

PROGRAMMATIC AGREEMENT

Between

HUMBOLDT-TOIYABE NATIONAL FOREST, MOUNTAIN CITY, RUBY MOUNTAINS, AND JARBIDGE RANGER DISTRICT, AND THE NEVADA STATE HISTORIC PRESERVATION OFFICER

Regarding

**THE SOUTH JERRITT EXPLORATION PROJECT,
ELKO COUNTY, NEVADA**

WHEREAS, the Humboldt-Toiyabe National Forest, Mountain City, Ruby Mountains and Jarbidge District (HTNF) plans to authorize a Plan of Operation (PoO) with modifications for Jerritt Canyon Gold LLC's (Proponent) to conduct up to 500 acres of surface disturbance as part of their South Jerritt Exploration Project (Project) pursuant to the General Mining Law of 1872 and 36 CFR § 228.8 Subpart A; and

WHEREAS, HTNF has determined that the Project is subject to review under 54 U.S. Code § 306108 commonly known as Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations 36 CFR 800; and

WHEREAS, HTNF has defined the Project Area of Potential Effects (APE) as approximately 111,639 acres that includes 42,976-acres where direct-physical effects from Project activities may occur plus a 1-mile buffer for direct nonphysical effects (e.g., visual, atmospheric, audible), and cumulative effects located on federal lands managed by HTNF, Bureau of Land Management (BLM) and on private lands controlled (leased or owned) by the Proponent; and

WHEREAS, HTNF has consulted with the Nevada State Historic Preservation Office (SHPO), pursuant to Section 106 of the NHPA and 36 CFR § 800.14(b)(2), who is a Signatory to this Programmatic Agreement (PA); and

WHEREAS, the Proponent will implement the Project over a seven (7) year period in a phased manner and effects from each exploration Work Plan cannot be determined at this time. This PA covers all aspects of planning, development, and implementation of the Project to specify the process by which HTNF will implement and complete Section 106 compliance activities conducted as part of the Project on cultural resources included in or eligible for inclusion in the National Register of Historic Places (NRHP), hereinafter called historic properties; and

WHEREAS, HTNF has sought consultations with the Shoshone-Paiute Tribes of the Duck Valley and the individual Te-Moak Tribes: Elko, Wells, South Fork Reservation, and Battle Mountain Tribes (hereafter referred to collectively as Tribes or singularly by their name) regarding the PA and potential for effects to historic properties of religious and cultural significance to the Tribes in the APE pursuant to 36 CFR § 800.2(c)(2). It is understood that a

Tribe's participation does not imply an endorsement of the proposed Project in part or as a whole); and

WHEREAS, HTNF and BLM agree that HTNF shall be the lead federal agency responsible for ensuring compliance with NHPA, should BLM lands be incorporated into the Project's visual APE; and

WHEREAS, HTNF has sought and considered the views of the public pursuant to 36 CFR § 800.6(a)(4) and 36 CFR § 800.14(b)(2)(ii) during the National Environmental Policy Act (NEPA) scoping process over a 30-day period between September and October of 2020. Results of the NEPA public scoping indicated that no comments were received that pertain to cultural resources; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), HTNF has notified the Advisory Council on Historic Preservation (ACHP) of their intent to implement a PA with specified documentation, and the ACHP has not chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the Proponent has been invited to sign this PA as a Concurring Party pursuant to 36 CFR § 800.6(c)(2)(iii) as it bears certain financial and other obligations under this PA; and

WHEREAS, for the purposes of this PA, a reference to Proponent includes a reference to any of its successors in interest regarding the Project; and

WHEREAS, unless otherwise specified, duties of HTNF as defined in this PA shall be directed and carried out by the affiliated HTNF District Ranger; and

WHEREAS, undefined legal terms used herein have meanings specified in 36 CFR § 800.16; and

NOW, THEREFORE, the Signatories to this PA agree that the Project shall be implemented in accordance with the following stipulations, which are designed to take into account the effect of the undertaking on historic properties in compliance with the NHPA, Section 106 review process.

STIPULATIONS

HTNF shall ensure that the following measures are carried out:

I. *Roles and Responsibilities*

- A. HTNF is responsible for administering the PA and ensuring that all of the PA's stipulations are carried out to completion. This includes but is not limited to ensuring that the Signatories carry out their respective responsibilities as stipulated during the implementation of this PA.

- B. HTNF shall ensure that all cultural resource work conducted under this PA be conducted by or directly supervised by employees or contractors meeting the Secretary of the Interior's Professional Qualifications Standards appropriate to the cultural resource type under consideration.
- C. HTNF will be responsible for all submissions to the SHPO, the ACHP, and Tribes, as appropriate, during implementation of this PA for all the Proponent's exploration Work Plans.
- D. The Proponent shall notify HTNF of proposed activities for each exploration phase of work in the form of a detailed Work Plan prior to and in sufficient time to allow HTNF and Proponent's CRM to complete needed review, inventory, and reporting.
- E. The Proponent shall bear the expense of identification, evaluation, and treatment of all historic properties that have the potential to be directly or indirectly affected by the Project activities. Such costs shall include, but not be limited to pre-field planning and APE development, fieldwork, post-fieldwork analysis, research and report preparation, interim and summary report preparation, creation and publication of any interpretive materials if proposed for mitigation, or the cost of curating project documentation and artifact collections. If the Proponent withdraws Project proposals or Work Plans, then they shall incur no further expense except for completing fieldwork and post-fieldwork activities (production of final inventory, testing, or data recovery reports covering the description and analysis of data, and the curation of materials) that have occurred as of the date of withdrawal.
- F. The Proponent shall cooperate with HTNF to ensure compliance with the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470) on Federal lands and with Nevada Revised Statutes (NRS) 381 and 383 for private lands.
- G. The Proponent will be responsible for the expense of rehabilitation or mitigation, and may be subject to penalties under applicable federal, state, or local law, should damage to cultural resources inside or outside the APE occur during the Project timeframe due to the unauthorized or negligent actions of the Proponent, their employees, contractors or any other Project personnel operating under the Proponent's supervision, direction, or control.
- H. HTNF shall ensure that all work undertaken to satisfy the terms of this PA meets the Secretary of the Interior's Standards for Archeology and Historic Preservation (48 FR 44716) (Federal Register, September 29, 1983), hereinafter referred to as Secretary's Standards, and is consistent with the Advisory Council on Historic Preservation's (ACHP) guidance on archaeology and all applicable NPS guidance for evaluating National Register of Historic Place (NHPA) properties. HTNF will employ the HTNF Cultural Resource Documentation Guidelines and Standards for Contractors for all work carried out under the PA, as appropriate.

- I. The Proponent will adhere to best management practices (BMP) for the protection of cultural resources over the life of the Project (Appendix D). HTNF, in consultation with the Signatories, may revise or update specific BMP cultural resource guidelines, as appropriate, to address Project-specific circumstances.
- II. *Exempt Activities*

Proposed Work Plan activities with a limited potential to cause effects on historic properties (i.e., would not alter any characteristics of historic properties that contribute, or would contribute, to the NRHP eligibility, or potential eligibility, of such properties, if present) and are exempt from further SHPO review pursuant to this PA (Appendix B.2).

