AMENDMENT ONE
TO
PROGRAMMATIC AGREEMENT
BETWEEN
THE BUREAU OF LAND MANAGEMENT,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND
THE NEVADA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE UNITED COMSTOCK MERGER MILL AT AMERICAN FLAT
STOREY COUNTY, NEVADA

WHEREAS, the Bureau of Land Management (BLM), the Nevada State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) executed the Programmatic Agreement (PA) on March 2012; and

WHEREAS, the BLM has proposed amendments to the PA to change the specifications of the mitigation products for greater flexibility and to address the rapidly changing technology cited in the PA; and

NOW THEREFORE, in accordance with Stipulation VII of the PA, the BLM, the SHPO, and the ACHP agree to amend the PA as follows:

1. Amend Stipulation I.E.3 so it reads as follows:

   Develop a brochure for AFM, which would include a map with key features noted. Print 10,000 copies of the brochure and provide an electronic version of the brochure for reprinting.

2. Delete Stipulation I.E.4.

3. Amend Stipulation I.E.6 so it reads as follows:

   Produce a high definition video documentary at least 15 minutes in length.

4. Add Stipulation X.D so it reads as follows:

   This PA will be signed in counterparts and each signature will be effective and binding as if the Signatories had signed the same document.

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SIGNATORY PAGE

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REGARDING THE UNITED COMSTOCK MERGER MILL AT AMERICAN FLAT
STOREY COUNTY, NEVADA

SIGNATORIES:

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT

Date 9/5/2018

Colleen Dulin, District Manager, Carson City District Office

NEVADA STATE HISTORIC PRESERVATION OFFICER

Date 09/05/18

Rebecca L. Palmer, SHPO

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Date 11/14/18

John M. Fowler, Executive Director

PROGRAMMATIC AGREEMENT
BETWEEN
THE BUREAU OF LAND MANAGEMENT,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND
THE NEVADA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE UNITED COMSTOCK MERGER MILL AT AMERICAN FLAT
STOREY COUNTY, NEVADA

WHEREAS, the Bureau of Land Management Sierra Front Field Office (BLM) proposes to mitigate hazards to public health and safety at the historic United Comstock Merger Mill at American Flat (Undertaking), located completely on public lands within the Virginia City National Historic Landmark (VC NHL), through the implementation of one of the alternatives described in the Environmental Assessment titled *United Comstock Merger Mill at American Flat Environmental Assessment* (EA) and originally dated December 2010 and subsequently updated in 2012; and

WHEREAS, the BLM has established the United Comstock Merger Mill at American Flat (AFM) area of potential effect (APE), as defined at 36 CFR Part 800.16(d), to be the ruins of eight buildings and associated features from the United Comstock Merger Mill as described and shown in Appendix A, and has consulted on the extent, and the potential effect of the proposed undertaking, on the viewshed and setting of the VC NHL with the Nevada State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800; and

WHEREAS, the BLM has consulted with the SHPO under, and in accordance with, Section 106 of the National Historic Preservation Act, 16 U.S.C. Part 470 (NHPA), and its implementing regulations (36 CFR Part 800) to resolve the adverse effects of the Undertaking on historic properties; and

WHEREAS, the BLM, in consultation with the SHPO pursuant to 36 CFR Part 800.4, has determined that all historic properties within the APE have been identified and evaluated as described in the report titled *An Architectural and Archaeological Inventory of the American Flat Mill, Storey County, Nevada,* prepared by Zeier & Associates LLC and Gnomon, Inc., dated August 2009; and

WHEREAS, the BLM, in consultation with SHPO, has determined that the ruin of the AFM contributes to the eligibility, as defined at 36 CFR Part 800.4, of the Virginia City National Register District (VC NRD) under National Register Criterion A and C at a national level and under Criterion B at the local level; and

WHEREAS, pursuant to 36 CFR Part 800.5(a), the BLM in consultation with the SHPO, has determined that selection of any of the EA alternatives would constitute an adverse effect to the VC NHL, the VC NRD, and the AFM. In selecting an alternative, the BLM shall balance the need to abate the public health and safety hazards present at AFM with the important historic values of the United Comstock Merger Mill while employing the original structural evaluation authored by the U.S. Army Corps of Engineers, cost figures found in the EA, and any peer

review results of these documents provided to the BLM by any signatory to this Programmatic Agreement (PA); and

