Comstock Mining Inc.
Form 10-Q/A
April 14, 2011

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-Q/A
(Amendment No. 1)

(Mark One)
x QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Quarterly Period Ended September 30, 2010

OR

¨ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from ______________ to ______________

Commission File No. 000-32429

COMSTOCK MINING INC.
(Exact name of small business issuer as specified in its charter)

NEVADA	1040	65-0955118
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

P.O. Box 1118
Virginia City, NV 89440
(Address of principal executive offices)
(775) 847-5272
(Registrant's telephone number, including area code)

N/A
(Former Name or Former Address, if Changed Since Last Report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ¨

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the

Exchange Act. (Check one):

Large accelerated filer ¨ Accelerated filer ¨
¨ Non-accelerated filer x Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ¨ No x

The number of shares of Common Stock, $0.000666 par value, of the registrant outstanding at November 11, 2010 was 20,996,234.

EXPLANATORY NOTE

This Amendment No. 1 to Form 10-Q ("Amendment No. 1") is being filed by Comstock Mining Inc. (the "Company") to amend and restate its Quarterly Report on Form 10-Q for the quarter ended September 30, 2010 filed with the United States Securities and Exchange Commission ("SEC") on November 12, 2010 (the "Initial 10-Q"). Except as otherwise specifically noted, all information contained herein is as of September 30, 2010, and does not reflect any events or changes that have occurred subsequent to that date. We are not required to and we have not updated any forward-looking statements previously included in the Initial 10-Q.

This Amendment No. 1 is required to restate our condensed consolidated financial statements due to an error in the calculation of the fair value of derivative liabilities associated with the embedded conversion features of the various convertible debentures the Company exchanged for permanent equity in October in 2010. The correction resulted in an additional non-cash expense for the three months and nine months ended September 30, 2010 of approximately $11.4 million. In addition, $3,064,533 of defaulted convertible debentures were misclassified as long-term debt instead of current liabilities and we also misclassified certain amounts in the operating activities section of the condensed consolidated statements of cash flow.

For the convenience of the reader, this Amendment No. 1 sets forth the original filing in its entirety. For additional information regarding the restatement, see Note 5 to our interim condensed consolidated financial statements appearing elsewhere in this report. This Amendment No. 1 updated the information in Part 1, Items 1 and 2 of the Initial 10-Q for the affects of the restatement.

This Amendment No. 1 includes changes in "Item 4 — Controls and Procedures" and reflects management's restated assessment of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of September 30, 2010. This restatement of management's assessment regarding disclosure controls and procedures results from material weaknesses in our internal control over financial reporting relating to the above described restatements. The Company has implemented certain changes in our internal controls as of the date of this report to address these material weaknesses. There can be no assurance that our remedial efforts will be effective nor can there be any assurances that the Company will not incur losses due to internal or external acts intended to defraud, misappropriate assets, or circumvent applicable law or our system of internal controls. See "Item 4 — Controls and Procedures."

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Statement Regarding Forward-Looking Statements

This Amendment No. 1 contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended, which are intended to be covered by the safe harbors created thereby. All statements contained in this Amendment No. 1, other than statements of historical facts, are forward-looking statements within the meaning of applicable securities laws. Forward-looking statements include statements about matters such as: future prices and sales of and demand for our products; future industry market conditions; future changes in our exploration activities, production capacity and operations; future exploration, production, operating and overhead costs; operational and management restructuring activities (including implementation of methodologies and changes in the board of directors); future employment and contributions of personnel; tax and interest rates; capital expenditures and their impact on us; nature, timing and accounting for restructuring charges, gains or loses on debt extinguishment, derivative liabilities and the impact thereof; productivity, business process, rationalization, restructuring, investment, acquisition, consulting, operational, tax, financial and capital projects and initiatives; contingencies; environmental compliance and changes in the regulatory environment; offerings, sales and other actions regarding debt or equity securities; and future working capital, costs, revenues, business opportunities, debt levels, cash flows, margins, earnings and growth. The words "believe," "expect," "anticipate," "estimate," "project," "plan," "should," "intend," "may," "will," "would," "potential" and similar expressions identify forward-looking statements, but are not the exclusive means of doing so.

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These statements are based on assumptions and assessments made by our management in light of their experience and their perception of historical and current trends, current conditions, possible future developments and other factors they believe to be appropriate. Forward-looking statements are not guarantees, representations or warranties and are subject to risks and uncertainties that could cause actual results, developments and business decisions to differ materially from those contemplated by such forward-looking statements. Some of those risks and uncertainties include the risk factors set forth in this report and our Annual Report on Form 10-K for the fiscal year ended December 31, 2009 and the following: the current global economic and capital markets uncertainties; the speculative nature of gold or mineral exploration, including risks of diminishing quantities or grades of qualified resources and reserves; operational or technical difficulties in connection with exploration or mining activities; contests over our title to properties; potential inability to continue to comply with government regulations; adoption of or changes in legislation or regulation adversely affecting our business opportunities that my be presented to or pursued by us; changes in the United States or other monetary o fiscal policies o regulations in response to the recent capital markets and economic crises; interruptions in our production capabilities due to unexpected equipment failures; fluctuation of prices for gold or certain other commodities (such as silver, copper, diesel fuel and electricity);changes in generally accepted accounting principles; geopolitical events; potential inability to implement our business strategies; potential inability to grow revenues organically; potential inability to attract and retain key personnel; interruptions in delivery of critical supplies and equipment, raw materials due to credit or other limitations imposed by vendors; assertion of claims, lawsuits and proceedings against us; potential inability to list our securities on any securities exchange or market; and work stoppages or other labor difficulties. Occurrence of such events or circumstances could have a material adverse effect on our business, financial condition, results of operations or cash flows or the market price of our securities. All subsequent written and oral forward-looking statements by or attributable to us or persons acting on our behalf are expressly qualified in their entirety by these factors. All forward-looking statements included in this report are based on information available to us as of the filing date of this report. We undertake no obligation to update or revise any forward-looking statement, whether as a result of new information, future events, changed circumstances or otherwise.