- A. HTNF, in consultation with the SHPO, may add or remove activities from Appendix B.2 as necessary. This proposed modification will not require an amendment to this PA under Stipulation XII below.
 1. HTNF will send the request to modify Appendix B.2 to the SHPO in writing.
 2. The SHPO will review and comment on the proposed modification within thirty (30) days of receipt of the request. The SHPO may, in writing, accept the proposed change, request additional information regarding the proposed change, provide an alternative to the proposed change, or reject the proposed change.
 3. If the SHPO does not respond to the review request following the thirty (30) day review period, HTNF may finalize the updated Appendix B.2 list.
 4. Any Signatory may request to add or remove an activity from Appendix B.2 through a written request to the other Signatory. The request will include a description of and justification for the activity proposed for addition to or removal from the list of Exempt Undertaking (Appendix B.2).
- B. Project actions considered exempt from further SHPO review, which are unlikely to pose an effect to historic properties over the duration of the Project include the following:
 1. Vehicular traffic on existing established roads (mine haul roads, etc.) to access drill sites is unlikely to pose an effect to historic properties as no ground disturbing actions would be performed outside of the extant road prism. The traffic patterns along primary road networks are expected to increase only slightly beyond its current use.
 2. Removal of snow from existing access roads and exploration roads. Snow would be removed to the width of the road plus any turnouts and ditch lines

and a minimum of a two to four-inch snow floor would be left on roads to minimize removal of roadbed surfacing and eliminate debris side-cast to the extent practicable.

3. Reclamation and seeding that does not involve ground-disturbing actions beyond the extent of the Work Plan APE previously reviewed per Stipulation VII above.

III. *Identification*

A. Area of Potential Effects:

The Proponent shall submit a Work Plan for each phase of project exploration work designed to establish the geographic area or areas within which the Project may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist.

The HTNF will document the Work Plan-APE and consult with the CRM, Tribes and interested parties who may ascribe cultural value to properties in the area. As a starting point, the direct (nonphysical) APE will account for temporary visual, auditory, atmospheric, vibration and cumulative effects in the Work Plan APE by employing a one-mile buffer in all direction from the Project's proposed action boundary and a one-half mile buffer from all directions for various internal direct (physical) effect disturbance types (See Appendix A, Figures A1 and A2). Based on factors of topography, circumstances and nature of the Project work, tribes and others who may ascribe cultural value to properties in the area, the boundary of the direct (nonphysical) APE size may be refined. HTNF acknowledges that the visual APE may be influenced through consultation with Tribes regarding properties with traditional religious and cultural significance.

The Proponent's CRM may also propose a block survey approach to address the various disturbances that may be geographically concentrated within the Project APE, which would incorporate a comprehensive direct, indirect, and cumulative effects APE.

Standard inventory distances to be employed for specific disturbances types are presented below.

1. Drill Pads and Sites: The minimum direct physical APE for all drilling pads the ancillary disturbance areas (monitoring wells, sumps, water tanks, parking, etc.) associated with the drill site is 60 meters outward in all directions.
2. Newly Constructed Exploration Roads: The minimum direct physical APE for constructed access roads is the footprint disturbance area plus 30 meters outward in all directions. The APE may be expanded in areas where effects may stem from erosion control actions, such as steeper sloped areas.

3. Overland Access Routes: The minimum direct physical APE for all overland access roads is the linear disturbance area plus 30 meters outward in all directions.
 4. Trench Sites: The minimum direct physical APE for trenches is the linear disturbance area plus 60 meters outward in all directions. The direct physical APE shall consider any associated access and excavation equipment staging needed.
 5. Staging Areas: The minimum direct physical APE for all staging areas will be the footprint of the proposed staging area plus 60 meters outwards in all directions.
 6. Reclamation and Seeding Areas: The minimum direct physical APE for any ground-disturbing reclamation activities is the reclamation area plus 60 meters in all directions.
 7. Water Use and Management: The minimum direct physical APE for areas or water tank placement and truck access zones to the tanks is the area plus 60 meters in all directions.
 8. Secondary historic-era access roads: The minimum direct physical APE for roads that may require maintenance or repair work will be 30 meters from the center line.
- B. HTNF, in consultation with the SHPO, may modify the APE for the Project or any type of Work Plan activity as needed or as requested by the SHPO without amending the PA proper. If this occurs, HTNF will formally notify the SHPO of the modified APE. The SHPO may request the PA to be amended in accordance with the process outlined in Stipulation XII within thirty (30) calendar days of their receipt of the proposed modification.
- C. HTNF will ensure that the Proponent's CRM conduct a Class I literature search for each exploration Work Plan-APE that will include, but is not limited to, a review of: previous field survey and site records; NVCRIS and INFRA databases; cultural resource overviews; local environmental, archaeological, and historical information (i.e., BLM GLO maps and county and state records); SHPO reviewed landscape sensitivity-predictive models; previously-provided information from the Tribes; and information from persons familiar with the Project APE.
- D. HTNF will consult with the affected Tribes to identify resources and properties with traditional religious and cultural significance that may potentially exist within a Work Plan-APE.
- E. HTNF shall ensure that the Proponent's CRM conducts a Class II and III cultural resource inventory of each Work Plan-APE, or portions thereof not previously

inventoried, and submits this information to the Proponent and HTNF. Definitions for Class II and III inventories are provided in the latest version of the HTNF Cultural Resource Documentation Guidelines and Standards for Contractors.

1. HTNF will determine, prior to initiation of fieldwork, if a new boundary and site revisit is necessary for cultural resources previously identified and evaluated within the last twenty (20) years, as appropriate.
 2. HTNF will determine, prior to the initiation of fieldwork, if an area previously inventoried will require a new inventory based on considerations detailed in the HTNF Cultural Resources Documentation Guidelines and Standards for Contractors.
 3. Inventory and site documentation standards shall employ HTNF Cultural Resources Documentation Guidelines and Standards for Contractors.
- F. The Proponent's CRM will submit a draft cultural resource inventory report to HTNF within three (3) months after the completion of all identification efforts, unless otherwise negotiated.
- G. If HTNF, after reviewing the cultural resource inventory report, determines that no cultural resources were identified in the Work Plan-APE, HTNF may approve the Proponent's Work Plan in accordance with Stipulation VII.A below.

IV. *Evaluation of Historic Properties*

- A. HTNF, in consultation with the SHPO and other consulting parties, as appropriate, shall ensure that all cultural resources, previously recorded (unevaluated) and newly discovered, in the Work Plan-APE are evaluated by a qualified archaeologist to determine their inclusion in the NRHP.
- B. HTNF may request SHPO review of their NRHP eligibility determinations separately or in conjunction with HTNF's finding of effect assessment.
- C. If HTNF determines that a cultural resource cannot be evaluated for the NRHP, HTNF will treat it as if it were eligible for the NRHP for this Project. Such a situation may occur because of the following conditions:
 1. Site is within an area too steep to safely inventory (>30%).
 2. HTNF requires more information to make a sufficient determination i.e., site testing, special studies to adequately assess the site's integrity, age, and structure, etc.
- D. HTNF, in consultation with Tribes, will make determinations of NRHP eligibility for historic properties of traditional religious and cultural significance. HTNF

acknowledges that Tribes possess special expertise in assessing the significance and eligibility of cultural resources that may possess cultural and religious significance to them. The Tribes will have thirty (30) calendar days from receipt to provide HTNF with comments unless another period is negotiated with a Tribe. HTNF may modify its initial NRHP eligibility determinations based on such consultation with the Tribes.