WHEREAS, in accordance with 36 CFR Part 800.6(a)(1), the BLM has notified the Advisory Council on Historic Preservation (ACHP) of the Undertaking and its adverse effect finding and the ACHP has elected to participate in the consultation; and

WHEREAS, in accordance with 36 CFR Part 800.10(c) and 36 CFR Part 800.6(c) the BLM has consulted with the National Park Service (NPS), as the proposed undertaking is located within the VC NHL, and the NPS elected to participate in the consultation as a concurring party for this PA; and

WHEREAS, pursuant to 36 CFR Part 800.6(a) the BLM has invited the Comstock Historic District Commission (CHDC), the Storey County Certified Local Government (CLG) and the Nevada Division of Museums and History (NV DMH), to be concurring parties and the CHDC and CLG have elected to participate for this PA; and

WHEREAS, in accordance with 36 CFR Part 800.2(d) and 36 CFR Part 800.6(a)(4), the BLM has notified the public of the Undertaking and has invited the public to participate in the Section 106 process, including their views on resolving any potential effects of the Undertaking. The BLM will provide the public with a new 30-day public comment period on the revised 2012 draft environmental assessment which will have measures incorporated in it from this PA; and

NOW, THEREFORE, the BLM, SHPO and ACHP agree that upon BLM's decision to proceed with the Undertaking, the BLM shall ensure that the following stipulations are implemented to take into account the effects of the Undertaking on historic properties, and that these stipulations shall govern the Undertaking and all of its parts until this PA expires or is terminated.

STIPULATIONS

The BLM shall ensure that the following measures are carried out:

I. MITIGATION MEASURES/TREATMENT

A. Common to all Alternatives

1. Complete Historic American Buildings Survey/Historic American Engineering Record (HAER)/Historic American Landscapes Survey (HALS) documentation on AFM and its setting to include archival photographic and written documentation. The BLM will consult with the NPS Pacific West Regional Office to determine the appropriate level and format for the HAER/HALS documentation.
2. Develop a two-page written interpretation material for the V & T Railway.
3. Remove all contaminated materials from AFM.
4. Avoid disturbing or impacting the following historic features on AFM: a rock quarry pit and crusher, a cement tank, several refuse dumps, an internal railroad spur, and a V & T Railway spur.

B. Alternative 1 – No Action – maintain existing management levels
   1. Continue BLM law enforcement patrols.
   2. Maintain or repair existing security fence.
   3. Maintain or repair closure signage.
   4. Maintain emergency site closure.
   5. Pursue site stewardship at AFM.

C. Alternative 3 – Institutional Controls – buildings would be allowed to subside and collapse over time with full-time site security
   1. Continue BLM law enforcement patrols.
   2. Install an eight-foot high security fence.
   3. Maintain or repair closure signage.
   4. Implement a long-term site closure order and administrative withdrawal to manage public access, protect from incompatible land uses, and ensure retention of AFM in public ownership.
   5. Fill in all voids and remove loose material to ensure public safety.
   6. Pursue site stewardship at AFM.
   7. Develop and install one wayside exhibit, consisting of a 3 paneled kiosk, to be placed in Virginia City or a location determined by the signatories.
   8. Develop a tri-fold brochure for AFM, which would include a map with key features noted. Print 5,000 copies of the brochure and provide an electronic version of the brochure for reprinting.
   9. Develop a website to inform the public about the closure and interesting historical information about AFM.

