



## Partial Phase I, II, and III Bond Release

SL-23

Proposed Decision  
and  
Findings of Compliance  
for the

**New Horizon Mine**

PERMIT NUMBER C-1981-008



Virginia Brannon, Director

Prepared by  
Janet H. Binns  
Environmental Protection Specialist

March 19, 2020

## Introduction

This document is the proposed decision of the Colorado Division of Reclamation, Mining and Safety (the Division) in response to a request for Partial Phase I, II, and III bond release at the New Horizon Mine, Division file number C-1981-008. The package contains four parts. These include: 1) procedures and summary of the bond release process; 2) criteria and schedule for bond release; 3) observations and findings of the Division regarding compliance with the bond release requirements of the Colorado Surface Coal Mining and Reclamation Act and regulations promulgated thereunder; and 4) the Division's proposed decision on the request for bond release.

Detailed information about the review process can be found in the Act and the Regulations of the Colorado Mined Land Reclamation Board for Coal Mining. All Rules referenced within this document are contained within the Regulations. Detailed information about the mining and reclamation operations can be found in the permit application on file at the Division offices, located at 1313 Sherman Street, Room 215, in Denver, Colorado.

The New Horizon Mine is a surface which was permitted and operated by Elk Ridge Mining and Reclamation, LLC. The ownership of the land for which bond release has been requested is private, and the coal ownership was private. Reclamation for which bond release has been requested was conducted in 2018 and 2019.

## **I. PROCEDURES AND SUMMARY OF THE REVIEW PROCESS**

Elk Ridge Mining and Reclamation, LLC applied for partial bond release under the Colorado Surface Coal Mining and Reclamation Act following reclamation of the New Horizon Mine. The mine is located in Montrose County, All or portions of the following:

Sec 6, T46N, R15W: W  $\frac{1}{2}$  NE  $\frac{1}{4}$ ; W  $\frac{1}{2}$  SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ ; NW  $\frac{1}{4}$ ;  
N  $\frac{1}{2}$  NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ ; N  $\frac{1}{2}$  SE  $\frac{1}{4}$ ; N  $\frac{1}{2}$  SE  $\frac{1}{4}$  SE  $\frac{1}{4}$

Sec 31, T47N, R15W: SW  $\frac{1}{4}$

Sec 1, T46N, R16W: N  $\frac{1}{2}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ ; NW  $\frac{1}{4}$  NE  $\frac{1}{4}$ ; NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ ;  
NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ ; N  $\frac{1}{2}$  SE  $\frac{1}{4}$  NW  $\frac{1}{4}$

Sec 36, T47N, R16W: SW  $\frac{1}{4}$ ; SE  $\frac{1}{4}$

Sec 25, T47N, R16W: SW  $\frac{1}{4}$ . The mine area is located in:

All or portions of the following:

Sec 6 T46N, R15W: W  $\frac{1}{2}$  NE  $\frac{1}{4}$ ; W  $\frac{1}{2}$  SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ ; NW  $\frac{1}{4}$ ;  
N  $\frac{1}{2}$  NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ ; N  $\frac{1}{2}$  SE  $\frac{1}{4}$ ; N  $\frac{1}{2}$  SE  $\frac{1}{4}$  SE  $\frac{1}{4}$

Sec 31 T47N, R15W: SW  $\frac{1}{4}$

Sec 1 T46N, R16W: N  $\frac{1}{2}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ ; NW  $\frac{1}{4}$  NE  $\frac{1}{4}$ ; NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ ;  
NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ ; N  $\frac{1}{2}$  SE  $\frac{1}{4}$  NW  $\frac{1}{4}$

Sec 36 T47N, R16W: SW  $\frac{1}{4}$ ; SE  $\frac{1}{4}$

Sec 25 T47N, R16W: SW  $\frac{1}{4}$

### Summary of Bond Releases for the New Horizon Mine

SL-01 granted release of 55.6 acres from the northeast corner of the Mine 1 permit area. The property was to be used by Montrose County, the landowner, to expand the adjacent landfill. Release was approved on July 5, 1989.