- E. HTNF, after consultation with the Proponent and Tribes, as appropriate, will transmit its determination of NRHP eligibility for the newly identified and previously unevaluated (revisited) properties to the SHPO for consultation.
1. HTNF's transmittal will include details about consultation with Tribes and the Proponent, including any comments that HTNF received.
 2. The SHPO shall have thirty (30) calendar days from receipt for their review and comment on HTNF's NRHP determinations (in whole or in part). HTNF will address all comments from the SHPO. If the SHPO fails to respond within thirty (30) calendar days of receipt, HTNF will consider the NRHP determination final.
 3. Once the SHPO concurs or fails to respond to HTNF's transmittal concerning HTNF's NRHP eligibility determinations, the determinations will be considered final.
 4. HTNF will be responsible for informing the Proponent and consulting parties of the final NRHP eligibility determinations within five (5) working days following the close of the SHPO comment period.

V. *Assessment of Effects*

- A. HTNF will follow procedures in this PA for determining if the Proponent's Work Plans will have an effect or adverse effect on historic properties. Effect in this context means alteration to the characteristics of a historic property qualifying it for inclusion in the NRHP. Adverse Effects may include reasonably foreseeable effects caused by the Work Plan that may occur later in time, be farther removed in distance, or be cumulative. HTNF and the Proponent shall seek to avoid historic properties through modifications to the design of Work Plan action(s), the relocation of Work Plan activity, or by other means, as practicable, recognizing valid existing rights.
- B. If HTNF and the Proponent can ensure avoidance of all adverse effects to historic properties for a proposed exploration Work Plan, HTNF will submit a formal Notice to Proceed (NTP) letter to the SHPO.
1. The SHPO shall have seven (7) working days from receipt to review the NTP letter. HTNF will address comments from the SHPO. If the SHPO fails to

respond within seven (7) working days of receipt or does not object, HTNF will authorize the Work Plan to proceed.

- C. If HTNF, informed by discussion with the Proponent, determines that avoidance is not feasible or prudent, HTNF shall evaluate the effects of the Work Plan on historic properties.
1. HTNF will prepare a finding of effects on historic properties within the Work Plan APE. HTNF will explain whether it has determined there will be No Effect, No Adverse Effect, or an Adverse Effect resulting from the Work Plan. If HTNF determines that the Work Plan will have an Adverse Effect on a historic property, the requirements of Stipulation VI below will apply. Finding of effects recommendations may be prepared by the Proponent's CRM.
 2. HTNF shall provide the finding of effect to the Proponent and Tribes, as appropriate, which will have thirty (30) calendar days from receipt to provide comments or request further consultation.
 3. HTNF may modify initial findings of effect based on consultation with Tribes and the Proponent.
 4. Following consultation with Tribes and the Proponent, HTNF will transmit the finding of effect for historic properties within the Work Plan APE to the SHPO for consultation. The submission shall include details about consultation with Tribes and the Proponent including any comments that HTNF received. For any Work Plan implemented under this PA, HTNF may, at its discretion, expedite the consultation by combining documentation for Stipulations III and IV of the Work Plan into one submission for SHPO review concurrent with the finding of effect notification for that Work Plan.
 5. The SHPO shall have thirty (30) calendar days from receipt to either concur with HTNF's determinations of effect or provide HTNF with comments. HTNF will address comments from the SHPO. If the SHPO fails to respond to HTNF within thirty (30) calendar days of receipt of a submission, HTNF may proceed accordingly.
 6. Once the SHPO concurs or fails to respond, HTNF's finding of effect shall be considered final.
 7. HTNF will be responsible for informing the Proponent and the Tribe of the final finding of effect within five (5) working days of the close of the SHPO comment period.

VI. *Adverse Effects Situations*

- A. If HTNF, informed by discussion with the Proponent, determines that avoidance is not feasible or prudent, HTNF shall make a finding of Adverse Effect for the Work Plan.
1. HTNF will require the Proponent to prepare a treatment plan to resolve the adverse effects of the Work Plan on historic properties. The Proponent's Cultural Resource Manager (CRM) may prepare effects recommendations and treatment plans.
 - a. When archaeological data recovery is the preferred treatment option for a historic property or properties eligible under Criterion (D), HTNF shall ensure that the Proponent's CRM develops a treatment plan based on an appropriate historic context and research design prior to the commencement of any data recovery. Data recovery plans shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716) at https://www.nps.gov/history/local-law/arch_stnds_0.htm. and shall follow guidance provided by the ACHP as updated online at <https://www.achp.gov/sites/default/files/guidance/2017-02/ACHP%20ARCHAEOLOGY%20GUIDANCE.pdf>
 - b. For historic properties eligible under Criteria (A) through (C), other forms of mitigation may be considered in the treatment plan in lieu of or in addition to data recovery, including interpretation, public education, collection of oral histories, or other mitigation (e.g., historic markers, exhibits, interpretive brochures, publications, informational websites, etc.). In some cases, off-site mitigation may be appropriate to resolve identified adverse effects.
 2. HTNF will provide their finding of effects and treatment plans to the Proponent and Tribes, as appropriate, which will have thirty (30) calendar days from receipt to provide comments or request further consultation.
 - a. HTNF may modify findings of effect and treatment plans based on consultation with Tribes and the Proponent.
 3. Following consultation with Tribes and the Proponent, HTNF will transmit its finding of effects and treatment plans for historic properties within the Work Plan APE to the SHPO for consultation. The submission shall include details about consultation with Tribes and the Proponent including any comments that HTNF received.

- a. The SHPO shall have thirty (30) calendar days from receipt to either concur with HTNF's determinations of effect and treatment plans (in whole or in part) or provide HTNF with comments. HTNF will address comments from the SHPO. If the SHPO fails to respond to HTNF within thirty (30) calendar days of receipt of a submission, HTNF shall proceed accordingly.
- b. Once the SHPO concurs or fails to respond, HTNF's findings of effect and treatment plans shall be considered final.
- c. HTNF will be responsible for informing the Proponent and Tribes of the final findings of effect and treatment plans within five (5) working days of SHPO concurrence.