D. Alternative 4 - Selected Building Controls – retention of Buildings 3, 5 and 6
   1. Continue BLM law enforcement patrols.
   2. Install an eight-foot high security fence.
   3. Implement a long-term site closure order and administrative withdrawal to manage public access, protect from incompatible land uses, and ensure retention of AFM in public ownership.
   4. Fill in all voids and remove loose material to protect public safety.
   5. Retain Building 3 (Fine Grinding and Concentration Plant), Building 5 (Warehouse) and Building 6 (Precipitation and Refinery Building). All other onsite buildings would be removed. Remove loose, hanging concrete and exposed rebar. Access to upper floors would be demolished, and all voids filled. The first floors of Buildings 3, 5, and 6 would be secured against access by installing bars, metal plates, or other materials over doors, windows and other openings.
   6. Pursue site stewardship at AFM.
   7. Develop and install two wayside exhibits, consisting of a 3 paneled kiosk, to possibly be placed in Virginia City and Carson City or locations determined by the signatories.
   8. Develop a tri-fold brochure for AFM, which would include a map with key features noted. Print 7,500 copies of the brochure and provide an electronic version of the brochure for reprinting.

9. Develop a website informing the public about the closure and relays interesting historical information about AFM.
10. Make available a BLM representative or volunteer to lead interpretive walks through the area.

E. Alternative 2 – Demolition – complete removal of all structures
1. Develop and install four wayside exhibits, consisting of a 3 paneled sign kiosk, to be placed in Virginia City, Gold Hill, Carson City and at the Nevada State Railroad Museum or locations determined by the signatories.
2. Link the interpretive sign locations in MapQuest/Google Earth and make available the locations via link on the AFM website.
3. Develop a tri-fold brochure for AFM, which would include a map with key features noted. Print 10,000 copies of the brochure and provide an electronic version of the brochure for reprinting.
4. BLM will develop a Quick Response code for Smartphone users that would be incorporated into print media.
5. Develop a website documenting the historical significance of AFM and its association with the VC NHL.
6. Produce a high definition video documentary 15 minutes in length.
7. Develop an audio podcast discussing historical information about AFM.
8. Consider adding the new technology to the AFM interpretive library as new technology becomes available.
9. Develop a one-lesson heritage education plan for use in the Carson and Reno schools that could be incorporated into the Nevada 20th century mining history curriculum.
10. 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.

II. MONITORING

The BLM will monitor AFM annually with an appropriate professional (monitor) and during undertaking activities where the BLM, in consultation with SHPO and other concurring parties, deem necessary.

A. Monitors shall be empowered to stop work to protect resources if that work is inconsistent with the terms of this PA.
B. Annual site monitoring will consist of collecting data related to determining any change in AFM integrity and the rate that change is occurring. Baseline data from the previous inventory, *An Architectural and Archaeological Inventory of the American Flat Mill, Storey County, Nevada,* prepared by Zeier & Associates LLC and Gnomon, Inc., dated August 2009, will be employed by the monitor to describe any changes to integrity. BLM will provide a standardized site report for archaeological resources or Historic Resources Inventory Form (HRIF) for architectural resources for monitors to utilize.
C. The BLM will provide a copy of the annually site monitoring reports to all Signatories and Concurring Parties to the Agreement within 30 days of completion of the site monitoring.

D. If changes to the integrity of AFM are noted prior to the initiation of the undertaking activities, the Signatories and Concurring Parties shall consult to determine what, if any, mitigation is needed and the timeframe for this activity (Stipulation I.A).

III. ANNUAL REPORTING

The BLM will provide all parties to this PA an annual letter report of activities occurring at AFM by the anniversary date of this PA. Such a report shall include at a minimum a record of mitigation in progress and completed during the year, any scheduling changes proposed, any problems encountered, and any disputes and objections received in the BLM's efforts to carry out the terms of this PA.

IV. OTHER CONSIDERATIONS

The BLM shall ensure that historic, architectural, and interpretation work conducted pursuant to this PA is carried out by or under the direct supervision of persons meeting qualifications set forth in the Draft Secretary of the Interior's Professional Qualification Standards dated June 20, 1997 (62 FR 33707-33723).

V. DISCOVERY SITUATIONS

A. When previously unidentified cultural resources are discovered or an unanticipated impact situation occurs, all activities within 100 meters of the discovery/impact will cease immediately. The BLM shall secure the location to prevent vandalism or other damage. All activities within 100 meters of the discovery/impact shall be suspended until it has been evaluated and any necessary mitigation measures completed.

