

# **United Comstock Merger Mill at American Flat**

## **Decision Record**

DOI-BLM-NV-C020-2012-0040-EA

**April 2013**



## **Introduction**

The Bureau of Land Management (BLM), Sierra Front Field Office has evaluated the environmental impacts from implementing the Proposed Action (Alternative 2 – Demolition in the Final Environmental Assessment [EA]) that would best mitigate hazards that pose a risk to human health and safety at the United Comstock Mill at American Flat (AFM), while addressing historic resources. A 2008 audit of the site by the Department of the Interior, Office of Inspector General (OIG), found the AFM to be a high risk liability to the U.S. Government.

The purpose of the Proposed Action is to promote public health and safety on BLM-managed lands and to comply with the direction of the OIG that the BLM “identify and resolve trespassing on abandoned mine sites and assess and mitigate or hazards associated with these sites.” The need for the Proposed Action is to mitigate or abate the physical human safety hazards present on the AFM site, while addressing historic resources.

This Decision Record applies to BLM actions on public lands within the northeast quarter of Section 7, Township 16 North, Range 21 E, Mount Diablo Base and Meridian, Storey County, Nevada.

The BLM has prepared the *Final Environmental Assessment, United Comstock Merger Mill at American Flat* (DOI-BLM-NV-C020-2012-0040-EA). The Final EA considered the Proposed Action and three alternatives: Alternative 1 – No Action (Current Management); Alternative 2 – Demolition (Proposed Action); Alternative 3 – Institutional Controls; and Alternative 4 – Selected Building Retention. Separately, the BLM has signed a Finding of No Significant Impact with a determination that an environmental impact statement is not required.

## **Public Involvement**

On May 15, 2011 the BLM announced that it was seeking public input on a proposal to reduce site safety hazards at AFM through the provisions of Section 106 of the National Historic Preservation Act (NHPA). The 30-day public input period closed on June 17, 2011. The BLM received 17 unique comment letters (or emails) on the four alternatives. Of those comments, two supported allowing a natural deterioration of the buildings (No Action), one supported removal of the most hazardous structures, and one supported the Institutional Controls alternative.

On June 6, 2011 a public meeting was held at the BLM’s Carson City District Office. Approximately eight people attended. These numbers are estimates because not all participants who attended the meetings signed-in. Section 106 updates were also provided to the Storey County Commissioners meeting on June 7, 2011, and at the Comstock Historic District Commission meeting on June 13, 2011 which afforded the public additional opportunities to comment.

In 2012, the draft EA was made available for public review and comment from December 5 through January 19, 2013 (due to the Martin Luther federal holiday the comment period was extended until January 22, 2013). An email was sent to 12 individuals on the project’s mailing list, and a Dear Reader was sent to 28 other individuals on the project’s mailing list. Notification of the draft EA’s available was also made through the Nevada State Clearinghouse. Hard copies

of the documents were available at the Carson City District Office. The draft EA and associated documents were made available on the Carson City District NEPA webpage.

The BLM received 40 unique comment letters (or emails). No comments received during this public review period resulted in substantive changes to the alternatives or analysis used in the draft EA. Nor did any of the commenter's propose to the BLM a new reasonable alternative for consideration. For a summary of the comments, and responses to the comments see Appendix C of the Final EA.

### **Land Use Conformance**

The Proposed Action and alternatives are in conformance with the Carson City Field Office Consolidated Resource Management Plan (CRMP) dated May 2001 (BLM 2001). The applicable section is described below:

- Standard Operating Procedures: SOP-1, item #1 "an environmental review (i.e. environmental assessment) will be prepared before projects are developed..."
- Implementation Level Decisions #1, MIN-5 "Identify hazards to the public around inactive and active mine claims through signing, fencing or other appropriate means. Priorities for hazard reduction will be established and carried out by the minerals program, in cooperation with the State Mine Inspector and claimants."

### **Authority**

Implementation of the Proposed Action is under the authority of the Federal Land Policy and Management Act of 1976.

### **Rationale**

*Proposed Action (Selected Alternative)*

It is my Decision to select the Alternative 2 – Demolition (Proposed Action), implementation of this alternative would include the following:

- Complete a final design prior to implementation;
- The final design would delineate on-site landfill area perimeters and subgrade characteristics, and identify native borrow material sources for use in filling voids and as soil cover for on-site landfill areas;
- Demolish all eight AFM buildings;
- Reclaim building footprints and other disturbed areas;
- Bury on-site demolition debris;
- On-site landfills and disturbed areas would be covered by native soil and re-vegetated;
- The alternative would include grading contours;
- Prepare a stormwater management plan;
- Prepare a re-vegetation plan;
- Prepare a weed control plan;
- Implement demolition and re-vegetation best management practices (BMPs);
- Demolition would be expected to take approximately one year to complete; and

- After demolition, the BLM would remove the site closure order and fully open the site to public use.

Details of demolition. Water would be removed from the basements of Buildings 2, 3, and 4 prior to demolition actions and filling of tunnels and voids. This water would be stored on-site for dust control or other uses. Additional water for dust suppression would be from the nearest municipal source and transported by truck to the site. No on-site reservoir would be needed.

