



History Colorado

Jared Ebert
Senior 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) Permit Revision Application No. 6 (PR-6), Permit Revision 6 (HC# 71066)

Dear Mr. Ebert,

Thank you for your correspondence received by our office on October 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 October 2022 letter is in response to our October 4, 2022 email requesting additional information on the undertaking and historic property identification efforts. We requested, in part, additional information to understand how the area of potential effects (APE) was determined. The previously provided documentation appeared to only consider direct, physical effects and did not appear to consider reasonably foreseeable effects posed by subsurface mining such as effects from subsidence and vibrations. The recently submitted documentation does not appear to address this request for information. As a result, we continue to request information regarding efforts to identify the APE and whether such reasonably foreseeable effects were considered.

In addition, our email noted a technical error in the results of a cultural resource inventory completed for the undertaking. The inventory resulted in the recordation of a segment of a railroad under the 5LA.14542 Smithsonian trinomial. A review of our records show that the segment was previously recorded under the 5LA.7112 trinomial. Considering this, we request that the segment is rerecorded under the 5LA.7112 trinomial and that the updated documentation is provided for our review.

Besides the Smithsonian trinomial, we note that the segment was assessed as not supporting the eligibility of the entire resource for the National Register of Historic Places (NRHP). The documentation argues this due to the loss of integrity resulting from the removal of tracks and ties. We disagree with this assessment as currently presented. National Register Bulletins 15 and 36 note that all historic properties change over time and rarely are completely undisturbed. Archaeological resources, in particular, frequently experience change through time. The presence of alterations or disturbance alone should not mean that a cultural resource has lost integrity.

The Bulletins note that integrity should be assessed with consideration of the type of resources involved and why the resources are considered significant. The railroad, in part, would be considered eligible for the NRHP due to its association with the development of transportation. While a portion of the tracks and ties were removed in the recorded segment, the provided images and a review of orthoimagery show that the grade remains relatively intact and appears generally as it would have historically. The grade appears to continue to demonstrate the resource's historic use and function. As a result, we continue to recommend reconsideration of the eligibility of the segment as supporting the eligibility of the entire resource for the NRHP. Please see our October 2022 email for additional details regarding our comments.

We anticipate further discussion regarding the subject undertaking according to 36 CFR 800.3-800.6. 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