SL-02 granted release of an additional 14.02 acres from Mine 1 for expansion of the Montrose County landfill. Release was approved on October 6, 1993.

SL-03 approved Phase I bond release for 215.5 acres at the New Horizon Mine 1. The release was granted on December 16, 1994. The application also requested Phase II release for portions of Mine 1, but the request was denied by the Division due to insufficient revegetation.

SL-04 granted Phase I bond release for the remaining 98.6 acres of Mine 1 (the "Rice tract"). Phase I release was also granted for 51.8 acres in the southeastern corner of New Horizon Mine 2. The release was approved on May 6, 1996.

SL-05 granted Phase I bond release for an additional 67.4 acres at Mine 2. The release was approved on January 8, 1998.

SL-06 granted Phase I bond release for an additional 43.4 acres at Mine 2. This release was approved on July 23, 1999.

SL-07 approved additional bond releases at New Horizon Mine 1. Included were Phase II release for 67.95 acres; Phase III release for 215.5 acres; and release of 24.06 acres that were undisturbed. The releases were approved on December 21, 2001.

SL-08 granted Phase I bond release for an additional 85.64 acres of Mine 2. The release was approved on October 25, 2002.

SL-09 granted WFC full bond release for 21 groundwater monitoring wells and 27 exploration boreholes at the New Horizon Mine 1 and 2. The release was approved on July 16, 2007.

SL-10 approved Phase I bond release for reclamation of the CCC Ditch temporary irrigation line. The release was approved on October 22, 2007.

SL-11 approved Phase I bond release for 116.52 acres and Phase II bond release for 300.04 acres. The release was approved on June 12, 2009.

SL-12 requested Phase II bond release for 26.8 acres and Phase III bond release for 149.9 acres. The application was withdrawn on June 13, 2012.

SL-13 approved Phase I bond release on 100.16 acres and Phase II and III on 7.22 acres. The application was approved on November 4, 2013.

SL-14 requested Phase II bond release for 26.8 acres and Phase III bond release on 216.7 acres. The application was withdrawn on July 25, 2013.

SL-15 approved Phase II bond release for 77.4 acres. The bond release was approved on March 13, 2017.

SL-16 approved Phase I bond release for 107.8 acres west of the 2700 Road. The bond release was approved on January 5, 2016.

SL-17 approved Phase I bond release for 5.8 acres and Phase II and III on 9.4 acres. The bond release was approved on March 1, 2016.

SL-18 approved Phase I bond release for 23.5 acres. The bond release was approved on January 10, 2017.

SL-19 was received by the Division on July 28, 2016. The application was deemed complete on September 9, 2016, after the Division received proof of publication of the applicant's public notice. ERMR published notice of the bond release application in *San Miguel Basin Forum* once weekly for four consecutive weeks, beginning June 30, 2016. ERMR also notified land owners within and adjacent to the mine permit area and other interested parties of the application for bond release, as required by Rule 3.03.2(1). Written objections were received from Elma and Elmer Burbridge and Jim Guire of GW46 Irrevocable Trust (GW46).

SL-20 approved Phase II and III bond release for 2.0 acres on the Benson East property. The bond release was approved on December 15, 2017

SL-21 was received on February 1, 2019. SL-21 requested Phase I, II and III bond release on 1.6 acres of reclaimed sediment control ditch C-18 on the Staats property. SL21 was approved on April 9, 2019. No objections were received regarding this bond release.

SL-22 was approved on March 12, 2020. SL22 approved Phase I bond release on 3.0 regraded acres, Phase II release on 107.4 acres of Irrigated Cropland, Phase II release on 12.9 acre of Irrigated Pasture, Phase II release on 11.7 acre of Dryland pasture, and Phase III on 157 acres of Irrigated Pasture and Dryland Pasture.

