



Reno Office
815 Maestro Drive
Reno, NV 89511

ph: 775.829.2245
fax: 775.829.2213
www.mcgin.com

Las Vegas Office
6280 South Valley View Blvd.
Suite 604
Las Vegas, NV 89118

ph: 702.260.4961
fax: 702.260.4968

January 25, 2012

Nevada Division of Environmental Protection
Bureau of Corrective Actions
901 S. Stewart Street, Suite 3005
Carson City, Nevada 89701-5249

VIA: Federal Express and State FTP Site

ATTN: Jack Yates

CC: Cindi Byrns (via Fed Ex and www.yousendit.com)
Joe McGinley, Carolyn McIntosh (via www.yousendit.com)

**RE: SAMPLING AND ANALYSIS PLAN FOR COMSTOCK MINING INC., AREAS
AFFECTED BY THE CARSON RIVER MERCURY SITE**

Dear Mr. Yates:

On behalf of Comstock Mining Inc., McGinley and Associates (MGA) has attached six hard copies and six electronic copy of the sampling and analysis plan (SAP) for the Comstock Mining Inc., Areas Affected by the Carson River Mercury Site. Also included on the electronic copy are a red-line strike-out version of the document in Microsoft Word, a clean version of the document in Microsoft Word, and a full version of the document in Adobe Acrobat.

In addition, as requested by your January 17, 2012 letter, an annotated response-to-comments (RTC) section is provided below, please note that the original NDEP comment is provided in italics before the MGA RTC:

1. *See specific comments as noted on attached redline document.* RTC 1, MGA has incorporated all changes provided by the NDEP in their red-line strike-out (RLSO) version of the SAP that was transmitted on January 17, 2012. These changes were all accepted before the current version of the RLSO was developed.
2. *See comments on Figure 9 in attached PDF file.* Figure 9 has been revised per the NDEP's comments and a revised Figure 9 is provided in this SAP.
3. *CMI needs to include a clear, definitive statement that while conducting exploration or mining activities in any area while on the Comstock that should material that is suspect to contain CRMS contaminants of concern be encountered, sampling of the material per guidance contained in this SAP and the referenced LTSRP will be conducted to the full vertical depth of the material and/or disturbance.* This item is addressed by revised Section 2.1, items 2 and 5 and existing Section 4, item 1.
4. *CMI needs to address whether an area directly behind the Gold Hill Hotel was disturbed by past CMI operations and if so, include appropriate sampling of this area in the SAP.* Comstock installed a single boring on a constructed drill pad behind the Gold Hill Hotel. To Comstock's knowledge this did not interact with any historic mill site tailings or waste.

Regardless, as a service to the community and in response to this comment, Comstock will sample the area behind the Gold Hill Hotel as detailed on Figure 30 and as discussed in Section 4.1.3.