B. The BLM shall notify the SHPO, and consulting parties as appropriate, within one working day of being notified of the discovery or unanticipated impact, and consider their comments on the situation. Within two working days after initial discovery, the BLM shall notify all consulting parties of the decision to either allow activities to proceed or to require further evaluation and/or mitigation.

C. If, in consultation with the signatories, the BLM determines that mitigation for discoveries or unanticipated impacts is required, the BLM shall solicit comments from the consulting parties, as appropriate, to develop mitigating measures. The consulting parties will be allowed two working days to provide BLM with comments to be considered before the BLM decides on the nature and extent of mitigative efforts. Within seven working days of initial SHPO notification, the BLM will inform all consulting parties of the nature of the mitigation required, and ensure that such mitigative actions are implemented before allowing activities to resume.

D. The BLM shall ensure that reports of mitigation efforts for discoveries or unanticipated impacts are completed in a timely manner and conform to the Department of Interior's Formal Standards for Final Reports of Data Recovery Program (42 FR 5377-79). Drafts of such reports shall be submitted to the SHPO for a 15-day review and comment period. Final reports shall be submitted to the SHPO and other consulting parties for informational purposes.

E. Any disputes or objections arising during a discovery or unanticipated impact situation regarding the treatment of historic properties that cannot be resolved by the BLM and the SHPO shall be referred to the Nevada BLM State Office for resolution. The Nevada BLM State Office decision will be considered final.

VI. DISPUTE RESOLUTION

A. If there is an objection by any consulting party to the manner in which the terms of this PA are implemented, the objecting party will notify the Sierra Front Field Manager in writing of the objection. The Sierra Front Field Manager will notify all other consulting parties of the objection. All signatories and concurring parties will consult to resolve the objection. If the BLM determines that the objection cannot be resolved, it shall request assistance from the BLM Nevada State Office to help resolve the objection. The final decision for resolution of the objection by any signatory shall be made by the BLM State Director.

B. The BLM shall continue all actions under this PA that are not the subject of the dispute.

VII. AMENDMENT

Any signatory to this PA may request that this PA be amended, whereupon the consulting parties will consult to consider such amendment. An amendment shall take effect upon execution by the signatories.

VIII. TERMINATION

Any signatory may initiate consultation for termination by providing written notice to the other parties of their intent. After notification by the initiating party, the remaining signatories shall have 60 business days to consult to seek agreement on amendments or any other actions that would address the issues and avoid termination. If such consultation fails, the termination will go into effect at the end of this 60-day period, unless all parties agree to a longer period.

IX. DURATION

This PA shall become effective on the date of the last signature of a signatory below, and shall remain in effect until terminated as provided in Stipulation VIII, or until undertaking and all mitigation is completed. The signatories and concurring parties will review the PA every 10 years. The BLM shall ensure the PA will be re-evaluated and amended to accommodate any changes to the terms (See Stipulation VII).

X. EXECUTION

A. Execution and implementation of this PA evidence that the BLM has satisfied its Section 106 responsibilities for all stipulations under the selected alternative.

B. In the event that the signatories do not carry out the requirements of this PA or it is terminated, the BLM will comply with the provisions of the 36 CFR Part 800.

C. This PA shall become effective on the date of the last signatory below, and shall remain in effect until terminated as provided in Stipulation VIII., or until Undertaking and all mitigation is completed.

Signatories:

Bureau of Land Management, Carson City District Office

Christopher McAlear, District Manager — Date 2/22/12

Nevada State Historic Preservation Office

Rebecca Lynn Palmer, Deputy State Historic Preservation Officer — Date 2/29/12

Advisory Council on Historic Preservation

John M. Fowler, Executive Director — Date 3/5/12

Concurring Parties:

Comstock Historic District Commission

Michael A. "Bert" Bedeau, District Administrator — Date 2/23/12

National Park Service

Christine S. Lehnertz, Director Pacific West Region — Date 03/27/2012

Participants in the PA process who have chosen not to sign:
Storey County Certified Local Government
State of Nevada Division of Museums & History

Appendix A – Map and Description of the Ruins

The following buildings are present within the proposed undertaking Area of Potential Effect and their locations are shown in Figure 1-1.

