRA to facilitate the development of a refreshed, long-range vision and set of goals and objectives for the Comstock Historic District. This effort will lay the groundwork for strengthening NRS Chapter 384, our statute that governs the oversight responsibilities of the Comstock Historic District Commission. For the record, cultural resources, by the long-standing definition in the National Historic Preservation Act, include historic cultural landscapes, historic landforms and archaeologically-sensitive artifacts, all currently under threat by open-pit mining on the Landmark. Historic preservation is not just about preserving historic buildings, as the current statute inadequately provides. It is also about sensible preserving our precious resources, the environmental quality of the District and local community development. Through this planning process, the

Commission should expect to receive for its consideration the establishment of unambiguous public policy about comprehensive historic preservation of the Virginia City National Historic Landmark.

This public policy should include:

- i. To educate and inform residents and visitors about our community heritage and value;
- ii. To identify opportunities for economic growth based on our community's historic and architectural character;
- iii. To create an agenda for future preservation activities; and,
- iv. To make historic preservation proactive, not reactive.

The Comstock Residents Association believes it has the expertise and the ability to assume an active role in helping articulate the rationale and the framework around the recasting our inadequate historic preservation policies. The goal will never be to embalm properties or prevent appropriate economic development. Instead, the goal is to seek a balance of community-wide interests and the individual property owners by recognizing the untold benefits that preservation can bring.

Thank you. We are available to take questions.