



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

August 17, 2020

History Colorado
Attn. Matthew Marques
1200 Broadway
Denver, CO 80203

**RE: New Elk Mine, C-1981-012, Technical Revision No. 75 (HC#71066)
August 7, 2020 Correspondence**

Dear Mr. Marques,

Thank you for responding to our notice letter pertaining to New Elk Coal Company, LLC's (NECC) submittal of Technical Revision No. 75 (TR75). The letter asserts that TR75 proposes additional surface disturbance outside an area currently approved for disturbance and that the proposal might alter previous permit conditions. Further the letter asserts that no cultural resource inventories have been conducted in the proposed project location. These findings do not appear to be completely accurate. First, TR75 does not request additional disturbance outside of the area currently approved for disturbance. The proposed "borrow area" is within the footprint of the approved Refuse Disposal Area (RDA) already approved as part of NECC operations. Several cultural resource surveys of the area have been conducted and are included in the NECC application exhibits for the mine. The most recent and applicable survey was conducted in 2011 within the RDA area in which the activities proposed with TR75 are located. The results of the 2011 cultural resource survey were submitted for State Historic Preservation Officer (SHPO) review for Minor Revision No. 99 (MR99) at that time and are also enclosed with this letter for your review. One site (5LA.12859) was found during that survey and is in close proximity to the operation at the RDA and the proposed TR75 activities but is outside the area to be disturbed by the operation. Given that, SHPO recommended a finding of **no historic properties affected** in a letter dated December 6, 2011 (enclosed). It is the Division of Reclamation Mining and Safety's (DRMS) opinion that this findings is still appropriate for the proposed TR75 activities. We would ask that you review this material and determine if the previous finding for MR99 is appropriate for TR75?

Also, recent correspondence from your office regarding different permitting actions for various sites discusses the need to update or terminate the 1991 Memorandum of Understanding (MOU) and develop a new Programmatic Agreement. DRMS agrees this should be done and has been working with SHPO for several years on an updated programmatic agreement.

If you have any questions please feel free to contact me at Jared.Ebert@state.co.us or (303) 866-3567 ext. 8120. Or you may contact Daniel Cunningham at daniel.cunningham@state.co.us or at (303) 866-3567 ext. 8126.



Sincerely,

A handwritten signature in blue ink, appearing to read "Jared Ebert", with a stylized flourish at the end.

Jared Ebert
Senior Environmental Protection Specialist

Enclosures: 1.) *Class III Cultural Resource Inventory for the RDA #1 Expansion, October 7, 2011.*
 2.) *Edward Nichols letter to DRMS, RE MR99, December 6, 2011*

ec: Dr. Holly Norton, History Colorado holly.norton@state.co.us
 Daniel Cunningham, DRMS Daniel.Cunningham@state.co.us