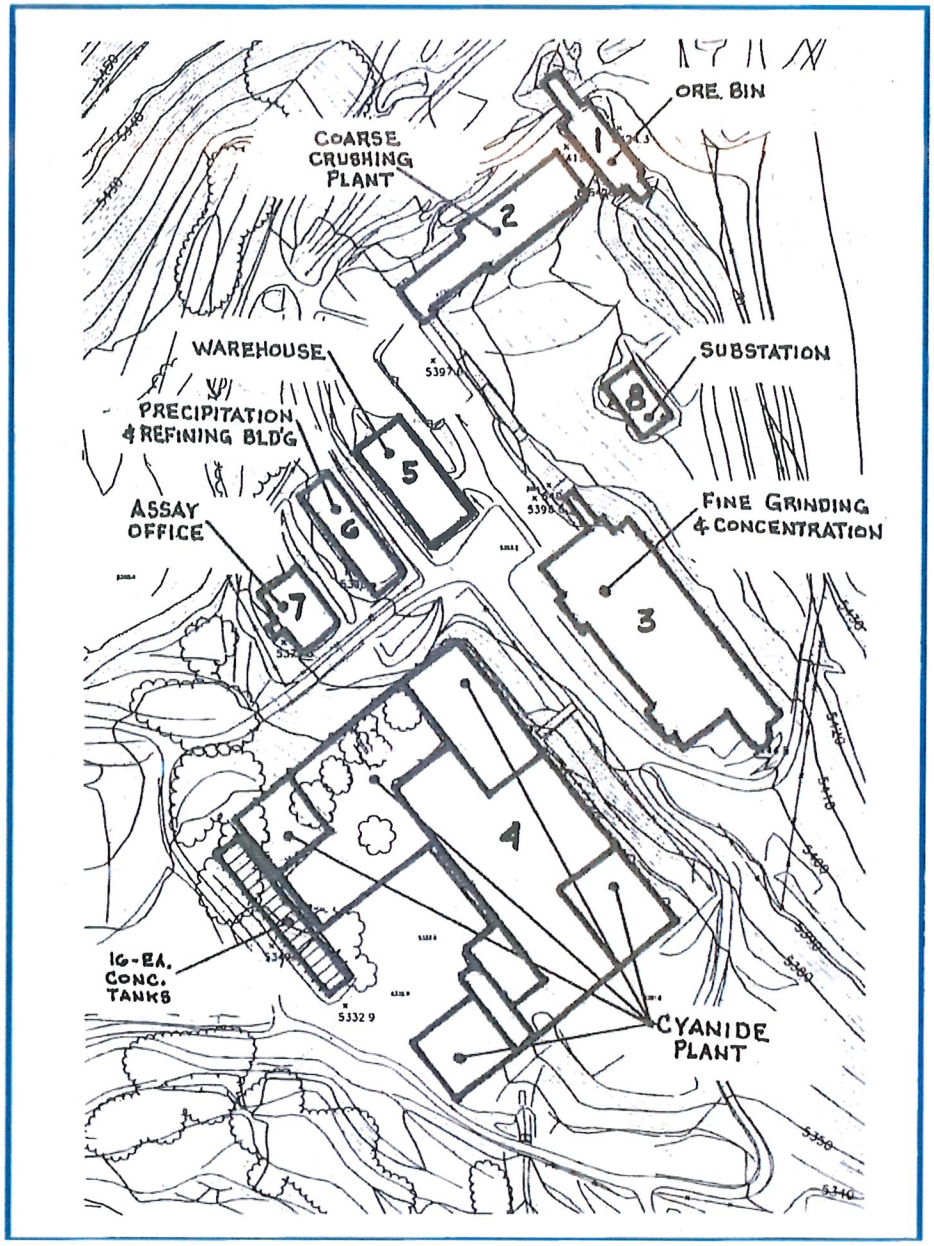

Figure 1-1 American Flat Mill Building Locations (USACE 2010)

Building 1 – Ore Bin

Building 1 – The Ore Bin is a 3,785-square-foot building with 14 concrete supports for the steel rotating tipple. The building and supports are concrete and are largely intact. The tipple has been removed. In addition to the walls and deck, large concrete buttresses project from both sides of the structure built to bear the weight of the ore trains and offset the rotary action of the tipple. Figure 1-2 shows the current appearance of the Ore Bin.

