

U.S. Department of the Interior
Bureau of Land Management
Carson City District Office

**CATEGORICAL EXCLUSION
ENVIRONMENTAL REVIEW AND APPROVAL**

Project Lead: Perry Wickham

Field Office: Sierra Front

Lead Office: Sierra Front

Case File/Project Number: NVN 091237

Applicable Categorical Exclusion (cite section): 516 DM 11.9, Appendix 4 – (E) (9):
“Renewal and assignments of leases, permits, or other rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.”

NEPA Number: DOI-BLM-NV-C020-2014-0036-CX

Project Name: American Flat Road ROW Renewal

Project Description: On July 6, 2012, the Bureau of Land Management (BLM) Sierra Front Field Office issued right-of-way (ROW) grant NVN 091237 to Comstock Mining, LLC for the period from issuance until December 31, 2014. To support the ROW grant, a categorical exclusion (CX) (DOI-BLM-NV-C020-2012-0046-CX) was signed on June 28, 2012 by the Authorized Officer. On June 4, 2014, Comstock Mining, LLC submitted to the BLM a SF-299 application to renew ROW NVN 091237. This CX and ROW grant renewal extends the existing authorizations.

The renewal of this ROW is to continue to use and maintain the American Flat Road (an existing dirt road) with no new surface disturbance. The maintenance of the existing surface with graders and water trucks is authorized. This road would continue to be used non-exclusively along with public traffic that uses the road to access private residences in the American Flat, to visit the American Flat Mill Site, and to visit the Virginia and Truckee Railroad. The American Flat Road is a multi-purpose road.

Use of the American Flat Road would continue to be for commercial mining activities, to transport materials from an on-going mining operation in the Lucerne and Bill the Kid pits (located on private lands) to an existing heap-leach processing facility also located on private lands (all private lands held by Comstock Mining, LLC.) Use of the American Flat Road is authorized for haul truck, employee, and contractor traffic. This renewed ROW would not authorize any new construction, expansion, restriction of access to the public, or addition to existing berms/creation of new berms.

The installation and maintenance of signs necessary for the safe use of the American Flat Road, in compliance with the Mining Safety and Health Administration requirements, are authorized within existing disturbed areas.

The existing travel surface (excluding previously built cuts and berms) varies in width from around 24 feet to 60 feet or more. This renewed ROW would continue a 30 foot width ROW authorization to accommodate Comstock Mining, LLC's on-going activities. All travel and surface maintenance would be restricted to 30 feet within the existing berms (berm to berm only) on the American Flat Road. The length of the renewed ROW would continue to be approximately 6,140 feet (from State Route 342 to the entrance to private lands where Comstock Mining, LLC's heap-leach processing facility is located). This renewed ROW authorization does not apply to the White House lots which were patented in 1872 and 1873. The total acreage would be approximately five acres. The renewed ROW would continue to be for year-round use.

This authorization would extend the existing authorization upon issuance. This would be a standard Federal Land Management Policy Act (FLPLMA) ROW issued until December 31, 2017, with the right to renew at the Authorized Officer's discretion.

Related actions. In August of 2012, Comstock Mining, LLC submitted to the BLM a SF-299 application to amend the existing ROW (NVN 091237) and submitted to the BLM a draft Plan of Development. Since that time, the BLM has had this request under review in an environmental assessment (DOI-BLM-NV-C020-2013-0005-EA). This request being evaluated would result in a modified alignment to the American Flat Road, and to create an exclusive use Lucerne haul road. The amended ROW, if approved, would also authorize use of three "wedges" of public lands within the Lucerne pit for haul-through purposes. Until such time as the amended ROW is approved, these actions would not occur.

In February of 2013, the BLM determined sufficient a Color-of-Title (COT) Claim to an area known as "Lot 51" located in the Gold Hill Townsite, Block 8, Range D. "Lot 51" is located at the intersection of the American Flat Road and the Lucerne haul road. Until such time as the BLM issues a patent for this parcel, this parcel is considered public lands. A portion of the existing ROW NVN 091237 crosses through "Lot 51."

