

STATE OF
COLORADO

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

HC# 71066 Coal Mine Permit New Elk Coal

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

Tue, Oct 4, 2022 at 12:29 PM

To: Jason Weston <jdweston@crai-ky.com>, "Ebert - DNR, Jared" <jared.ebert@state.co.us>

Dear Mr. Weston,

We appreciate the documentation submitted for the above referenced undertaking and had a few comments and questions.

The inventory resulted in the documentation of a segment of the C & W Railway. The C & W Railway was previously recorded under 5LA.7112. While the documentation notes that the recorded segment sits in a spur of the railway, this spur was previously recorded as part of 5LA.7112. As a result, we request that 5LA.14542.1 is recorded as a segment of 5LA.7112 and the documentation is updated and provided to our office.

The documentation argues that the segment of the railroad no longer retains integrity due to the removal of tracks and ties. Further, the documentation notes that the grade is currently used as a road. We disagree with the assessment that the segment does not retain integrity and that the segment does not support the eligibility of the resource as currently presented.

While the tracks and ties were generally removed, the provided images and a review of orthoimagery shows that the grade remains relatively intact. National Register Bulletin 15 and 36 note that all historic properties change over time and rarely are they completely undisturbed. This is particularly true with archaeological resources. The Bulletins also note that integrity should be assessed with consideration of the type of resources involved and why the resources are considered significant. Considering that the railroad, at least in part, would be considered significant for its association with the development of transportation and comprise elements of a railroad, the remains identified continue to demonstrate their general historic use and function. While the segment is currently used as a road, the images show that the grade has not been significantly altered and generally appears as it would have historically. The grade retains its shape and size. As a result, we recommend reassessing the eligibility of the segment as supporting the eligibility of the entire resource and reassessing the potential effects posed to the resource.

As far as effects, the documentation appears to only consider direct, physical effects and does not appear to consider reasonably foreseeable effects posed by the subsurface mining such as subsidence and vibrations. The ACHP has previously commented on effects posed by subsidence in Colorado noting that subsidence appears reasonably foreseeable and they "believe subsidence, in general, with or without subsidence cracks, should be considered an effect on historic properties as it may include changes in the relationship of a property to its surroundings, including changes in its surface contours, topography, and erosional patterns. Following the same reasoning it appears that the opening and subsequent refilling of subsidence fractures, if they were to occur, should also be considered at least an effect on archaeological sites."

Was the APE determined in consideration of the potential for subsidence and vibrations? If so, please provide additional information on this consideration to help us better understand the APE. Further, we request that an assessment of these effects on the segment of the railroad be provided for our review.

Thank you and please let me know if you would like to discuss this over the phone.

Best,

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Matthew Marques**Section 106 Compliance Manager**

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