PART I.

Item 1. Financial Statements.

COMSTOCK MINING INC.
CONDENSED CONSOLIDATED BALANCE SHEETS

	Sept. 30, 2010 (As Restated) (Unaudited)	December 31, 2009
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 102,634	$ 246,214
Prepaid expenses	91,764	
Total Current Assets	194,398	246,214
MINERAL RIGHTS, PLANT AND EQUIPMENT		
Mineral rights	981,409	1,270,547
Plant and equipment, net	3,292,459	2,301,466
Total Mineral Rights, Plant and Equipment	4,273,868	3,572,013
RECLAMATION BOND DEPOSIT	766,768	766,768
LONG-LIVED DEFERRED RECLAMATION EXPENSE	351,973	340,159
TOTAL ASSETS	$ 5,587,007	$ 4,925,154

See accompanying notes to the condensed consolidated financial statements.

COMSTOCK MINING INC.
CONDENSED CONSOLIDATED BALANCE SHEETS (Continued)

	Sept. 30, 2010 (As Restated) (Unaudited)	December 31, 2009
LIABILITIES AND STOCKHOLDERS' DEFICIT		
CURRENT LIABILITIES		
Accounts payable	$ 1,635,552	$ 1,608,493
Accrued expenses	369,505	271,054
Accrued interest payable	7,027,569	4,870,713
Notes, convertible notes, and debentures payable	20,157,311	15,145,698
Other debt obligations	1,021,061	1,000,000
Total Current Liabilities	30,210,998	22,895,958
LONG-TERM DEBT AND OTHER LONG-TERM LIABILITIES		
Notes, convertible notes, and debentures payable, net of current portion	806,849	3,025,325
Long-term debt obligation, net of current portion	688,941	490,000
Derivative liability	24,926,949	4,500,189
Long-term reclamation liability	1,309,528	1,186,966
Total Long-Term Debt and Other Long-Term Liabilities	27,732,267	9,202,480
Total Liabilities	57,943,265	32,098,438
COMMITMENTS AND CONTINGENCIES		
STOCKHOLDERS' DEFICIT		
Common stock, $.000666 par value 3,950,000,000 shares authorized, shares issued and outstanding were 19,406,382 (Sept. 30, 2010) and 18,310,339 (Dec. 31, 2009)	12,925	12,195
Additional paid-in capital	29,195,009	27,742,913
Accumulated deficit	(81,564,192)	(54,928,392)
Total Stockholders' Deficit	(52,356,258)	(27,173,284)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$ 5,587,007	$ 4,925,154

On June 4, 2010, we received approval from the Financial Industry Regulatory Authority ("FINRA") clearing the one-for-two hundred reverse stock split of our common stock previously approved by our stockholders and announced on May 10, 2010. The reverse stock split took effect on Monday, June 7, 2010 ("Effective Date"). Accordingly, the condensed consolidated balance sheet above and the following condensed consolidated financial statements reflect post reverse split common shares.

See accompanying notes to the condensed consolidated financial statements.

COMSTOCK MINING INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	Three Months Ended Sept. 30, 2010 (As Restated)	2009
REVENUE FROM GOLD SALES, Net	$	$
COST AND EXPENSES		
Depletion, depreciation and amortization	31,828	37,604
Reclamation, exploration and test mining expenses	570,616	485,430
General and administrative	583,156	330,453
Consultants and professional fees	471,824	32,204
Total Cost and Expenses	1,657,424	885,691
LOSS FROM OPERATIONS	(1,657,424)	(885,691)
OTHER INCOME (EXPENSE):		
Financing cost		(111,160)
Gain on sale of royalty		
Derivative change in fair value	(17,331,739)	(42,643)
Interest expense	(1,093,831)	(1,693,994)
Total Other Expense	(18,425,570)	(1,847,797)
NET LOSS	$ (20,082,994)	$ (2,733,488)
Net loss per common share – basic and diluted	$ (1.05)	$ (0.15)
Basic and diluted weighted average common shares outstanding	19,169,218	18,079,535

See accompanying notes to the condensed consolidated financial statements.

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COMSTOCK MINING INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	Nine Months Ended September 30, 2010 (As Restated)	Nine Months Ended September 30, 2009
REVENUE FROM GOLD SALES, Net	$	$
COST AND EXPENSES		
Depletion, depreciation and amortization	178,884	114,073
Reclamation, exploration and test mining expenses	2,331,869	2,577,821
General and administrative	1,535,503	1,022,670
Consultants and professional fees	855,673	177,610
Total Cost and Expenses	4,901,929	3,892,174
LOSS FROM OPERATIONS	(4,901,929)	(3,892,174)
OTHER INCOME (EXPENSE):		
Financing cost	(169,247)	(83,500)
Gain on sale	300,000	25,000
Derivative change in fair value	(18,850,216)	(1,898,838)
Interest expense	(3,014,408)	(3,296,145)
Total Other Expense	(21,733,871)	(5,253,483)
NET LOSS	$(26,635,800)	$(9,145,657)
Net loss per common share – basic and diluted	$(1.41)	$(0.52)
Basic and diluted weighted average common shares outstanding	18,907,926	17,691,078

See accompanying notes to the condensed consolidated financial statements.