VII. *Implementing Projects*

HTNF may authorize the Proponent to implement a Work Plan under the following conditions:

- A. HTNF has received a Class II and III cultural resource inventory report from the Proponent's CRM for the Work Plan and the CRM did not identify any cultural resources in the APE; or
- B. HTNF, in consultation with the SHPO, has evaluated all cultural resources in the Work Plan APE and no historic properties are present; or
- C. HTNF has determined that historic properties are present in the Work Plan-APE, but they will not be adversely affected by the Work Plan actions and this finding has been reviewed by the SHPO as per Stipulation V.B above; or
- D. HTNF, in consultation with the SHPO, has determined that there would be no historic properties adversely affected by the Work Plan; or
- E. HTNF, in consultation with the SHPO, the Proponent, and Tribes as appropriate, have reviewed and approved a treatment plan for all historic properties adversely affected by the Work Plan in accordance with Stipulations VI.A.2 and VI.A.3 above and that treatment plan does not require additional fieldwork within the Work Plan APE; or
- F. HTNF in consultation with the SHPO, the Proponent, and Tribes as appropriate, have reviewed and approved a treatment plan for all historic properties adversely affected by the Work Plan in accordance with Stipulations VI.A.3 and VI.A.3 above. The Proponent's CRM has implemented a treatment plan for the Work Plan that would affect historic properties, and:
 1. The CRM has completed the fieldwork portion of the treatment; and

2. HTNF has accepted a summary description of fieldwork performed for the Work Plan; and
 3. HTNF has provided an electronic copy of the summary to the SHPO; and
 4. The SHPO has reviewed the summary and either concurred or provided further comments within five (5) working days of receipt. HTNF will address comments from the SHPO. If the SHPO fails to respond to HTNF with five (5) working days, HTNF may authorize implementation of the Work Plan.
- G. Once a Work Plan has gone through the relevant review process set forth in the Stipulations VII.A-F and the Work Plan has been approved by HTNF, HTNF shall consider the review complete for the Work Plan. HTNF will consider any new information received from a consulting party after the issuance of a Work Plan authorization in subsequent activities under this PA.

VIII. DURATION

This PA shall become effective on the date of the last Signatories' signature below and shall remain in effect for ten (10) years or the conclusion of exploration activities authorized by the Project undertaking, whichever comes first.

IX. POST-REVIEW DISCOVERIES

If previously unevaluated cultural resources are discovered or unanticipated effects on historic properties found, HTNF shall implement the Inadvertent Discovery Plan (Appendix C).

The treatment of human remains and associated burial objects shall be consistent with the procedures outlined in Appendix C and in Section 10.4 of the regulations (43 CFR 10) implementing the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002d).

X. MONITORING AND REPORTING

- A. Reporting completed under this PA may consist of Work Plan inventory reports, as well as finding of effects letters, NTP letters, treatment plans, treatment summaries, and treatment reports.
- B. HTNF will report any new inventory required under the terms of this PA to the SHPO using standard reporting formats.
- C. Field archaeological monitoring may be prescribed as part of a treatment plan, if appropriate. Monitoring by a qualified archaeologist during mechanical

excavations and other direct effect physical disturbances may be used to enhance the effectiveness of cultural resource protection measures.

- D. Any Signatory may monitor actions carried out pursuant to this PA. To the extent practicable, monitoring activities should minimize the number of monitors involved in the Project.
- E. A draft report of the identification, recordation, evaluation, treatment or other mitigative activities will be due to HTNF from the Proponent's CRM within three (3) months after the completion of the fieldwork associated with the activity, unless otherwise negotiated with the Proponent's CRM.
- F. HTNF shall review and comment on all reports submitted by the Proponent's CRM within thirty (30) calendar days of receipt, unless otherwise negotiated.
- G. HTNF shall ensure that all final reports resulting from actions pursuant to this PA will be provided to the SHPO.

XI. DISPUTE RESOLUTION

Should any Signatory or concurring party to this PA object at any time to any actions proposed or the manner in which terms of this PA are implemented, HTNF shall consult with such party to resolve the objection. If HTNF determines that such objection cannot be resolved, HTNF will:

- A. Forward all documentation relevant to the dispute, including HTNF's proposed resolution, to the ACHP. The ACHP shall provide HTNF with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, HTNF shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, the SHPO, and the Proponent and provide them with a copy of this written response. HTNF will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day period, HTNF may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, HTNF shall prepare a written response that takes into account any timely comments regarding the dispute from the SHPO and the Proponent and provide them and the ACHP with a copy of such written response.
- C. HTNF's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

XII. AMENDMENTS

This PA may be amended when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date a copy signed by all of the Signatories and is filed with the ACHP. HTNF will provide notification to the SHPO, with a signed letter, in the event of a change in the Proponent no later than thirty (30) days from HTNF's receipt of notification. The formal letter will include an updated signature page reflecting the new Proponent signatory. A change of the Proponent will not require amending the PA proper.

XIII. TERMINATION

If any Signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XII, above. If within thirty (30) days (or another time period agreed to by Signatories) an amendment cannot be reached, any Signatory may terminate the PA upon written notification to the other Signatory.

Upon termination, and prior to work continuing on the undertaking, HTNF must either (a) execute an PA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. HTNF shall notify the Signatories as to the course of action it will pursue.

XIV. ANTI-DEFICIENCY ACT

HTNF obligations under this PA are subject to the availability of appropriated funds, and the stipulations of this PA are subject to the provisions of the Anti-Deficiency Act. HTNF shall make reasonable and good faith efforts to secure the necessary funds to implement this PA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs HTNF's ability to implement the stipulations of this agreement, HTNF shall consult in accordance with the amendment and termination procedures found at Stipulations XII and XIII of this agreement.

EXECUTION of this PA by HTNF and the SHPO and implementation of its terms evidence that HTNF have taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

This PA may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same agreement.

[Remainder of page intentionally blank]

PROGRAMMATIC AGREEMENT
Between
HUMBOLDT-TOIYABE NATIONAL FOREST, MOUNTAIN CITY, RUBY
MOUNTAINS, AND JARBIDGE RANGER DISTRICT, AND THE NEVADA STATE
HISTORIC PRESERVATION OFFICER
Regarding
THE SOUTH JERRITT EXPLORATION PROJECT,
ELKO COUNTY, NEVADA

SIGNATORY:

WILLIAM
DUNKELBERGE
R

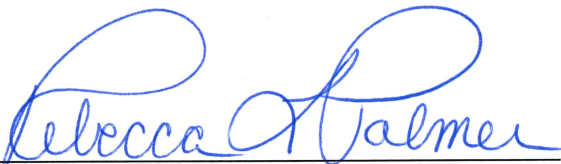
Digitally signed by WILLIAM
DUNKELBERGER
Date: 2021.08.26 16:28:05
-07'00'

Date 8/26/21

BILL DUNKELBERGER
USDA, Humboldt-Toiyabe National Forest
Forest Supervisor

PROGRAMMATIC AGREEMENT
Between
HUMBOLDT-TOIYABE NATIONAL FOREST, MOUNTAIN CITY, RUBY
MOUNTAINS, AND JARBIDGE RANGER DISTRICT, AND THE NEVADA STATE
HISTORIC PRESERVATION OFFICER
Regarding
THE SOUTH JERRITT EXPLORATION PROJECT,
ELKO COUNTY, NEVADA

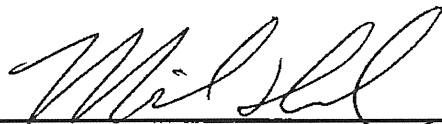
SIGNATORY:


