

Appendix 3(7)

King II

August 8, 2020

(PR-10)



HISTORY *Colorado*

Janet H. Binns
Environmental Protection Specialist
Division of Reclamation, Mining, and Safety
1313 Sherman Street, Room 215
Denver, CO 80203

RE: King Coal Mine (Permit No. C-1981-035) (HC# 68206)

Dear Ms. Binns,

Thank you for your correspondence dated and received by our office on July 22, 2020 continuing consultation for the above referenced undertaking under Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations 36 CFR Part 800. The July 2020 correspondence continues consultation initiated in July 2020 and in response to our July 7, 2020 letter requesting additional information.

We thank you for the additional documentation that you have provided. We note that in accordance with the 1991 Memorandum of Understanding (MOU) between our agencies, because the technical revision may incorporate additional lands into the permit area or might otherwise alter previously approved permit conditions or mitigation measures, concurrence between our agencies is required due to the potential for impacts to cultural and/or historic resources. After review of the MOU, we note that not only was it signed 29 years ago, but the only amendment (containing categorical exclusions) was made 17 years ago. We suggest that our offices collaborate in the near future to assess the continuing usefulness of the MOU and the possibility of terminating the MOU and creating a Programmatic Agreement or several Programmatic Agreements tailored to the specific needs of the various resource types managed by your office.

After review of the provided documentation, we do not object to the defined area of potential effects (APE). The provided documentation notes that the proposed permit revision does not involve any new surface disturbance or propose expanding subsurface activities beyond the lease area, which were previously consulted upon with our office under HC# 75858. Based on the documentation provided, we find that a finding of no adverse effect [36 CFR 800.5(d)(1)] to historic properties is appropriate for the proposed activities.

Should unidentified archaeological resources be discovered in the course of the project, work must be interrupted until the resources have been evaluated in terms of the National Register eligibility criteria (36 CFR 60.4) in consultation with our office pursuant to 36 CFR 800.13. Also, should the consulted-upon scope of the work change, please contact our office for continued consultation under Section 106 of the National Historic Preservation Act. In particular, we request continued consultation if the undertaking proposes to expand underground operations beyond the areas consulted upon through HC# 75858. The expansion of underground operations could pose additional effects to cultural resources including surface subsidence. Additional cultural resource inventories may be necessary if underground operations are expanded.

We request being involved in the consultation process with the local government, which as stipulated in 36 CFR 800.3 is required to be notified of the undertaking, and with other consulting parties. Additional information provided by the local government or consulting parties might cause our office to re-evaluate our eligibility and potential effect findings. Please note that our compliance letter does not end the 30-day review period provided to other consulting parties.

Thank you for the opportunity to comment. If you have any questions, please contact Matthew Marques, Section 106 Compliance Manager, at (303) 866-4678, or matthew.marques@state.co.us.

Sincerely,

Steve Turner, AIA
State Historic Preservation Officer