5. *CMI needs to address whether waste from the excavation of the Lucerne pit was dumped in the area in Storey County on the east side of Highway 342, north of Devils Gate and sample this material to the full depth of fill.* This allegation is false. Neither Comstock nor its predecessor in interest excavated waste from the Lucerne pit or dumped any such material in the referenced area on the east side of Highway 342. However, the Lindsay Mill, Ione Mill, and Saint Louis Mill are historic mill sites known to have operated in this area, as shown on Figure 14 of the SAP. Accordingly, as shown in the existing SAP, Comstock plans to sample in the hatched areas shown on Figure 14, encompassing Lindsay Mill, Ione Mill, and Saint Louis Mill. These areas are proposed to be sampled and addressed at a later date, but prior to any disturbance by Comstock in this area. To the extent that this comment is a reference to the riprap material placed to armor an approximate 300 foot in length section of the east bank of Gold Canyon Creek, an ephemeral drainage, located at approximately NE1/4 Section 8, T16N R21E MDB&M, Latitude: 39° 16' 15" and Longitude: 119° 38' 55"W, that material was riprap purchased from Canyon Creek Construction. Riprap material from Canyon Creek Construction was also placed to make a designated riprap waterway crossing installation across a then dry drainage of Gold Canyon Creek. These riprap installations were done pursuant to, and in full compliance with, Temporary Permit TNEV2011453, Authorization to Work in Waterway, issued by NDEP on June 6, 2011. The riprap installation work was completed on June 16, 2011, thereby fully resolving a May 11, 2011 NDEP Cease and Desist Order (Order). By letter dated June 25, 2011, NDEP released Comstock from the Order.
6. *CMI needs to evaluate areas southwest of the Dayton mill site for sampling since it appears that there is disturbance in this area related to the Dayton mill on the orthophoto shown on Figure 25.* Comstock will expand its sampling to include the disturbed area south of the Dayton mill site. This expanded sampling area is now shown on the current Figures 26 and 27.
7. *While the CMI processing area was most likely not affected by historic Comstock era wastes, more current mining/processing activities have been conducted there which could have introduced such wastes to that area. Since some of that area is bare soil and road traffic and processing activities could generate dust, six 5-point composite samples of the surficial (0"-6") depth horizon need to be taken to demonstrate that CoC levels do not exceed current screening/action levels. Please show the layout and location of these samples on the appropriate figure (or add another figure that shows them) and discuss their collection and scheduling in the appropriate areas of the SAP text.* Comstock disagrees with the technical justification for this sampling. The Comstock 40-acre processing area (Process Area) was undeveloped range land until the late 1990s. Aerial photos show no evidence of any Comstock era former mill sites in this 40-acre Process Area, either. Section 2.0 of NDEP's *Draft Carson River Mercury Superfund Site Long-Term Sampling and Response Plan Risk Assessment and Soil Management (LTSRP)* dated November 10, 2011 (NDEP, 2011) identifies property that falls within the CRMS boundary making it subject to the LTSRP. The Process Area is not located: 1) within the 100-year floodplain within the Carson River watershed; 2) in Six-Mile, Seven-Mile, Daney or Gold Canyons or their associated floodplains; 3) adjacent to or down-gradient of a former mill site; 4) in a fluvial deposition zone associated with any former mill site area; or 5) near any Comstock era mills in Washoe Valley. The Process Area simply does not meet the LTSRP criteria to have ever been included within the CRMS boundaries. Moreover, the Process Area is a properly permitted

minerals processing area in which mined material is being processed in a contained heap. The mined material likely contains naturally occurring CRMS Contaminants of Concern mercury, lead, and arsenic (COCs). Any presence of CRMS COCs in this context should have no effect on the CRMS boundaries. However, Comstock will complete the requested sampling. Additional sampling locations have been added on Figure 28. Additional discussion in the SAP has been added in Section 4.1.5. In addition, Comstock needs to relocate a power line in the vicinity of the process area. Sampling has been added north of the process area to address the area where the new power line is being located. This is shown on Figures 28 and 29.

McGinley and Associates, Inc. appreciates the opportunity to submit this SAP and we look forward to working with you on this project. Should you have any questions regarding this SAP, please contact us at (702) 260-4961 or at brakvica@mcgin.com. If this SAP is acceptable to you, please advise us at brakvica@mcgin.com.

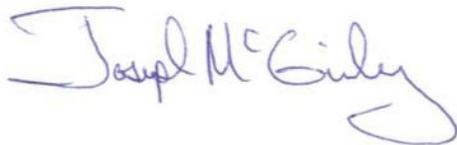
Respectfully submitted,
McGinley and Associates, Inc.



Brian A. Rakvica, P.E., C.E.M. #2260, Exp. Date 09/21/12
Senior Project Manager

Reviewed by:

I hereby certify that I am responsible for the services described in this document and for the preparation of this document. The services described in this document have been provided in a manner consistent with the current standards of the profession, and to the best of my knowledge, comply with all applicable federal, state and local statutes, regulations and ordinances.



Joseph M. McGinley, C.E.M. #1036, Exp. Date 11/12
Principal