REBECCA L. PALMER
Nevada State Historic Preservation Officer

Date August 27, 2021

PROGRAMMATIC AGREEMENT
Between
HUMBOLDT-TOIYABE NATIONAL FOREST, MOUNTAIN CITY, RUBY
MOUNTAINS, AND JARBIDGE RANGER DISTRICT, AND THE NEVADA STATE
HISTORIC PRESERVATION OFFICER
Regarding
THE SOUTH JERRITT EXPLORATION PROJECT,
ELKO COUNTY, NEVADA

INVITED SIGNATORY:



MICHAEL DEAL, GENERAL
MANAGER
Jerritt Canyon Gold LLC

Date 8/24/21

PROGRAMMATIC AGREEMENT
Between
HUMBOLDT-TOIYABE NATIONAL FOREST, MOUNTAIN CITY, RUBY
MOUNTAINS, AND JARBIDGE RANGER DISTRICT, AND THE NEVADA STATE
HISTORIC PRESERVATION OFFICER
Regarding
THE SOUTH JERRITT EXPLORATION PROJECT,
ELKO COUNTY, NEVADA

INVITED SIGNATORY:

MELANIE PETERSON Digitally signed by MELANIE
PETERSON
Date: 2021.08.16 06:54:27 -07'00'

MELANIE A. PETERSON
BLM, Tuscarora Field Office Manager

Date _____

APPENDIX A

PROJECT AREA OF POTENTIAL EFFECTS

The Proponent (Jerritt Canyon Gold LLC) has submitted a mineral exploration-only Plan of Operations (Plan) proposal that would consist of drilling for locatable minerals over the next seven years at Jerritt Canyon Mine, approximately 50 miles north of Elko, Nevada. The Project is located in the Independence Mountains in all or parts of the following sections as indicated in Table A1 and shown in Figure A1). Previous to this Project, this area of the Independence Range has been mined for gold utilizing open pits and underground workings since 1981 and is currently being mined from underground. Over 6 million ounces of gold have been produced to date. Approximately 16,000 drill holes have been drilled in the 70 square mile area since the 1970s.

Table A1. South Jerritt Exploration Project Location.

Township	Range	Section
41N	53E	14, 21-23, 25-28, 31-35
40N	53E	1-36
40N	54E	5-8, 19, 20, 29-32
39N	53E	1-6, 11, 12
39N	54E	6

The Area of Potential Effects (APE) means the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of a cultural property. The APE is influenced by the scale and nature of an undertaking and is different for different kinds of effects caused by the undertaking. The boundaries of the APE reflect the location(s) where the Proponent's Cultural Resource Manager (CRM) will identify, evaluate, and aid in the determination of effect and adverse effect to historic properties, should they exist.

The entire project APE, including potential for direct, indirect, and cumulative effects to historic properties includes approximately 111,639 acres. Within this area, the direct (physical) APE includes the designated proposed action Project boundary, which encompasses approximately 42,997 acres (Table A2, Figure A1). The HTNF will document the Work Plan-APE and maintain consultations with Tribes and the public who may ascribe cultural value to properties in the APE.

HTNF acknowledges that there will be temporary visual changes to the landscape resulting from ground disturbance associated with the proposed exploration program. All ground disturbance will be reclaimed to pre-project condition after cessation of drilling and some concurrent reclamation will occur on a yearly basis. No permanent above-ground elements are proposed as part of the Project actions or activities. As a starting point, the direct (nonphysical) APE will account for temporary visual, auditory, atmospheric, vibration and cumulative effects in the Work Plan APE by employing a one-mile buffer in all direction from the Project's proposed action boundary (Figure A2) and a one-half mile buffer from all directions for various internal direct (physical) effect disturbance types. Based on factors of topography and other factors the

extent of the direct (nonphysical) APE may be refined further.

Temporary auditory changes to baseline noise levels are also possible during mineral construction activities. These auditory changes will not extend beyond the period of exploration and will occur seasonally.

Drill pads, new road construction, overland travel, drilling itself, and use of water trucks has the potential to result in vibrations that may impact the integrity of cultural resources a distance away from the locations of the proposed ground disturbing activities. Temporary vibrations that impact the integrity of cultural resources have the potential to result in adverse effects. Vibrations have the potential to impact cultural resource integrity within 30 meters of ground disturbing activities. More than 30 meters from ground disturbing activities, vibrations are not expected to be strong enough to result in effects to resource integrity. Should historic properties that are vulnerable to the effects of vibration be adjacent to a proposed activity, alternative locations that avoid adverse effects will be assessed or the resource will be monitored for potential adverse effects during the activity.

Atmospheric changes resulting from dust emissions will be temporary and confined to a short period of exploration. Best management practices described in the HTNF Environmental Assessment will be employed to abate dust, which may be generated from travel to and from drill sites. The Proponent will adhere to Federal and state guidelines for fugitive dust emissions. The drilling project will have a surface area disturbance (SAD) permit from the state for dust emissions. Atmospheric changes to baseline conditions will be temporary, seasonal, and negligible, and therefore are not likely to result in a potential adverse effect to historic properties.

[Remainder of page intentionally blank]