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COMSTOCK MINING INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	Nine Months Ended September 30, 2010 (As Restated)	Nine Months Ended September 30, 2009 (As Restated)
OPERATING ACTIVITIES:		
Net loss	$(26,635,800)	$ (9,145,657)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depletion, depreciation and amortization	178,884	114,073
Stock warrants and stock based compensation	117,183	168,957
G Gain of sale of royalty interest	(300,000)	
Interest paid through the issuance of stock	446,913	1,342,979
Accretion and debt discount interest	419,280	1,013,513
Payments through the issuance of company stock	34,000	36,000
A Amortization of debt issuance costs	169,247	52,500
Derivative change in fair value	18,850,216	1,898,838
Changes in operating assets and liabilities:		
Prepaid and other current assets	(91,764)	
Accounts payable	27,059	410,423
Accrued expenses and accrued interest payable	2,255,307	1,150,945
Other, net		
NET CASH USED IN OPERATING ACTIVITIES	(4,529,475)	(2,957,429)
INVESTING ACTIVITIES:		
Proceeds received from sale of mineral claims	520,000	
Acquisition of plant and equipment	(329,107)	(128,880)
NET CASH PROVIDED BY (USED IN) INVESTING ACTIVITIES	190,893	(128,880)
FINANCING ACTIVITIES:		
Principal payments on other debt obligations	(504,998)	(37,040)
Net proceeds from the issuance of company stock		902,500
Proceeds from the issuance of convertible debentures, net of financing cost	4,700,000	1,995,000
NET CASH PROVIDED BY FINANCING ACTIVITIES	4,195,002	2,860,460
DECREASE IN CASH AND CASH EQUIVALENTS	(143,580)	(225,849)
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	246,214	322,938
CASH AND CASH EQUIVALENTS, END OF PERIOD	$102,634	$ 97,089
SUPPLEMENTAL CASH FLOW INFORMATION:		
INCOME TAXES PAID	$	$
INTEREST PAID	$55,475	$ 8,917

COMSTOCK MINING INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (Continued)

	Nine Months Ended September 30, 2010 (As Restated)	2009
Supplemental disclosure of non-cash investing and financing activities:		
Issuance of company stock for interest	$446,913	$1,342,979
Conversion of convertible debenture principal into company's common shares	$835,483	$
Seller note for acquisition of land	$725,000	$120,000

See accompanying notes to the condensed consolidated financial statements.

COMSTOCK MINING INC.
CONDENSED CONSOLIDATED STATEMENT OF CHANGES IN STOCKHOLDERS' DEFICIT
For the Nine months Period Ended September 30, 2010

(Common Stock Par value $.000666 per share; 3,950,000,000 shares authorized
Preferred Stock Par Value $.000666 per share; 50,000,000 shares authorized)

	Common Shares Issued	Par value $.000666 per share	Additional Paid-in Capital	Accumulated Deficit	Total
December 31, 2008	16,904,742	$11,259	$24,961,957	$(48,863,723)	$(23,890,507)
Common stock issued for:					
Debenture principal	133,264	89	192,179	—	192,268
Debenture interest	751,833	501	1,477,096	—	1,477,597
Employees	27,500	19	67,231	—	67,250
Private placement	493,000	327	902,173	—	902,500
Subtotal	1,405,597	936	2,638,679	—	2,639,615
Warrant cost and stock based option compensation			142,277		142,277
Net loss	—	—	—	(6,064,669)	(6,064,669)
December 31, 2009	18,310,339	$12,195	$27,742,913	$(54,928,392)	$(27,173,284)
Common stock issued for:					
Debenture principal	703,770	468	835,015	—	835,483
Debenture interest	359,630	240	446,673	—	446,913
Employees	7,500	5	10,470	—	10,475
Consultant	25,000	17	33,983	—	34,000
Subtotal	1,095,900	730	1,326,141	—	1,326,871
Stock based option compensation			125,955	—	125,955
Other, net	143	—	—	(1)	142
Net loss (As Restated)	—	—	—	(26,635,800)	(26,635,800)
September 30, 2010 (As Restated)	19,406,382	$12,925	$29,195,009	$(81,564,192)	$(52,356,258)

See accompanying notes to the condensed consolidated financial statements.

COMSTOCK MINING INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
September 30, 2010 and 2009

Note 1 - Basis of Presentation

COMSTOCK MINING Inc. is a Nevada-based gold and silver mining company with extensive, contiguous property in the Comstock Lode Mining District. The Comstock Mine Project is located in Storey County, Nevada, approximately 3 miles south of Virginia City and 30 miles southeast of Reno, Nevada. Access to the property is by State Route 342, a paved highway. The Comstock District is located within the western portion of the Basin and Range Province of Nevada, between Reno and Carson City. The majority of our activities occur in three major structural zones: (1) the northeast striking, (2) the east dipping Comstock and Occidental fault zones and (3) the northwest striking, east dipping Silver City fault zone.

On June 4, 2010, we received approval from the Financial Industry Regulatory Authority ("FINRA") clearing the one-for-two hundred reverse stock split of our common stock previously approved by our stockholders and announced on May 10, 2010. The reverse stock split took effect on Monday, June 7, 2010 ("Effective Date"). Accordingly, the condensed consolidated financial statements reflect the retroactive effect of the post reverse stock split.

On July 21, 2010, we changed our name from "GoldSpring, Inc." to "Comstock Mining Inc.," by way of a merger with a wholly owned subsidiary Comstock Mining Inc. that was formed solely for the purpose of changing our name. Pursuant to Section 92A.180 of the Nevada Revised Statutes, the merger did not require stockholder approval. An OTC Equity Issuer Notification Form was filed with the Financial Industry Regulatory Authority ("FINRA") on July 9, 2010, and the name change was approved by FINRA, effective July 21, 2010. On the effective date, the name changed with the Over-the-Counter Bulletin Board and the Company's shares of common stock began trading under the ticker symbol "LODE."

Our Company began acquiring properties in the Comstock district in 2003. Since then, we have secured permits, built an infrastructure and brought the exploration project into test mining production. We began further consolidating the Comstock district in 2005, by acquiring additional properties in the district, expanding our footprint and creating opportunities for exploration and mining. Because of the Comstock district's historic significance and its world class bonanza precious metal grades, the geology is well known and extensively studied in detail by our Company, our advisors and many independent researchers. We have amassed the largest known library of historical data and detailed surface mapping and, in conjunction with drilling programs designed to expand the known historical data base, we have invested in our understanding of the Comstock's structural geology and its broader geological footprint.

