



# HISTORY *Colorado*

Mr. Gregory Sopkin, Regional Administrator  
Environmental Protection Agency, Region 8  
1595 Wynkoop St.  
Denver, Colorado 80202

Re: Bonita Peaks Mining District Unincorporated, San Juan County, Colorado (EPA ID CON000802497)  
(HC #75838)

Dear Mr. Sopkin:

We have recently received a number of letters from concerned citizens regarding remedial work by the Environmental Protection Agency (EPA) within the Bonita Peaks Mining District (BPMD), a project included on the EPA's National Priorities List (NPL) on September 9, 2016. As we understand, 48 individual mining sites within the BPMD NPL have been identified as containing hazardous substances with the potential to contaminate Mineral Creek, Cement Creek and the Animas River.

We fully support EPA and its efforts to address environmental issues in Colorado; nonetheless, we have questions and concerns with how EPA intends to comply with Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulation 36 CFR Part 800 for a project that includes both remedial and removal actions over an anticipated 20-year timeline.

Each of the 48 locations may require remedial and removal actions to prevent a reoccurrence of the Gold King Mine spill of August 2015. Additionally, each of these locations within the BPMD NPL may be individually eligible for listing to the National Register of Historic Places or may contribute to one of the mining districts already identified within this part of our state. Other properties may already be listed on the National Register for significance associated with the development and settlement of this area in the mid-nineteenth to early-twentieth century.

Per the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Compliance with Other Laws Manual, Summary of Part II: CAA, TSCA, and Other Statutes, "the lead agency is required to take into account the effects of CERCLA response actions on any historic properties included on, or eligible for inclusion on the National Register of Historic Places." As recommended in the above guidance, the identification of historic properties located on or near the site should be undertaken at the earliest stages of the project evaluation. CERCLA removal actions must comply to the extent practicable with applicable or relevant and appropriate requirements of other environmental laws. Due to the historic properties that may be located in the Bonita Peaks area, one of the location-specific applicable requirements identified for this project includes Section 106 of the NHPA.

While we understand that unique provisions relative to the CERCLA may permit some activities prior to the completion of Section 106 consultation, we are not aware that CERCLA exempts the EPA from completing the applicable requirements of Section 106 of the NHPA. As remedial actions have already occurred pursuant to the 2016 NPL listing, and Section 106 consultation has not occurred prior to the implementation of the BPMD project, we request that EPA immediately consult with our office and the Advisory Council on Historic Preservation to ensure compliance with Section 106 of the NHPA and timely implementation of remedial and removal actions.



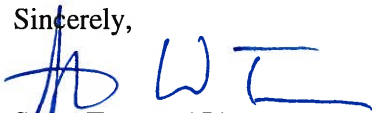
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On August 28 and 29 Dr. Holly Norton, Deputy State Historic Preservation Officer for Colorado met with Natasha Davis, EPA Region 8 Remedial Project Manager; EPA cultural resource consultant Eric Twitty; Cultural Resource Staff from the US Forest Service (USFS) and the Bureau of Land Management (BLM); as well as representatives from the Silverton Historical Society and various concerned members of the public including County Commissioners and representatives from the Colorado Department of Public Health and the Environment (CDPHE). In August it was made clear to everyone present that the local community views the mining resources not only as important evidence of their past, but a vital component of their economic health as this area of the state relies heavily on the revenue generated by Heritage Tourism. These conversations, as well as the substantial number of letters and telephone we have been receiving from members of the local community indicate that they believe the continued sustainability of heritage tourism is at risk due to EPA activities. In August we left the meetings having discussed the use of a Programmatic Agreement to help the EPA streamline their compliance activities, quicken the agency's ability to address the most serious situations that threaten life and safety, as well as ensure that the historic integrity of the region could be adequately addressed. We still believe that this is the best option for all parties and look forward to an initiation letter from the EPA to develop such a programmatic agreement.

We were recently informed that the EPA is planning to create a Strategic Operating Procedure (SPO) that would direct our office how EPA plans to meet its responsibilities for NHPA at Bonita Peaks. This document has been created without comment from our office, and we are concerned that the agency is attempting to circumvent the role of our office in consulting under the NHPA. Under the process established for the protection of historic properties, as required by Section 106 of the NHPA, it is the statutory obligation of the Federal agency to fulfill the requirements of Section 106 and to ensure that an agency official with jurisdiction over an undertaking takes legal and financial responsibility for these actions. We request being involved in the consultation process with Indian tribes, representatives of local government, the public and others having a demonstrated interest which, as stipulated in 36 CFR 800.3, are required to be notified of the undertaking.

If we may be of further assistance, please contact Holly Norton, Deputy State Historic Preservation Officer, at 303-866-2736 or [holly.norton@state.co.us](mailto:holly.norton@state.co.us) or Mark Tobias, Intergovernmental Services Manager, at (303) 866-4674 or [mark.tobias@state.co.us](mailto:mark.tobias@state.co.us).

Sincerely,



Steve Turner, AIA

State Historic Preservation Officer

Cc: Advisory Council Historic Preservation  
Beverly Rich, President Silverton Historical Society  
Peter McKay, District 1 San Juan County Commissioner  
Scott Fetchenhier, District 2 San Juan County Commissioner  
Ernest Kuhlman, District 3 San Juan County Commissioner  
Kevin Roach, Director, Reclamation Operations, Sunnyside Gold Corporation

Enclosure: letters from community members