Figure 1-2 Building 1 – Ore Bin

Building 2 – Coarse Crushing Plant

Building 2 – The Coarse Crushing Plant, shown in Figure 1-3, was constructed entirely of reinforced concrete. The building is 8,473 square feet, and at the time it was built, it was 80 feet tall. Two other mill components were a structural part of the Coarse Crushing Plant: a machine shop, which was approximately 50 by 80 feet and 32 feet tall, and a blacksmith shop, which was approximately 32 by 48 feet in plan view. The upper walls of the Coarse Crushing Plant had a reinforced concrete skeleton filled with Fenestra steel sash windows and corrugated galvanized steel. The steel was salvaged in 1927 and is no longer present. There are two basement levels and 10,000 linear feet of tunnels. Little is known about the underground mill sumps and concrete-lined tunnels that underlie the site. The tunnels carried process materials to the next processing stage, mostly on conveyers and through pipes.

Figure 1-3 Building 2 – Coarse Crushing Plant

Run-of-Mine ore was delivered to this facility via a 10,000-foot-long underground tunnel. Electric railcars dumped ore here to be crushed. A heavily reinforced concrete receiving ore bin occupies the northeastern side of the building. Crushed ore from this facility was sent to the Fine Grinding and Concentration Plant. Today, the building consists of five levels, including two basement levels which are now flooded. The upper levels are now only bare skeletons of concrete with protruding rebar.

Building 3 – Fine Grinding and Concentration Plant

Building 3 – The Fine Grinding and Concentration Plant is shown in Figure 1-4. It is a reinforced concrete building that is 16,998 square feet and stands 83 feet tall. The building is roughly rectangular in shape, with a rectangular extension on the eastern side and the remains of a conveyor belt support structure on the west. The structure was built on the side of a hill and has multiple levels of varying heights, including two levels below surrounding ground on the northern side and one subgrade level on the southern side. This building contained ball mills and classifiers that crushed and washed the ore. Material from this plant was sent to the Cyanide Plant.

Figure 1-4 Building 3 – Fine Grinding and Concentration Plant

Building 4 – Cyanide Plant

Building 4 – The Cyanide Plant, shown in Figure 1-5, is 89,650 square feet and covers about 2.5 acres. Most of the Cyanide Plant has reinforced concrete floors, retaining walls, tunnels, equipment mountings, and cast sills, which supported an array of 40 redwood mixing and leaching tanks. Roof support columns were placed so as not to interfere with the leaching and mixing tanks. The tanks rested on concrete sills placed directly on the concrete floor. The building is set onto cut-and-fill terraces that facilitated gravity flow of the process solutions. Output from the cyanide process was sent to the filter or tank house located at the northwestern corner of the Cyanide Plant. Product from the tank house was delivered to the precipitation and refinery building. The basement at the lowest level of the concrete skeleton of this building is now flooded and has several concrete posts protruding from it.