Our Company now owns or controls 6,412 acres of active lode mining claims in the Comstock district. The acreage is comprised of 892 acres of patented claims (private lands) and 5,520 acres of unpatented claims, Bureau of Land Management (BLM) administered. The project includes a heap leach processing facility that we will upgrade to accommodate our current production plans.

Note 2 — Interim Financial Statements

The accompanying interim unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 8 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In our opinion, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. Operating results for the nine month period ended September 30, 2010 are not necessarily indicative of the results that may be expected for the year ending December 31, 2010. For further information, refer to the consolidated financial statements and footnotes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2009.

Note 3 — Going Concern

The accompanying consolidating financial statements have been prepared on a going concern basis, which assumes the Company will realize its assets and discharge its liabilities in the normal course of business. As reflected in the accompanying financial statements, the Company has losses from operations and has no revenues from operations during the nine months ended September 30, 2010. During the nine months ended September 30, 2010, the Company incurred a net loss of $26,635,800. For the nine months ended September 30, 2010 the net cash used in operating activities was $4,529,475. The Shareholders' deficit at September 30, 2010, totaled $52,356,258.

On October 20, 2010, the Company exchanged $29.4 million of note principal and related obligations, representing substantially all of its senior secured convertible and senior indebtedness, for shares of its newly created Series A Preferred Convertible Stock. This transaction cured all defaults under the terms of the notes being converted. On the same day, the Company received gross proceeds of $35.75 million ($32.6 million, net of transaction expenses) in conjunction with an equity raise to fund its working capital, exploration and capital requirements to commence mine production. The Company's believes that it has sufficient funds to maintain and develop its operations beyond the next twelve months. The Company's ability to continue as a going concern is dependent upon its ability to generate future profitable operations to meet its obligations and repay its liabilities arising from normal business operations when they come due.

Note 4 — Summary of Significant Accounting Policies

Terms and Definitions

Company	COMSTOCK MINING Inc. and Subsidiaries
APB	Accounting Principles Board
ARB	Accounting Review Board
ASC	Accounting Standards Codification Topic
ASU	Accounting Standards Update
EITF	Emerging Issues Task Force
FASB	Financial Accounting Standards Board
FSP	FASB Staff Position
Plum LLC	Plum Mining Company, LLC
SAB	SEC Staff Accounting Bulletin
SEC	Securities Exchange Commission
SOP	Statement of Position

Summarized below are the significant accounting policies of COMSTOCK MINING Inc.

Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries: GoldSpring, LLC, The Plum Mining Company, LLC, and the Plum Mine Special Purpose Company LLC. All material inter-company transactions and balances have been eliminated in consolidation.

Cash and Cash Equivalents

We consider all highly liquid debt securities purchased with original or remaining maturities of three months or less to be cash equivalents. The carrying value of cash equivalents approximates fair value.

Fair Value of Financial Instruments

The carrying amounts of cash and cash equivalents, accounts payable, and accrued expenses approximate fair market value because of the short maturity of those instruments. Furthermore, convertible debenture, other notes obligations, and long-term debt and other liabilities payable amounts approximate fair value at September 30, 2010 and December 31, 2009.

Credit Risk

It is our practice to place our cash equivalents in high-quality money market securities with a major banking institution. Certain amounts of such funds in excess of limits are not insured by the Federal Deposit Insurance Corporation. However, we consider our credit risk associated with cash and cash equivalents to be minimal.

Impairment of Long Lived Assets and Long Lived Assets to be Disposed Of

The Company accounts for impairment and disposal of long-lived assets in accordance with ASC 360 Property, Plant, and Equipment. ASC 360 establishes the accounting model for long-lived assets to be disposed of by sale and applies to all long-lived assets, including discontinued operations. This standard requires those long-lived assets be measured at the lower of carrying amount or fair value less cost to sell, whether reported in continuing operations or discontinued operations.

We implemented ASC 360 in our evaluation of the fair value of certain assets described in Notes 5 and 6.

Revenue Recognition

The Company recognizes revenue in accordance with the provisions of ASC 605 Revenue, which states that revenue is realized or realizable and earned when all of the following four criteria are met:

1) Persuasive evidence of an arrangement exists,
2) Delivery has occurred or services have been rendered,
3) The seller's price to the buyer is fixed or determinable, and
4) Collectability is reasonably assured.

Specifically, when we are in operational status, sales of gold and silver Dore are recorded when we issue a sell order instruction to our refiner, Johnson Matthey, to sell a specified quantity of metals. Sales orders are typically executed within 48 hours of receipt. Upon receipt of the sale order, Johnson-Matthey confirms quantities available and executes the sale at the current market price of the metals on the day and time of the sales order. We record revenues on the day the sales order is issued based on the confirmed quantity of metal at the confirmed market price. Proceeds from the sale of metals are typically wired to our bank within twenty-four hours.

Stock Issued For Services

We base the value of stock issued for services on the market value of our common stock at the date of issue and our estimate of the fair value of the services received.

Plant and Equipment

We state plant and equipment at cost. We provide depreciation and amortization in amounts sufficient to recognize the expense of depreciable assets to operations over their estimated service lives.

We capitalize expenditures for renewals and improvements that significantly extend the useful life of an asset. We charge expenditures for maintenance and repairs to operations when incurred. When assets are sold or retired, the cost of the asset and the related accumulated depreciation are removed from the accounts and any gain or loss is recognized at such time. We use the straight-line method of depreciation for financial reporting purposes, depreciating assets over useful lives ranging from 3 to 15 years.

We review the carrying value of our plant and equipment assets on a quarterly basis. Where information and conditions suggest impairment, we write-down these assets to net recoverable amount, based on estimated future cash flows that may be attained from them.