Connected action. The on-going mining operation in the Lucerne and Billy the Kid pits, and the operation of an existing heap-leach facility are "connected" to the Lucerne haul road, which merges into the American Flat Road (the subject of ROW NVN 091237). However, the BLM does not have decision-making authority on private lands (these activities have been approved by Storey County under Special Use Permits and the State of Nevada, Nevada Department of Environmental Protection permits for air quality and water pollution control), nor can the BLM prevent or modify these activities because non-federal alternatives to the continuation of the operation are reasonable (one such alternative is being analyzed in DOI-BLM-NV-C020-2013-0005-EA). Therefore effects from the existing mining operation and heap-leach facility are not additive to the effects from the ROW grant.

Does the project include new surface disturbing activities? Yes No

Is the project located within preliminary general habitat for sage-grouse? Yes No

Is the project located within preliminary priority habitat for sage-grouse? Yes No

Is the project located within proposed critical habitat for bi-state sage-grouse? Yes No

Is the project located within critical habitat for Webber's Ivesia? Yes No

Cultural Resources Review: This renewal falls under categorical exemption #7 in Appendix C of the 2012 State Protocol Agreement between BLM and the Nevada State Historic Preservation Office: "Renewing existing rights-of-way characterized by complete surface disturbance (roads, pipelines, power lines, communication sites, etc.) where no new surface disturbance is authorized." This renewal would not authorize any changes in use, additional rights, or new surface disturbance. Therefore, this action is considered to have no potential to affect historic properties.

Applicant Name: Comstock Mining, LLC

Project Location (include Township/Range, County): Storey County. Mount Diablo Meridian, T 16 N, R 21 E, Sec. 5, W½ NW¼ and Sec. 6 E½ NE¼, NE¼ SE¼, S½ , SE¼.

BLM Acres for the Project Area: 5 acres.

Land Use Plan Conformance (cite reference/page number): LND-7, #9: "Renewals and assignments of leases, permits, or rights-of-ways where no additional rights are conveyed beyond those granted by the original authorizations."

Name of Plan: NV – Carson City RMP.

Screening of Extraordinary Circumstances: The following extraordinary circumstances apply to individual actions within categorical exclusions (43 CFR 46.215). The BLM has considered the following criteria:

<i>If any question is answered 'yes' an EA or EIS must be prepared.</i>	YES	NO
1. Would the Proposed Action have significant impacts on public health or safety?		X
2. Would the Proposed Action have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds (EO 13186); and other ecologically significant or critical areas?		X
3. Would the Proposed Action have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA 102(2)(E)]?		X
4. Would the Proposed Action have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?		X
5. Would the Proposed Action establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?		X
6. Would the Proposed Action have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?		X
7. Would the Proposed Action have significant impacts on properties listed, or eligible for listing, on the NRHP as determined by the bureau or office?		X
8. Would the Proposed Action have significant impacts on species listed, or proposed to be listed, on the list of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?		X
9. Would the Proposed Action violate federal law, or a State, local or tribal law or requirement imposed for the protection of the environment?		X
10. Would the Proposed Action have a disproportionately high and adverse effect on low income or minority populations (EA 12898)?		X
11. Would the Proposed Action limit access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007)?		X
12. Would the Proposed Action contribute to the introduction, continued existence, or spread of noxious weeds or non-native species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112)?		X

CONCLUSION: Based upon the review of this Proposed Action, I have determined that the above-described project is a categorical exclusion, in conformance with the LUP, and does not require an EA or EIS.

Approved by:



ACTING
FOR

Leon Thomas
Field Manager
Sierra Front Field Office

(date)

Does this CX constitute the decision document for this Proposed Action? Yes No (see attached ROW grant).