



STATE OF
COLORADO

Ebert - DNR, Jared <jared.ebert@state.co.us>

RE: New Elk Mine (Permit No. C-1981-012) Technical Revision Application No. 76 (TR-76), Proposed New Haul Road (HC# 71066)

Marques - HC, Matthew <matthew.marques@state.co.us>

Fri, Jul 15, 2022 at 3:09 PM

To: "Ebert - DNR, Jared" <jared.ebert@state.co.us>

Dear Mr. Ebert,

From: History Colorado, Office of Archaeology and Historic Preservation

Attached is our letter on the subject undertaking in Adobe PDF format.

Please contact me at the below information if you have any questions.

Sincerely,

--

Matthew Marques

Section 106 Compliance Manager

History Colorado | State Historic Preservation Office

303.866.4678 | matthew.marques@state.co.us

1200 Broadway | Denver, Colorado 80203 | [HistoryColorado.org](https://www.historycolorado.org)

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71066_DRMS_C1981012_TR76.pdf
208K



History Colorado

Jared Ebert
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 Application No. 76 (TR-76), Proposed New Haul Road (HC# 71066)

Dear Mr. Ebert,

Thank you for your correspondence received by our office on June 22, 2022 requesting review of the above referenced undertaking under Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations 36 CFR Part 800. We understand that the Office of Surface Mining Reclamation and Enforcement (OSMRE) comprises the Federal agency responsible for completion of Section 106 of the NHPA for the subject undertaking.

The provided documentation notes that the technical revision would result in the construction of a new haul road, hoist, and conveyor system to support mining operations. You noted in a July 7, 2022 phone conversation that the applicant has completed construction of the proposed road and associated infrastructure prior to the completion of the Section 106 of the NHPA process. You also noted that you were in the process of reviewing the permit and initiating consultation on the undertaking when the applicant implemented the project. Since the undertaking was completed prior to the completion of the Section 106 of the NHPA process and consultation with our office, we are currently outside the regulations (36 CFR 800.3-6) for Section 106.

As a result, we recommend contacting OSMRE for guidance on how to proceed. OSMRE should assess whether a Section 110(k) violation has occurred for the subject undertaking. This includes assessing whether historic properties existed in the area of potential effects prior to initiation of the undertaking and whether the undertaking adversely affected historic properties.

We understand that the Colorado Division of Reclamation, Mining, and Safety (DRMS) has documented this as a violation and is seeking to prevent similar situations from occurring in the future. We appreciate DRMS's efforts in preventing similar events in the future.

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 findings. Please note that our compliance letter does not end the 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