Mineral Rights

We defer acquisition costs until we determine the viability of the property. Since we do not have proven and probable reserves as defined by SEC Industry Guide 7, exploration expenditures are expensed as incurred.

We expense holding costs to maintain a property on a care and maintenance basis as incurred.

We review the carrying value of our interest in each mineral claim on a quarterly basis to determine whether impairment has incurred in accordance with ASC 360 (formerly SFAS No. 144, “Accounting for the Impairment or Disposal of Long-Lived Assets.”).

Where information and conditions suggest impairment, we write-down these properties to net recoverable amount, based on estimated future cash flows. Our estimate of gold price, mineralized materials, operating capital, and reclamation costs are subject to risks and uncertainties affecting the recoverability of our investment in property, plant, and equipment. Although we have made our best estimate of these factors based on current conditions, it is possible that changes could occur in the near term that could adversely affect our estimate of net cash flows expected to be generated from our operating properties and the need for possible asset impairment write-downs.

Where estimates of future net operating cash flows are not available and where other conditions suggest impairment, we assess if carrying value can be recovered from net cash flows generated by the sale of the asset or other means.

Reclamation Liabilities and Asset Retirement Obligations

Minimum standards for site reclamation and closure have been established by various government agencies that affect certain of our operations. We calculate our estimates of reclamation liability based on current laws and regulations and the expected undiscounted future cash flows to be incurred in reclaiming, restoring, and closing our operating mine sites. When we incur reclamation liabilities that are not related to asset retirements we recognize the obligations in accordance with ASC 410-30 (formerly SOP No. 96-1).

The Company accounts for its reclamation liabilities and asset retirement obligations in accordance with ASC 410 Asset Retirement and Environmental Obligations (ASC 410). ASC 410 requires that the fair value of a liability for an asset retirement obligation be recognized in the period in which it is incurred. ASC 410 requires us to record a liability for the present value of our estimated environmental remediation costs and the related asset created with it when a recoverable asset (long-lived asset) can be realized.

Stock Based Compensation

The Company accounts for share based compensation in accordance with ASC 718 Compensation – Stock Compensation. Accordingly, the Company measures the cost of employee services received in exchange for an award of equity instruments based on the grant date fair value of the award and recognizes cost over the requisite service period.

Earnings Per Common Share

In calculating earnings per common share, we compute basic earnings per share by dividing net loss by the weighted average number of common shares outstanding, excluding the dilutive effects of common stock equivalents. For the three months ended September 30, 2010 and 2009, we had net losses for which the effect of common stock equivalents would be anti-dilutive. Accordingly only basic loss per share is presented.

Use of Estimates

In preparing financial statements in conformity with generally accepted accounting principles, we are required to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and revenues and expenditures during the reported periods. Actual results could differ materially from those estimates. Estimates may include those pertaining to the estimated useful lives of property and equipment and software, determining the estimated net realizable value of receivables, and the realization of deferred tax assets.

Risks and Uncertainties

We regularly evaluate risks and uncertainties and, when probable that a loss or expense will be incurred, record a charge to current period operations.

Income Taxes

We recognize deferred tax assets and liabilities based on differences between the condensed consolidated financial statement carrying amounts and tax bases of assets and liabilities (using the applicable enacted tax rates and laws). We provide a valuation allowance for deferred tax assets for which we do not consider realization of such assets to be likely.

ACCOUNTING STANDARDS UPDATES (ASU's)

We do not expect any significant impact on our Company's consolidated financial position or results of operations from other ASU's issued but not effective until after September 30, 2010,

Note 5—Restatement

Subsequent to the issuance of the September 30, 2010 condensed consolidated financial statements, the Company identified an error in calculating the fair value of derivative liabilities associated with the embedded beneficial conversion features of the various convertible debentures. The impact of this error was a non-cash understatement of third quarter 2010 change in fair market value expense of $11,378,088 and an understatement in derivative liabilities. In addition, we misclassified $3,064,533 of defaulted convertible debentures as long-term instead of current liabilities. The condensed consolidated financial statements as of September 30, 2010 have been restated to correct this misclassification, and we corrected misclassified amounts within the operating activities section of the condensed consolidated statements of cash flows. There was not net impact to the total cash used in operating activities.

The effect of the restatement on the condensed consolidated statement of operations for the nine months ended September 30, 2010 is as follows:

	As Previously Reported	As Restated
Derivative change in fair value	$ (7,472,128)	$ (18,850,216)
Total Other Expense	(10,355,783)	(21,733,871)
Net Loss	(15,257,712)	(26,635,800)
Net loss per common share – basic and diluted	$ (0.81)	$ (1.41)

The effect of the restatement on the condensed consolidated statement of operations for the three months ended September 30, 2010 is as follows:

	As Previously Reported	As Restated
Derivative change in fair value	$ (5,953,651)	$ (17,331,739)
Total Other Expense	(7,047,482)	(18,425,570)
Net Loss	(8,704,906)	(20,082,994)
Net loss per common share – basic and diluted	$ (0.45)	$ (1.05)

The effect of the restatement on the condensed consolidated balance sheet at September 30, 2010 is as follows:

	As Previously Reported	As Restated
Notes, convertible notes, and debentures payable	$ 17,092,778	$ 20,157,311
Total Current Liabilities	27,146,465	30,210,998
Notes, convertible notes, and debentures payable, net of current portion	3,871,382	806,849
Derivative liability	13,548,862	24,926,949
Total Long-Term Debt and Other Long-Term Liabilities	19,418,713	27,732,267
Total Liabilities	46,565,178	57,943,265
Accumulated deficit	(70,186,105)	(81,564,192)
Total Stockholders' Deficit	$ (40,978,171)	$ (52,356,258)

The effect of the restatement on the condensed consolidated statements of cash flows for the nine months ended September 30, 2010 is as follows:

