



History Colorado

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

RE: West Elk Mine (Permit No. C-1980-007) Technical Revision No. 150 (TR-150), Revision to Layout of E-Seam Panels (HC# 68249)

Dear Ms. Simmons,

Thank you for your correspondence dated and received by our office on February 24, 2022 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. Your correspondence is in response to our January 12, 2022 correspondence requesting additional information on the subject undertaking and recommended the completion of a cultural resource inventory.

We appreciate the additional documentation provided. The documentation notes that the subject undertaking will not result in the construction of additional surface infrastructure. Further, the documentation argues that no historic properties would be affected by the undertaking since no additional surface disturbance will occur and no historic properties have previously been identified in the area of potential effect (APE). The documentation also notes that no additional cultural resource inventory is necessary since a previous 2008 inventory of borehole locations provides an adequate sample of the area affected. We disagree with your assessments for the following reasons.

You suggest that the subsurface mining activity would not result in surface disturbance. The provided documentation including a subsidence evaluation for the mine, however, show that subsidence does and can occur in the APE as a result of the type of mining activities that are proposed. While significant cracks were not predicted, the documentation notes that subsidence can and does still occur in the boundaries of the mine. In particular, the documentation notes that mining activities can result in surface cracks that reach a depth of 50 ft; that landslides and rockfalls can occur; and that evidence for subsidence includes, in part, cracks that developed in roads. Further, the documentation notes that even if cracks are not observed on the surface, the soil experiences deformation as part of the subsidence process. This has the potential to affect cultural remains including structures, rock art, and cultural deposits.

As noted in our January 2022 correspondence, our records show that cultural resource specialists have inventoried a relative low frequency of the project location. The only previous inventory completed in the APE consists of the 2008 inventory. Based on a comparison with the provided maps, it appears this covers approximately seven percent of the project location. This comprises a paucity of the APE and remains an inadequate sample to understand if historic properties sit in the APE.

A review of regional studies show that the area contains the potential for previously unidentified cultural remains including archaeological remains that could sit on or below the ground surface. In particular, a prehistoric context for the northern Colorado River Basin by Reed and Metcalf notes that upland areas in the upper Gunnison River drainages, such as the project location, show the potential for prehistoric remains extending from the Paleoindian to Protohistoric Era. As previously noted, the proposed undertaking has the potential to affect these types of cultural resources including through reasonably foreseeable effects such as subsidence and ground vibrations.

As a result, we continue to recommend 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 cultural resources in the APE and to assess the eligibility of any resources for the National Register of Historic Places. The cultural resource specialist should also evaluate the undertaking's potential effects to historic properties. This level of effort is recommended in accordance with 36 CFR 800.4(b)(1). 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 anticipate further discussion regarding the subject undertaking according to 36 CFR 800.3-.6. 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,

Dawn DiPrince
State Historic Preservation Officer