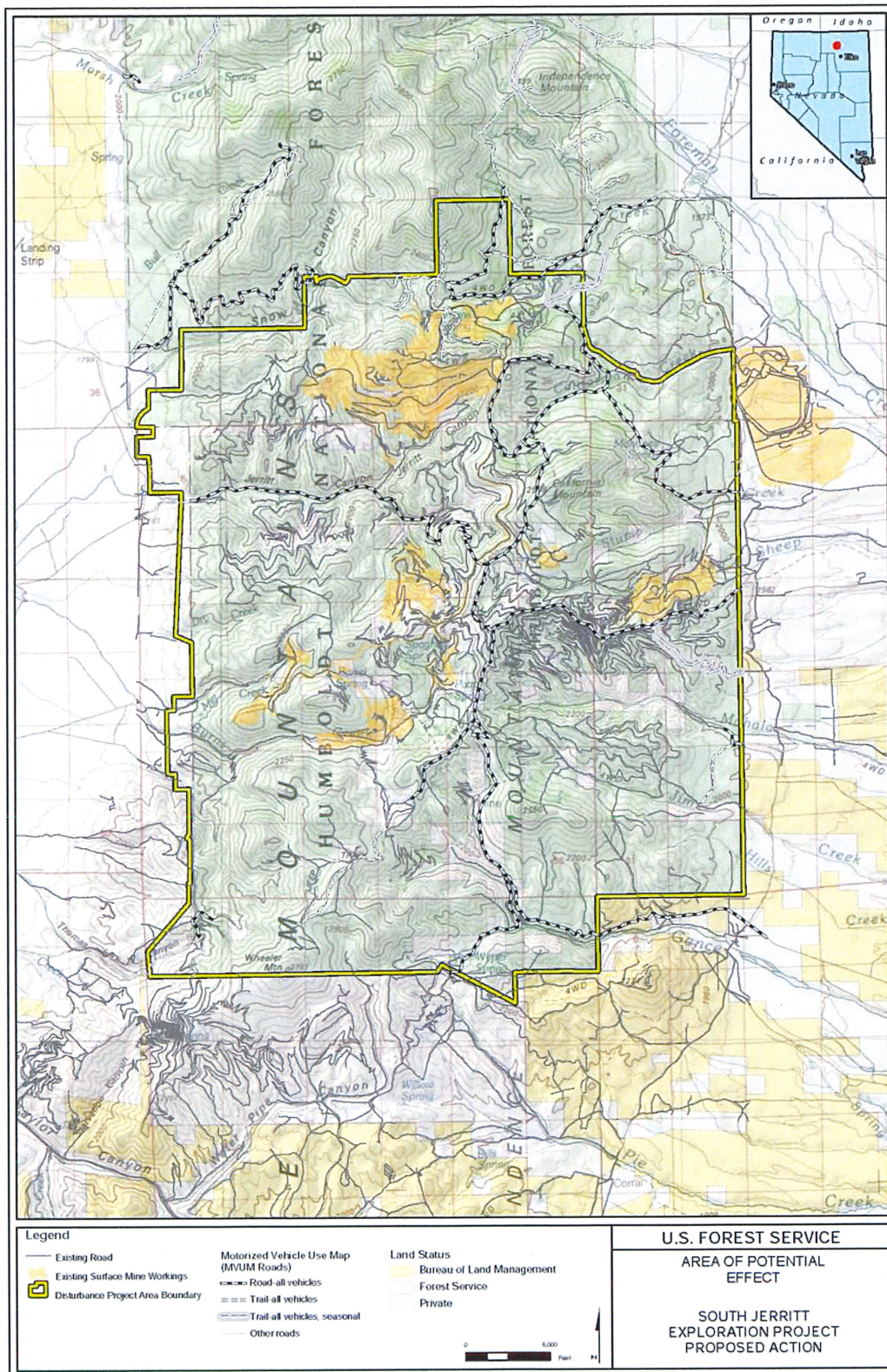


Figure A1. Project area showing access roads, prior minerals exploration, and land status.

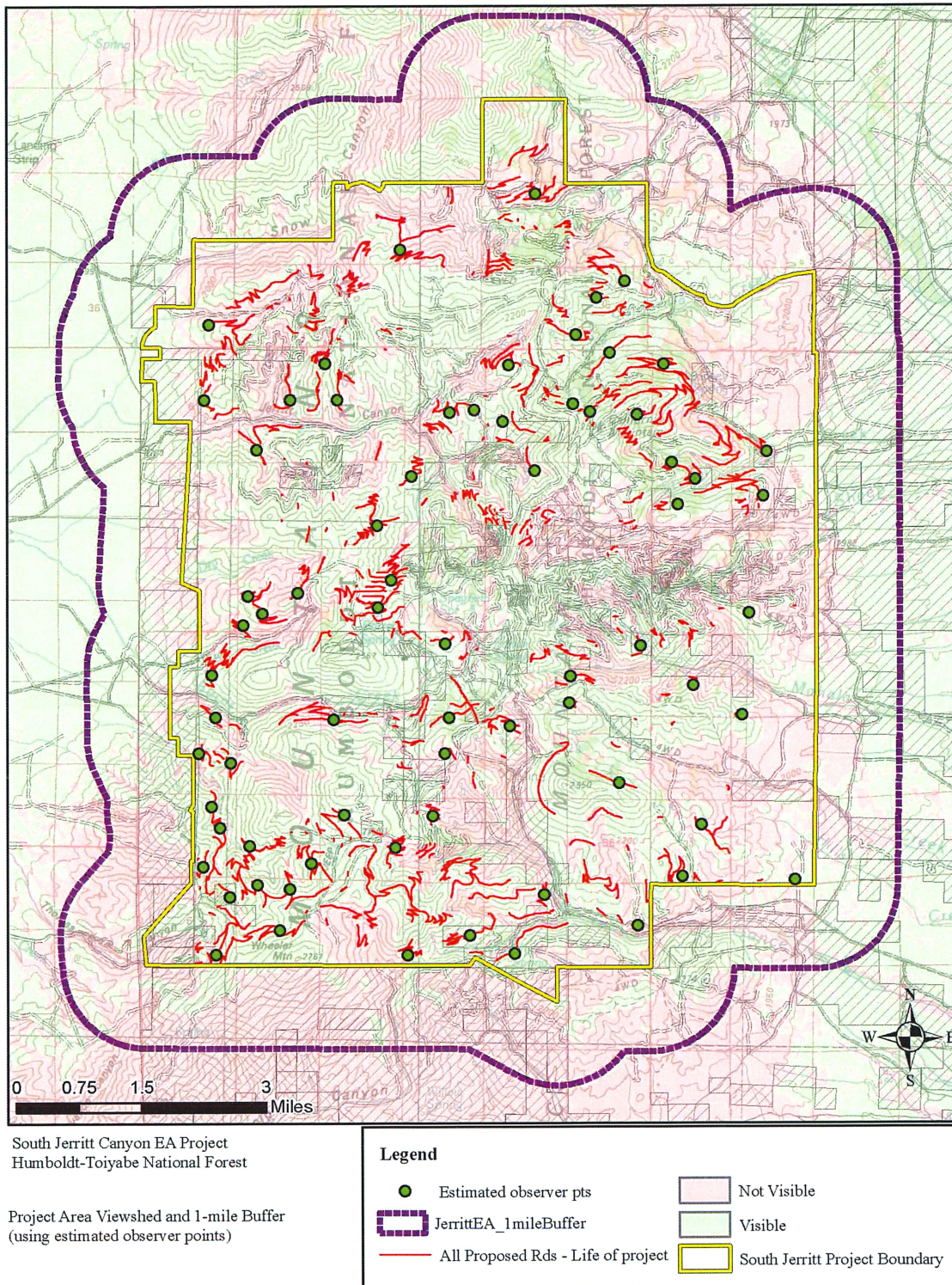


Figure A2. Initial viewshed assessment considering a 1-mile APE buffer around the proposed South Jerritt Exploration Project Area.

APPENDIX B

ANTICIPATED PROJECT DISTURBANCE TYPES AND EXEMPT PROJECT ACTIVITIES

The Mountain City, Ruby Mountains, and Jarbidge Ranger District of the Humboldt-Toiyabe National Forest is preparing an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) for Jerritt Canyon LLC's (Proponent) South Jerritt Exploration Project (Project) administered by the Humboldt-Toiyabe National Forest (HTNF) and private lands controlled (leased) by the Proponent. The Proponent's proposal is an exploration-only program that consists of drilling for locatable precious metals over a seven (7) year period.

The Project is located in the vicinity of the Jerritt Canyon Mine which is located in the Independence Range approximately 50 miles north of Elko, Nevada. This area of the Independence Range has been mined for gold utilizing open pits and underground workings since 1981 and is currently being mined from underground; thus, the mine environment has been subject to several prior mine undertakings, which constitute the bulk of the existing conditions in the Project area. Over 6 million ounces of gold have been produced to date. Approximately 16,000 drill holes have been drilled in the ~70 square mile area since the 1970s.