	2010		2009	
	As Previously Reported	As Restated	As Previously Reported	As Restated
Net loss	$ (15,257,712)	$ (26,635,800)	$ —	$ —
Derivative change in fair value	7,472,127	$ 18,850,216	42,643	1,898,838
Stock warrants and stock based compensation	—	—	2,025,152	168,957

The effect of the restatement on the condensed consolidated statement of changes in stockholders' deficit for the nine month period ended September 30, 2010 is as follows:

	As Previously Reported	As Restated
Net loss	$ (15,257,712)	$ (26,635,800)
Accumulated deficit	(70,186,105)	(81,564,192)
Total Shareholders' Deficit as of September 30, 2010	$ (40,978,171)	$ (52,356,258)

Note 6— Mineral Rights

Mineral rights at September 30, 2010 and December 31, 2009, consisted of the following:

	Sept. 30, 2010	December 31, 2009
Comstock Placer Claims	$100,000	$ 100,000
Big Mike Copper Claims	—	69,138
Comstock Lode Claims	791,409	1,011,409
Water rights	90,000	90,000
Total Mineral Rights	$981,409	$ 1,270,547

In January 2010, we sold a 0.61% net smelter royalty on our Obester Property for $550,000 to Precious Royalties, LLC, resulting in a gain of $300,000. Accordingly, we adjusted our mining claim values to reflect the impact of the net smelter royalty.

We determined the Big Mike copper project in Northern Nevada to be impaired and to have no fair value. In accordance with ASC 360, we recorded an impairment expense of $69,138, which is included in the depreciation, depletion and amortization expense on the Statement of Operations.

During the third quarter 2010, we acquired additional mineral claims that totaled $30,000.

Note 7 — Property and Equipment, net

Plant and equipment at September 30, 2010 and December 31, 2009, consisted of the following:

	Sept 30, 2010	December 31, 2009
Land and Building	$3,352,443	$ 2,327,443
Vehicle and Equipment	314,094	302,094
Processing and Lab	719,528	704,528
Furniture and Fixtures	51,496	49,390
Property and Equipment	4,437,561	3,383,455
Less accumulated depreciation	(1,145,102)	(1,081,989)
Total Property and Equipment, net	$3,292,459	$ 2,301,466

On July 1, 2010, the Company obtained an exclusive 180-day exploration license with option to purchase four patented lode claims totaling 95 acres known as the Dayton property for $70,000. This property is contiguous with the Company's Spring Valley Dondero holdings. Under the purchase option, the price for the property is $3,000,000 plus a 3% Net Smelter Return (NSR). The Company will receive credit for the full purchase price through a reduction in the NSR by 75% until such time as the full $3,000,000 purchase price has been credited back. The purchase price will be paid through an initial payment of $500,000, with the balance payable in 20 equal, quarterly installments of $125,000, with no interest.

On July 20, 2010, we acquired seven patented mining claims totaling 48 acres, surface rights to two additional patented mining claims totaling 15 acres, 12 unpatented lode claims, and 15 acre-feet of water rights, all located in Storey County, Nevada. The purchase price was $1,025,000, with an initial payment of $300,000. We financed the remaining $725,000 with an installment note bearing 6% interest, requiring 60 monthly payments of $6,178 and a final payment of then-unpaid principal and interest. The former owners of the parcel will retain a 1.5% Net Smelter

Royalty (NSR) on all future mineral production from these claims.

During the nine month period ended September 30, 2010, we purchased additional equipment totaling $24,105. The property and equipment additions include $10,000 for processing equipment, $12,000 for a used pickup truck and $2,105 for computers.

Depreciation expense for the nine months ended September 30, 2010 and 2009 was $63,114 and $63,049, respectively. We use the straight-line method of depreciation for financial reporting purposes, depreciating buildings over 15 years and other assets over useful lives ranging from 3 to 10 years.

Note 8 – Reclamation Bond Deposit

We are generally required to mitigate long-term environmental impacts by stabilizing, contouring, re-sloping, and re-vegetating various portions of a site after mining and mineral processing operations are completed. These reclamation efforts are conducted in accordance with detailed plans that require review and approval by the appropriate regulatory agencies.

The Nevada Revised Statutes and regulations promulgated thereunder by the Nevada State Environmental Commission and the Nevada Division of Environmental Protection, Bureau of Mining and Reclamation require posted bonds for mining projects that assure safe, stable and productive post-mining land use. We secured a $1,106,882 mine reclamation financial assurance instrument through the Nevada Division of Minerals' Bond Pool Program pursuant to the approved Reclamation Plan, including a required cash deposit of $766,768.

Note 9 — Long-term Reclamation Liability and Deferred Reclamation Expense

Our long-term reclamation liability was $1,323,131 and $1,186,966 as of September 30, 2010 and December 31, 2009, respectively. This obligation provides reclamation for our Comstock Mine facility reclamation plan. Our plan was submitted and approved by the Nevada State Environmental Commission and Division of Environmental Protection. We also recorded a deferred reclamation expense of which the value is being amortized over the period of the anticipated land disturbance. Costs of future expenditures for environmental remediation are discounted to their present value. Such costs are based on management’s current estimate of amounts expected to be incurred when the remediation work is performed within current laws and regulations. It is reasonably possible that, due to uncertainties associated with the application of laws and regulations by regulatory authorities and changes in reclamation or remediation technology, the ultimate cost of reclamation and remediation could change in the future. We periodically review accrued liabilities for such reclamation and remediation costs as evidence becomes available indicating that our liabilities have potentially changed. The reclamation expense and the amortization of defined reclamation expense for the nine month period ended September 30, 2010 and 2009 were $110,748 and $112,242, respectively.