Demolition techniques for buildings and structures could include, but are not limited to:

- Excavator with a demolition grapple;
- Concrete saw;
- Concrete water-jet;
- Removal of walls by crane;
- Removal of walls by backhoe; and
- Wrecking ball.

Following building demolition, ground-level slabs and foundations would be fractured and left in place. Fracture options could include, but are not limited to:

- Excavator with a demolition grapple;
- Backhoe with a breaker attachment;
- Jackhammer;
- Pneumatic and hydraulic breakers; and
- Expansive grout.

Tasks associated with demolition would be essentially the same regardless of the selected technique. Typical BMPs for demolition and landfill activities could include, but are not limited to:

- Temporary safety fencing around the site perimeter;
- Silt fencing to capture any sediments;
- Sediment logs to control contamination of the stream adjacent to the site;
- Install a gravel tracking pad for washing equipment prior to demobilization/departure from the site; and Dust controls, such as water spraying along haul routes during demolition and grading activities.

Demolition debris and native borrow material would be used to fill building voids and tunnels. Building 4 is set onto cut-and-fill terraces and it is likely that the Building 4 footprint and substructure has sufficient volume to accommodate all remaining demolition debris after other voids and tunnels were filled. Each demolished building footprint would be covered with a minimum three feet of native soil. The American Flat Road to the AFM site would not be closed, nor would re-routing of traffic be necessary.

The site would be graded to blend with existing contours and revegetated to achieve a natural appearance. A vegetated soil cover (minimum 36-inch) would be placed over all building footprints (i.e., ground-level slabs and foundations, including the primary landfill in Building 4). The soil cover would comprise native material excavated from an onsite borrow area. All disturbed surfaces would be covered in accordance with an engineered design. A seed mix comprising native grass and shrub species common in the vicinity would be used to seed all disturbed and soil cover areas. Revegetation BMPs would be implemented to protect the seeded surface and facilitate establishment of the desired vegetation cover. AFM site roads would be reclaimed along with the rest of the site. Access and perimeter roads would not be reclaimed.

Following revegetation actions and demobilization, site clean-up activities would include deconstruction and removal of all temporary structures and features, including a tracking pad and temporary site for security fencing. No long-term site security activities would be required under this alternative.

The Proposed Action would fully address the issues described in the purpose and need as for the following reasons:

- In demolishing the AFM structures, all physical safety hazards present would be abated; and
- As described in Section 4.2 of the Final EA, Alternative 2 was included in the PA, and mitigation (described below) for the adverse effects to the historic resources would be addressed by the BLM.

### **Mitigation Measures**

The following actions will be implemented by the BLM to mitigate the adverse impacts to historic resources and to resolve the adverse effects identified in the executed Programmatic Agreement (PA) between the BLM, Advisory Council on Historic Preservation (ACHP) and the State Historic Preservation Office (SHPO)<sup>1</sup>:

- Develop and install four wayside exhibits, consisting of a three paneled sign kiosk, to be placed in Virginia City, Gold Hill, Carson City and at the Nevada State Railroad Museum or locations to be determined by the signatories of the PA;
- Link the interpretive sign locations in MapQuest/Google Earth and make available the locations via a link on the AFM website;
- Develop a tri-fold brochure for AFM, which would include a map of key features noted. The BLM would print 10,000 copies of the brochure and would provide an electronic version of the brochure for reprinting;
- The BLM will develop a Quick Response code for Smartphone users that would be incorporated into print media;
- Develop a website documenting the historical significance of AFM and its association with the Virginia City National Historic Landmark;
- Produce a high definition video documentary, 15 minutes in length;

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<sup>1</sup> The BLM, ACHP and SHPO are signatories to the PA; the National Park Service and Comstock Historic District Commission are concurring parties.

- Develop an audio podcast discussing historical information about AFM;
- Consider adding the new technology to the AFM interpretive library as new technology becomes available;
- Develop a one-lesson heritage education plan for use in the Carson and Reno schools that could be incorporated into the Nevada Twentieth Century mining history curriculum;
- Create a tabletop diorama for one of the museums to give visitors an idea of what AFM looked like during the height of the mining activity. The BLM will coordinate with public institutions on hosting the diorama; and
- Develop a two-page written interpretation material for the V&T Railway.

Alternative 2 – Demolition has been selected because the Proposed Action best responds to the purpose and need to: promote public health and safety on BLM-managed lands; mitigate or abate the physical human safety hazards present; and while addressing historic resources of the AFM site.

#### Other Alternatives Considered

During the development of the Final EA, in addition to the Proposed Action, three other alternatives were evaluated. They included:

- Alternative 1 – No Action (Current Management)
- Alternative 3 – Institutional Controls
- Alternative 4 – Selected Building Retention

*No Action.* Alternative 1 represents the No Action Alternative under NEPA and CEQ regulations. The purpose of the No Action Alternative is to provide the baseline of existing conditions. On the basis of the No Action Alternative, this Final EA was able to evaluate the degree of change from the current situation to what would occur under implementation of any other alternative. Alternatives 2 through 4 would represent a change BLM's current management of the site.