Section B.1: Anticipated Project Disturbance Types

As detailed below, mineral exploration actions and ground-disturbing activities include drill sites and associated features (sumps, monitoring wells, parking, etc.), access roads (modern established roads, newly constructed temporary, and overland routes), trenches, staging areas, reclamation and seeding of disturbed areas, water tanks/trucks, erosion control efforts, and snow removal.

1. **Drill Sites/Pads:** Up to 1100 drill pads are proposed for this Project. Access to the drill sites include existing roads, overland travel where possible, and by construction of new roads. Drill sites would be constructed as follows:
 - Drill holes would be drilled using wireline core or reverse circulation (RC) methods.
 - Maximum working dimensions of 70 feet long by 40 feet wide with drill hole depths averaging approximately 1,100 feet deep and no deeper than 2,500 feet.
 - Drill sites would occur along existing and proposed new roads.
 - Each borehole would take approximately five to 10 days to complete, depending on hole depth, drilling conditions, and weather. The exploration drilling operations would be conducted up to 24 hours per day, seven days per week during the active season.

- At least one drill hole would be drilled per site and would not likely exceed three drill holes and no more than six per drill site in rare circumstances.
 - Sumps, situated within drill site footprints, would be up to approximately 20 feet long by 15 feet wide by six feet deep. Drilling procedures would be managed to control cuttings and drill fluids in sumps adjacent to drill holes.
2. ***Existing Established (Primary) Access Roads:*** This road type is generally engineered, graded, graveled, occasionally paved, and is maintained, usually by a city, county, or an active mine. A primary road will generally have a US Forest Service designation or is used for a specific manner for an extended period of time. To the extent practicable and within safety constraints, existing road surfaces would be used to access drill sites without modification. Road maintenance to existing modern roads would be limited to the road's existing prism. Routine road maintenance may be necessary and would consist of smoothing ruts, grading, removal of large rocks, filling holes with fill material, and re-establishing water bars and/or rolling dips when necessary. Road maintenance would avoid physical impacts to previously known historic properties that may be situated or adjacent to existing access roads.
 3. ***New Exploration Access Roads:*** New exploration roads would be constructed as temporary roads for short-term use. New exploration roads that require earth moving would be located and constructed using standard construction practices. New roads would minimize surface disturbance and erosion potential by incorporating applicable BMPs. New road construction would be completed with a Cat D6 to D8 dozer, or equivalent equipment with an approximate safe operation running width of 12 to 14 feet, plus safety berms if required. Pin reflectors will be used verses earthen berms to meet safety requirements. Constructed roads are expected to range from zero to 14 percent grade, and potentially up to 16 percent on short segments to reduce surface resource impacts. Balanced cut and fill construction would be used to the extent possible to minimize the exposed cut slopes and the volume of fill material.
 4. ***Overland Travel Routes:*** Overland travel routes, as opposed to New exploration roads, will be employed occasionally to access drill sites. No blading or construction efforts will be employed for the establishment of overland travel routes.
 5. ***Erosion and Sediment Control:*** The Proponent will employ Best Management Practices (BMPs) for erosion-sediment control would be utilized during construction, operation, and reclamation to minimize sedimentation from disturbed areas. To facilitate drainage and prevent erosion, all bladed roads would have water-bars constructed as determined by site conditions and grade. Once final revegetation has established and the surface stabilized, BMPs would be decommissioned where appropriate as coordinated with the HTNF.

6. **Staging Areas:** For staging areas, the Proponent would primarily utilize disturbed areas of the Project Area on NFS lands to stage equipment and materials. Up to nine (9) staging areas may be needed for storage of supplies or parking and would not exceed 40,000 square feet (0.9 acre) each and be constructed in areas of less than 20 percent slopes. Depth of ground disturbance is not expected to exceed 1-foot.
7. **Trenches:** Trenching would be conducted in areas of relatively shallow surface soils to locate, sample, and test bedrock mineralization. Trenching would occur adjacent to or at the terminus of roads or overland travel and would be 12 feet wide, six feet deep, and between approximately 160 and 750 feet long. The total length of trenching would be approximately 9,288 feet. Up to 25 exploration trenches may be excavated or about 2.6 acres of trenching-related disturbance in total. Trenches would remain open only as long as necessary to perform required analyses and would be backfilled and revegetated when no longer needed.
8. **Reclamation and Seeding of Disturbed Areas:** Throughout the Project, reclamation would be completed on a concurrent basis to minimize overall disturbance throughout the Project area. Interim reclamation practices such as temporary seeding would occur seasonally to stabilize and minimize soil erosion. Final reclamation would remove all structures, recontour and revegetate all surface disturbances under this proposed action. The reclaimed surfaces will be left in a textured or rough condition to hold seed and optimize germination. Seeding will be completed using broadcast methods, then scarified with mechanical equipment, or raked in with hand tools.
9. **Water Use and Management:** Up to eight portable 20,000-gallon water tanks would be placed in a generally centralized location for ease of access during drilling. The tanks would be set up on unoccupied drill sites and would be moved as the Project progresses and the location is optimized to best serve active drill rigs. Water consumption for drilling and dust suppression would be estimated at 10,000 to 15,000 gallons per day per rig depending on actual subsurface conditions encountered during drilling operations. Increased traffic on various types of access roads related to watering roads is anticipated. Water use for 15 rigs annually would be estimated at 33,750,000 gallons. Total water use for the duration of the seven-year project would be estimated at 236,250,000 gallons.
10. **Snow Removal:** Removal of snow from access roads and exploration roads may be necessary to facilitate late fall, winter, or early spring operations on the west side of the Independence Range. On the east side of the Independence Range, snow plowing would be limited to only breaking up remnant late season snow drifts at Project initiation in July and at the end of the operating season. This snow removal would be completed to remove equipment, supplies and vehicles from drill sites and staging areas in order to protect LCT habitat. Snow would be removed to the full width of the road plus any turnouts and ditch lines. A minimum of a two to four-inch snow floor would be left on roads to minimize removal of roadbed surfacing and eliminate debris side-cast to the extent practicable. To the extent practicable, snow mixed with soil would not be placed over the fill slope of the road. Through cuts would be allowed only after snow depths exceed the height of the equipment deck or across flat ground. Disposal would be to the

outside or downhill side of the road. Outlets for surface runoff would be placed in all snow through cuts at points where water could flow off the road surface at the following intervals: grades of eight percent or less at 300 feet center-to-center minimum and grades greater than eight percent at 150 feet center-to-center minimum. Snowplow shoes would be installed to lift the blade to reduce the potential impact to graveled surfaces. More extensive snow or ice removal could be required on north-facing slopes, with concurrence of the HTNF, to allow additional drying and operation if rutting does not occur.