Following is a reconciliation of the aggregate retirement liability associated with our reclamation plan for our Comstock Project:

	9/30/10	12/31/09
Long-term reclamation liability beginning of period	$ 1,186,966	$ 1,105,342
Additional obligations incurred	58,447	
Liabilities settled during the period		
Increase in present value of the reclamation obligation (accretion expense)	64,115	81,624
Long-term asset reclamation liability	$ 1,309,528	$ 1,186,966

Following is a reconciliation of the aggregate long-lived deferred reclamation expense associated with on our reclamation plan for our Comstock Project:

	9/30/10	12/31/09
Net long-lived deferred reclamation expense beginning of period	$ 340,159	$ 408,190
Additional obligations incurred	58,447	
Amortization of deferred reclamation expense	(46,633)	(68,031)
Long-lived deferred reclamation expense	$ 351,973	$ 340,159

Note 10 - Notes, Convertible Notes and Debentures Payable

The following is a summary of the Notes, Convertible Notes and Debentures Payable as of September 30, 2010 and December 31, 2009:

	9/30/10	12/31/09
Convertible Debentures Payable – 2004 through August 2009	$14,442,778	$15,278,261
Promissory Notes Payable - 2005 through 2008	2,650,000	2,650,000
Convertible Notes Payable – December 2009 through June 2010, net	3,064,533	242,762
Convertible Notes Payable – June 2010, net	806,849	
Subtotal	20,964,160	18,171,023
Less current portion	(20,157,311)	(15,145,698)
Long term portion	$806,849	$3,025,325

The following is a detailed presentation of each line item presented in the above table as of September 30, 2010 and December 31, 2009.

Convertible Debentures Payable - 2004 through August 2009.

	9/30/10	12/31/09
Convertible Debentures Payable – Investors	$1,078,157	$1,105,908
Convertible Debentures Payable - Mandatory Redemption payment	4,412,058	4,412,058
Convertible Notes Payable - 2006 & 2007	2,170,000	2,170,000
Convertible Notes Payable: June – November 2008	2,500,000	2,500,000
Convertible Notes Payable – July 2008 Longview Amended and Restated	2,782,563	2,782,563
Convertible Notes Payable – December 2008	500,000	500,000
Convertible Notes Payable – May – August 2009	1,000,000	1,807,732
Total	14,442,778	15,278,261

The terms of the convertible debentures payable included above are as follows:

Convertible Debentures Payable – Investors

During March 2004, we completed a private placement of securities (the "March Offering"), to a group of accredited institutional and individual investors ,which generated $10 million in gross proceeds . On November 30, 2004, we restructured the March Offering and entered into a new agreement (the "Subscription Agreement") whereby we exchanged 108,696 shares of common stock and 108,696 warrants issued for convertible notes. These notes accrue interest at 15% per annum. The principal amount of the note and related interest is convertible into Comstock Mining Common Stock at the lesser of (A) $1.20 per share, or (B) eighty-five percent (85%) of the average of the five (5) lowest closing bid prices of the common stock as reported by Bloomberg L.P. for the twenty (20) trading days preceding the date the Company was obligated to pay the debentures. These notes and related interest are currently due and payable.

Convertible Debentures Payable – Mandatory Redemption Payment

On March 31, 2005, the Winfield Group entered into a Settlement Agreement with the Company whereby the Winfield Group agreed to convert the $6.9 million obligation into Convertible Debentures ("the Debentures"). These Debentures accrue interest at 18% per annum. The principal amount of the Debentures and related interest is convertible into Comstock Mining Common Stock at the lesser of (A) $1.20 per share, or (B) eighty-five percent

(85%) of the average of the five (5) lowest closing bid prices of the common stock as reported by Bloomberg L.P. for the twenty (20) trading days preceding the date the Company was obligated to pay the Debentures. These Debentures and related interest are currently due and payable.

Convertible Notes Payable – 2006 & 2007

In August 2006, the Company entered into a loan agreement with the Winfield Group and Longview LP whereby they agreed to loan up to $2,200,000 in exchange for convertible debt and warrants. A total of $2,170,000 was funded under this loan agreement. These notes accrue interest at 18% per annum. The principal amount of the notes and related interest is convertible into Comstock Mining Common Stock at the lesser of (A) $1.20 per share, or (B) eighty-five percent (85%) of the average of the five (5) lowest closing bid prices of the common stock as reported by Bloomberg L.P. for the twenty (20) trading days preceding the date the Company was obligated to pay the debentures. These notes and related interest are currently due and payable.

Convertible Notes Payable: June – November 2008

In June 2008, the Company entered into a Loan Agreement with Winfield Group pursuant to which Winfield Group agreed to loan the Company $2,500,000 no later than December 31, 2008 through issuance of a series of secured notes (the “Notes”). These Notes accrue interest at 9% per annum. The principal amount of the Notes and related interest is convertible into Comstock Mining Common Stock at the lesser of (A) $1.20 per share, or (B) .85 multiplied by the “Volume Weighted Average Price” for the Borrower’s Common Stock for the five trading days immediately prior to the Conversion Date. These Notes have been in default since late 2008 because we failed to make any monthly payment on the Notes. Pursuant to the terms and conditions of this Loan Agreement, the Notes become immediately payable upon default and thus the note balance has been recorded as a current liability.

Convertible Notes Payable – July 2008 (Longview Amended and Restated Note)

On July 10, 2008, the Company amended $2,175,000 principal amount of unsecured promissory notes issued to Longview Fund, L.P. through the issuance of an Amended and Restated $2,782.563 Promissory Note issued by the Company in favor of Longview Fund, L.P. This note accrues interest at 11% per annum and is due and payable on July 10, 2011. The principal amount of the note and related interest is convertible into Comstock Mining Common Stock at the lesser of (A) $1.20 per share, or (B) .85 multiplied by the “Volume Weighted Average Price” for the Borrower’s Common Stock for the five trading days immediately prior to the Conversion Date.

