



# HISTORY Colorado

Daniel Cunningham  
Environmental Protection Specialist  
Division of Reclamation, Mining, and Safety  
1313 Sherman Street, Room 215  
Denver, CO 80203

RE: New Elk Mine (Permit No. C-1981-012), Technical Revision No. 75 (HC# 71066)

Dear Mr. Cunningham,

Thank you for your correspondence dated July 28, 2020 and received by our office on August 4, 2020 regarding the review of the above referenced undertaking under Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations 36 CFR Part 800.

After review of the documentation 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. We also request in the future that documents you would like us to review are included as attachments to your correspondence in order to assist in our review.

The technical revision proposes additional surface disturbance outside an area currently approved for disturbance. The technical revision application may incorporate additional lands into the permit area or might otherwise alter previously approved permit conditions or mitigation measures. As a result, impacts to cultural and historic resources must be evaluated.

A search of the Colorado Cultural Resource Inventory Database indicates that no cultural resource inventories have been conducted in the proposed project location and two cultural resource inventories have been conducted in a mile of the location. Two previously identified cultural resources (5LA.1101 and 5LA.12859) sit in a mile of the location. 5LA.1101 was previously determined not eligible for the National Register of Historic Places (NRHP) and 5LA.12859 was previously determined as needs data to determine the eligibility of the resource for the NRHP. 5LA.12859 sits in close proximity to the proposed project location and shows the potential for previously unidentified cultural resources in the project location.

Due to the lack of previous inventories in the proposed project location and the potential for previously unidentified cultural resources, it is our recommendation that a cultural resource inventory be completed by a cultural resource specialist who meets the Secretary of the Interior's Standards prior to construction activities to determine the presence of historic properties within the APE and the potential effects to these resources as a result of the proposed undertaking. This level of effort is recommended in accordance with 36 CFR Part 800.4(b)(1).

A list of qualified contractors that may provide the above services is available on our website: [https://www.historycolorado.org/sites/default/files/media/document/2020/1502\\_1.pdf](https://www.historycolorado.org/sites/default/files/media/document/2020/1502_1.pdf). Upon completion of the appropriate identification efforts, our office should be provided with the results of the cultural

resource inventory for review of professional adequacy and compliance with regulations, as well as to evaluate the appropriateness of the recommended effect finding.

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](mailto:matthew.marques@state.co.us).

Sincerely,

**Dr. Holly K Norton** Digitally signed by Dr. Holly K Norton  
Date: 2020.08.07 14:33:06 -06'00'

Steve Turner, AIA  
State Historic Preservation Officer