The Proponent shall submit an exploration Work Plan to HTNF and the Proponent's CRM for scoping the extent and type of Project actions and defining an identification strategy leading to the establishment of a refined Work Plan APE. The Work Plan should be submitted in sufficient time to allow for an opportunity to adequately review the proposal and support the transfer of existing data and allow review and comment by the consulting parties and Tribes, as appropriate. The Proponent is encouraged to gauge the scope and scale of their proposed exploration work so that cultural resources assessment process, detailed herein, can occur prior to the planned date of surface disturbance. The Proponent's yearly exploration Work Plan shall include, but not be limited to, the following:

1. A proposed startup date and close out date for project activities including reclamation activities (e.g., grading, seeding of disturbance areas, etc.).
2. A map, UTM locations, and GIS shapefiles for all proposed drill site, trench locations, staging areas, water tank locations, and access road locations and road types employed, including frequency of travel and vehicle types.
3. Additional descriptions and diagrams may be required for monitor wells, or additional proposed project infrastructure, if employed, such as office or centralized camp sites.

[Remainder of page intentionally blank]

APPENDIX C INADVERTENT DISCOVERY PLAN

If unanticipated buried cultural resources or human remains are identified during Project activities and construction, HTNF will ensure that all employees or contractors comply with the following protocol to ensure the proper identification, evaluation, and protection and treatment of the cultural resource.

The Project Supervisor or Contractor will immediately:

1. Cease all activity within 300 ft of the discovery.
2. Notify the HTNF authorized official. This contact or designee will notify the SHPO, any affected Tribe, and other consulting parties, including any CRM assigned to the project.
3. Leave all artifacts and materials in place but protect the discovery from further damage, theft, or removal.

The HTNF cultural resources staff or qualified CRM will:

1. Document the discovery. This should include, but is not limited to, documenting exposed artifacts and features; mapping the extent of artifacts, features, and cultural horizons; and documenting natural and cultural stratigraphy in open trenches or pits.
2. Evaluate the cultural resources for NRHP eligibility. If a NRHP eligibility recommendation cannot be made based on the data collected during recordation, additional testing may be required to further delineate the nature, extent, and significance of the discovery. Testing will be limited to the minimum required to provide a recommendation of NRHP eligibility.
3. If cultural resources meet NRHP eligibility, HTNF will develop a mitigation plan or emergency treatment plan for the affected cultural resources.

Resumption of Work:

1. Project work in the immediate vicinity of the discovered materials may not resume until after the cultural resources are evaluated and adverse effects to historic properties have been avoided, minimized, or mitigated.
2. The appropriate authorized officer shall decide when Project work may resume. This may be the HTNF District Ranger, except in the case where human remains are involved it is recommended that the HTNF Forest Supervisor make the decision for Forest Service jurisdiction.

Discovery of Human Remains

If human remains or remains thought to be human, funerary objects, sacred objects, or objects of cultural patrimony are discovered during an undertaking on federally-managed lands, HTNF will comply with Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing regulations at 43 CFR 10, Subpart B. HTNF will ensure that employees or

contractors also comply with the protocol specified below for unanticipated discoveries of this kind. Human remains and associated grave goods discovered on private land will be handled according to provisions of Nevada Revised Statute 383.150 to 383.190.

The Project Supervisor or Contractor will:

- Ensure that employees or contractors do not take photographs of the human remains out of respect for Tribal concerns and of law enforcement forensic concerns.
- Be responsible for the security and protection of human remains during NAGPRA consultations, until disposition of the remains is determined.

The Lead Agency (HTNF) Line Officer or designee will:

- Notify appropriate law enforcement authorities and/or the County coroner about the human remains.
- Work with law enforcement or the County coroner to determine the age and affiliation of the human remains.
- If law enforcement officials determine the human remains are not of recent age or criminal concern, the agencies will consult with Tribes, the SHPO, and other consulting parties to fulfill the requirements of NAGPRA (43 CFR 10).

HTNF will:

- Provide a specialist with expertise in human osteology and human remains to make an in-situ assessment of the remains to document the remains and to determine the cultural affiliation that would guide the development of a written action plan. A consultant provided by the Proponent may also perform this work.
- Develop an Action Plan for the evaluation and disposition of the human remains that complies with 43 CFR 10.3 (b)(1), ARPA, 36 CFR 800, or, in consultation with the SHPO, NRS 383.170.

Resumption of Work:

- Work within 300 feet of the human remains may not resume until after the disposition of the human remains is determined and a written binding agreement is executed between the necessary parties in accordance with 43 CFR 10.4(e).
- The appropriate agency authorized official, upon the advice of the cultural resource specialist and the appropriate law enforcement officers, shall decide when Project work may resume.

APPENDIX D

BEST MANAGEMENT PRACTICES AND CULTURAL RESOURCE PROTECTION GUIDELINES

The Proponent will adhere to best management practices for the protection of cultural resources over the life of the Project. Specific guidelines, as detailed below, may be revised, and updated, as appropriate. The Proponent will not remove, disturb, alter, injure, or destroy any historical or archaeological site, structure, building, object, or artifact that meets criteria for listing in the NHRP or has not been evaluated for NRHP eligibility. The Proponent will be responsible for ensuring that employees, contractors, or any others associated with the Project do not damage, destroy, or vandalize archaeological or historical sites. Should damage to cultural resources within or near the Project occur during the period of construction, operation, or reclamation due to the unauthorized, negligent, or inadvertent actions of the Proponent or other Project personnel, the Proponent will be responsible for costs of rehabilitation or mitigation.

Individuals involved in illegal activities could be subject to penalties under the Archaeological Resources Protection Act (16 U.S.C. 470ii), the Native American Graves and Repatriation Act (16 U.S.C. 1170), and other applicable statutes.

1. Heritage Resource Sensitivity Training

- A. Prior to the commencement of construction activities, the Proponent shall retain a qualified archaeologist meeting the Secretary of Interior's Professional Standards to create and carry out Heritage Resources Sensitivity Training and provide a Heritage Resources Sensitivity Guide for the Proponent's personnel and contractors.
- B. The training will comprise an overview of potential cultural resources that could be encountered during ground disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the appropriate agency personnel for further evaluation and action, as appropriate. The training will also discuss relevant laws and regulations and also discuss penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources.
- C. Prior to commencement of exploration activities for each Work Plan, the Proponent will ensure all new employees and contractors participate in Heritage Resources Sensitivity Training and are provided with the Heritage Resources Sensitivity Guide, as approved by the HTNF. The Operator would keep copies of the Heritage Resources Sensitivity Guide in the Project Area and make them available for review, as necessary.

2. Avoidance

The avoidance buffers for NRHP-eligible or unevaluated sites will be 50 meters from established site boundaries. If proposed surface disturbing activities occur outside the recorded boundaries but within 50 meters of NRHP-eligible or unevaluated site(s), the Proponent will ensure a qualified archaeologist is onsite during surface disturbing activities to monitor the activities and ensure protection of the cultural resources.

Prior to initiating exploration activities under each phase, the HTNF will review the Proponent's Work Plan to ensure the protection of all NRHP-eligible and unevaluated sites or determine the need for other management recommendations.

To ensure there is no long-term disturbance, the archaeological monitor will locate, describe, and develop avoidance measures for any potential features within 30 meters of all drill pads in the vicinity of recognized archaeological sites. If necessary, the Proponent will cease operations according to the discovery clause listed within the archaeological report. An archaeological monitor would provide a monitoring report to the HTNF District Archaeologist within thirty (30) days of completion of Work Plan activities.

[Remainder of page intentionally blank]