Convertible Notes Payable –December 2008

On December 8, 2008, we completed a $500,000 financing transaction with Winfield Group. In conjunction with this financing we issued to the Winfield Group notes that accrue interest at 9% per annum. The principal amount of these notes and related interest is convertible into Comstock Mining Common Stock at the lesser of (A) $1.20 per share, or (B) .85 multiplied by the “Volume Weighted Average Price” for the Borrower’s Common Stock for the five trading days immediately prior to the Conversion Date. Pursuant to the terms and conditions of the note agreement, the notes became immediately payable upon default and thus the note balance has been recorded as a current liability since December 31, 2009.

Convertible Notes Payable – May 2009- August 2009

On May 1, 2009, the Company secured a $2,000,000 commitment for additional convertible debt financing. The agreement, upon 30 days prior written notice, permitted the Company to request financing in tranches between $250,000 and $500,000 per request. Funding requests were permitted at any time between May 1, 2009 and August 28, 2009. The Company requested and received $2,000,000 from this financing. These notes accrue interest at 9% per annum. The principal amount of these notes and related interest is convertible into Comstock Mining Common Stock at the lesser of (A) $1.20 per share, or (B) .85 multiplied by the “Volume Weighted Average Price” for the Borrower’s Common Stock for the five trading days immediately prior to the Conversion Date. Pursuant to the terms and conditions of the loan agreement, the notes became immediately payable upon default and thus the note balance has been recorded as a current liability.

The following summarizes the activity for Convertible Notes Payable:

	Note Balance 9/30/10	Note Balance 12/31/09
Balances beginning of period	$ 1.807,732	$ —
Convertible Note	—	2,000,000
Principal Payments	(807,732)	(192,268)
Note Balance	1,000,000	1,807,732

Promissory Notes Payable –2005 through 2008

The Company has the following promissory notes payable as of September 30, 2010 and December 31, 2009:

	9/30/10	12/31/09
Promissory Notes Payable-July 2005 Financing	$1,200,000	$1,200,000
Promissory Notes Payable-December 2007 Financing	600,000	600,000
Promissory Notes Payable-January 2008 Financing	600,000	600,000
Promissory Notes Payable-January 2008 Financing	250,000	250,000
	$2,650,000	$2,650,000

Promissory Notes Payable - July 2005 Financing

In July of 2005, we borrowed $1.2 million from companies controlled by the Winfield Group. Proceeds from the notes were reduced by a 33.3% original issue discount and other origination fees. Net proceeds received by the Company from the borrowing were $740,000. The notes accrued interest at 17% per annum and were payable in monthly installments of principal and interest over a 24 month period with the remaining entire balance of unpaid principal and interest due on July 15, 2007. The notes are collateralized by substantially all of the Company's assets subject to the security interest of the Brockbank Trust. We failed to make any payments on the notes; hence, they are in default and the original issue discount is fully amortized.

Promissory Notes Payable – December 2007 Financing

In December 2007, we completed a financing transaction with the Winfield Group. The notes evidencing the loan bear interest at the rate of 18% per annum, payable on or prior to the one year anniversary of the respective loan date. We failed to make any payments on the notes; hence, they are in default and the original issue discount is fully amortized.

Promissory Notes Payable – January 2008 Financing

On January 31, 2008, we completed a financing transaction with the Winfield Group. The notes evidencing the loan bear interest at the rate of 18% per annum, payable on or prior to the one year anniversary of the respective loan date. We failed to make any payments on the notes; hence, they are in default and the original issue discount is fully amortized.

Promissory Notes Payable – Plum Mine

We have a 5% interest bearing note payable note related to our purchase of the Plum Mining property. The note was payable on June 2006 and we are in default on this note. As of June 30, 2010 and December 31, 2009, we still had a

$250,000 note balance due. There is a first security interest on the assets of Plum Mining Property for this note.

Convertible Notes Payable– December 2009 through June 2010, net

On December 10, 2009, we secured a $4,500,000 commitment for additional convertible debt financing. This $4,500,000 convertible debt financing commitment was fully funded by the end of June 2010. These notes bear interest at a rate of 8% per annum and are payable on or prior to the three (3) year anniversary of the respective Loan Dates. The terms of the notes provide a security interest in all of the assets of the Company and required the issuance of 1,125,000 warrants shares with an exercise price of $3.50 and a three (3) year term. In addition, the Warrant Agreements contain anti-dilution protection provisions. The principal amount of the notes and related interest amounts is convertible into Comstock Mining Common Stock at the lesser of (A) $1.20 per share, or (B) .85 multiplied by the "Volume Weighted Average Price" for the Borrower's Common Stock for the five trading days immediately prior to the Conversion Date.

The following summarizes the activity for Convertible Notes Payable:

	Note Balance as of 9/30/10	Note Balance as of 12/31/09
Beginning of period	$ 242,762	$ —
Convertible Note	3,750,000	750,000
Debt Discount, net	(928,229)	(507,238)
End of period	$ 3,064,533	$ 242,762

Note Principal	Debt Discount	Conversion Price per Share	Number of Shares Underlying Convertible Note	Effective Interest Rate	Earnings per Share Impact
$ 750,000	$ 518,030	$ 1.20	625,000	23.0 %	0.03
1,750,000	498,720	1.20	1,458,333	9.5 %	0.07
2,000,000	753,105	1.20	1,666,667	12.6 %	0.08
$ 4,500,000	$ 1,769,855	$ 1.20	3,750,000	13.1 %	0.18

The debt discount consists of the initial fair value of the warrant liability of ($541,741) and the embedded conversion option liability of ($1,228,114), for a total of ($1,769,855). (See Note 13)

Debt Discount at September 30, 2010 and December 31, 2009:

	9/30/10	12/31/09
Debt discount beginning balance – beginning of period	$(507,238)	$—
Debt discount – embedded conversion feature	(911,512)	(316,602)
Debt discount – detachable warrants	(340,313)	(201,428)
Less amortization of debt discount	323,596	10,792