Under the No Action Alternative, structures would continue to subside and collapse over time. The public would continue to be at risk due to the physical hazards present. Under the No Action Alternative, the BLM would have:

- Maintained the existing closure order;
- Maintained or repaired the existing fencing around clusters of buildings and allow public access to the areas between the buildings;
- Maintained and/or repaired closure signage; and
- Continued BLM law enforcement and Storey County sheriff patrols.

Although this alternative has been evaluated as the No Action Alternative for the purposes of severing as a baseline and comparison to the effects of the other alternatives, the No Action Alternative would not meet the purpose and need for the following reasons:

- The existing closure order and fencing are ineffective in promoting the public health and safety on public lands;

- Fencing is repeatedly cut by visitors; past and present efforts to prevent access into the interior of the structures has proven ineffective;
- The No Action Alternative would not implement new measures that would mitigate or abate the physical safety hazards present;
- The site structures would continue to subside and collapse, therefore the risks to public health and safety would continue to increase over time; and
- The No Action Alternative does not address the concerns raised in the OIG audit.

*Institutional Controls.* Under the Institutional Controls Alternative, the BLM would have:

- Filled voids and tunnels inside the buildings with native soil;
- Removed loose rebar and concrete;
- Enclosed the site perimeter within an eight-foot high security fence;
- Posted the site perimeter with closure signs (approximately 16 acres would be enclosed within the fencing);
- Implemented full-time site security;
- Continued BLM law enforcement and Storey County sheriff patrols;
- Conducted periodic inspections and maintenance of the fencing and signage; and
- Maintained the existing closure order.

The Institutional Controls Alternative partially meets the purpose and need as described in Section 1.2 of the Final EA for the following reasons:

- Removing loose rebar and concrete, and filling voids and tunnels inside the buildings would remove some of the physical safety hazards present;
- This alternative does not include new measures to prevent access into the upper floors of the structures such as installing bars, metal plates, or other materials over doors, windows, and other openings;
- The existing closure order is ineffective in promoting the public health and safety on public lands;
- Although this alternative would modify the type of fencing to an eight-foot high security fence, past and present efforts to prevent access into the interior of the structures have proven ineffective; and
- The structures themselves would remain and continue to subside and collapse, risks to health and safety would continue to increase over time.

*Selected Building Retention.* Under the Selected Building Retention Alternative, the BLM would have:

- Completed a final design prior to implementation;
- Demolished five of the eight buildings (Buildings 3, 5 and 6 would be retained);
- Installed soil cover and reclaim Building 1, 2, 4, 7 and 8 footprints;
- Removed loose, hanging concrete and exposed rebar from the retained buildings;
- Filled voids and tunnels;
- Maintained the existing closure order for the retained buildings;

- Secured the upper floors of Buildings 3, 5 and 6 against access by installing bars, metal plates, or other materials over doors, windows, and other openings;
- Enclosed each retained building in an eight-foot high security fence; and
- Continued BLM law enforcement and Storey County sheriff patrols.

The Selected Building Retention Alternative partially meets the purpose and need as described in Section 1.2 of the Final EA for the following reasons:

- Removing five of the eight buildings would remove some of the physical safety hazards present;
- For the retained buildings, the BLM would implement new measures to reduce some of the physical safety hazards present including: removal of loose, hanging concrete and exposed rebar, and filling the voids and tunnels;
- For the retained buildings, the BLM would implement new measures to prevent access into the upper floors of the structures such as installing bars, metal plates, or other materials over doors, windows, and other openings;
- Although this alternative would include an eight-foot high security fence for the three retained buildings, past and present efforts to prevent access into the interior of the structures have proven ineffective; and
- The retained structures themselves would remain and continue to subside and collapse over time, risks to health and safety would continue to increase over time from the retained structures.

## Decision

It is my Decision to select the Alternative 2 – Demolition (Proposed Action). Selection of this alternative is the first step in its implementation. The BLM would then proceed to secure funding, implement cultural resource mitigation, and solicit bids on a contract before implementing the Proposed Action. The timeframe to implement the Proposed Action is two to three years depending on funding availability.

  
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Leon Thomas  
Field Manager  
Sierra Front Field Office

4-3-2013  
date

## **APPEAL PROCEDURES**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR Part 4. If you appeal, your appeal must also be filed with the Bureau of Land Management at the following address:

Leon Thomas  
Field Manager  
BLM, Sierra Front Field Office  
5665 Morgan Mill Road  
Carson City, NV 89701

Your appeal must be filed within thirty (30) days from receipt or issuance of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Board of Land Appeals  
Dockets Attorney  
801 N. Quincy Street, Suite 300  
Arlington, VA 22203

A copy must also be sent to the appropriate Office of the Solicitor at the same time the original documents are filed with the above office.

U.S. Department of the Interior  
Office of the Regional Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, CA 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellants' success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals. Electronically filed appeals will therefore not be accepted.