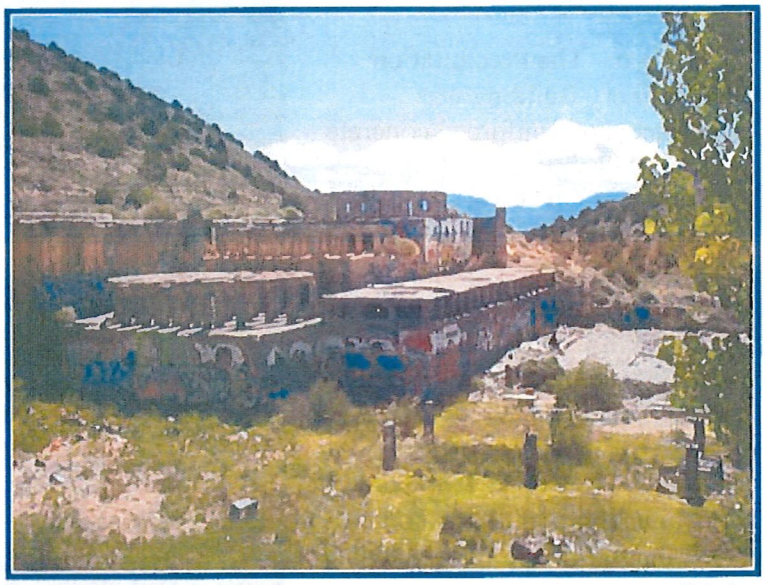

Figure 1-5 Building 4 – Cyanide Plant

Building 5 – Warehouse

Building 5 – The Warehouse (Figure 1-6) was built of solid concrete. It is approximately 5,666 square feet and 13 feet tall. A railroad spur was once adjacent to it. The warehouse was surrounded by a concrete platform eight feet wide and four feet above ground level. Most of the interior of this building is now open.

Figure 1-6 Building 5 – Warehouse

Building 6 – Precipitation and Refinery Building

Building 6 – The Precipitation and Refinery Building was constructed of reinforced concrete and is 3,938 square feet (Figure 2-7). Gold and silver were extracted from pregnant cyanide solutions in this building. The building held two rectangular tanks and housed four Merrill-Crowe presses. The remainder of the building held the refinery and included a vault for bullion storage. The windows in this building were covered with heavy metal grates, which have been removed.

Figure 1-7 Building 6 – Precipitation and Refinery Building

Building 7 – Assay Office and Testing Plant

Building 7 – The Assay Office and Testing Plant is an approximately 3,000-square-foot two-story rectangular building. The first story was constructed of reinforced concrete and contained equipment for testing and sample grinding equipment. The second story consisted of a metal frame covered with metal lath and cement plaster inside and out. The building contained a furnace room, laboratory, and mill superintendent's office. The building has a concrete daylight basement with a small porch made of cast concrete. The remaining parts of Building 7 are shown in Figure 1-8.

Figure 1-8 Building 7 – Assay Office and Testing Plant

Building 8 – Substation

Building 8 – The Substation was an approximately 2,000-square-foot building located behind the Coarse Crushing and Fine Crushing buildings. All that is left of this structure, as shown in Figure 1-9, is a rectangular slab foundation with remnants of concrete stem walls surrounded by an array of concrete pillars.

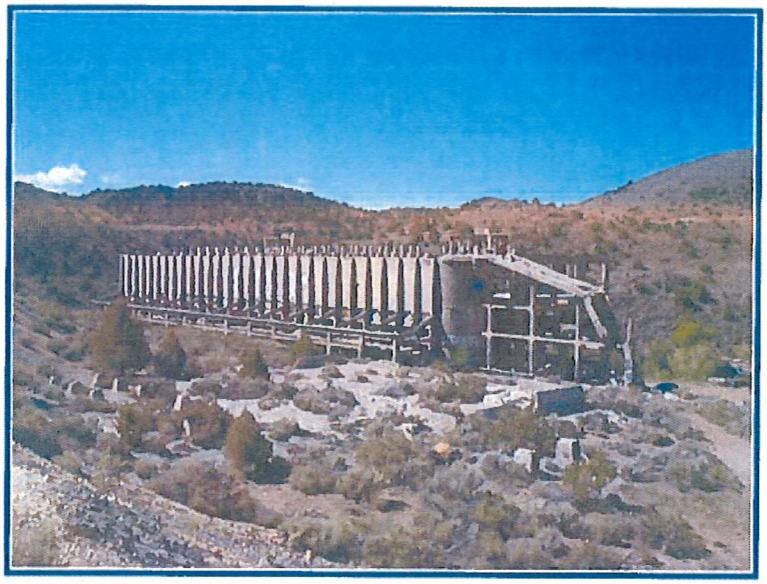

Figure 1-9 Building 8 – Substation slab with Building 3 in the Background