An application for Partial Phase I, II, and III bond release was received by the Division on September 26, 2019. The application was deemed complete on October 14, 2019, after the Division received proof of publication of the applicant's public notice. Elk Ridge Mining and Reclamation, LLC published notice of the bond release application in *San Miguel Basin Forum* once weekly for four consecutive weeks, beginning September 19, 2019. Elk Ridge Mining and Reclamation, LLC also notified land owners within and adjacent to the mine permit area, and other interested parties of the application for bond release, as required by Rule 3.03.2(1).

No comments, written objections, or requests for an informal conference regarding the bond release application were received by the Division.

The Division scheduled and conducted a bond release inspection on November 26, 2019. The site inspection was conducted in accordance with Rule 3.03.2(2). The landowner, Mr. Jim Guire, was unavailable until November 26, 2019. The inspection was scheduled to accommodate Mr. Guire's availability. Mr. Frank Ferris of Elk Ridge Mining and Reclamation represented the operator. The landowner, Mr. Jim Guire, accompanied by Roseanne Guire joined the inspection at the mine office. The Guires chose not to accompany the inspection on to the reclaimed property. During discussion in the mine office, the Guires stated that they had no concerns with the reclaimed property or this bond release.

## **II. CRITERIA AND SCHEDULE FOR BOND RELEASE**

In accordance with Rule 3.03.1(5); release of bond coverage for liability associated with temporary drainage and sediment control facilities including impoundments and conveying systems shall be authorized only after final inspection, acceptance, and approval by the Division. Such approval shall be granted based on determination by the Division that backfilling and grading, top soil replacement, and reseeded of such facilities have been completed in compliance with the approved plan. Vegetative cover must be adequate to control erosion and similar to the reclaimed area or surrounding undisturbed area. Reclaimed temporary drainage control facilities shall not be subject to the extended liability period of 3.02.3(2) or the bond release criteria of 3.03.1(2).

The requested bond release area consists of 0.4 acre portion of reclaimed Ditch 18. This parcel was regraded and topsoil reapplied in 2018. It was seeded to irrigated pasture, and sprinkler irrigated during

the growing season 2019. The operator conducted vegetation sampling on the reclaimed irrigated pasture in 2019.

### **III. OBSERVATIONS AND FINDINGS**

#### **PHASE I, II, and III**

The reclaimed parcel has been graded to blend with the surrounding slopes. The slopes are gentle and are acceptable for irrigated pasture. Topsoil has been replaced in accordance with the permit requirements as shown on map 2.05.4-4. Topsoil was replaced in 2018 from topsoil stockpile E. The topsoil replacement is documented in the 2018 Annual Reclamation Report. ERMIR installed a sprinkler irrigation system in 2019 to irrigate the reclaimed ditch segment of this irrigated pasture.

Pasture grasses and alfalfa became well established during the growing season. The vegetation agrees with the approved irrigated pasture seed mix No. 5. Noxious weed species were not observed in this parcel at the time of the bond release inspection.

The operator conducted vegetation sampling on the reclaimed parcel in 2019. A single year of cover data is acceptable since Rule 3.03.1(5) applies. Live vegetative cover was measured at 78.10%, with 77% cover attributed to perennial species and 1.4% cover was a single noxious species of field bindweed (*Convolvulus arvensis*). Even with removal of the cover contributed by field bindweed, 75.6% live vegetative cover is adequate to control erosion on this site. Observations of the reclaimed parcel found that rill formation was not apparent throughout the parcel. A small rill was observed that appeared to be due to irrigation tail water run off at the Irrigated Pasture parcel and the adjacent gravel parking area. This rill was minimal and flattened out as the slope flattened.

The operator previously provided sedimentology demonstration using a RUSLE calculation. This demonstration was presented in SL22. The previous demonstration verified that 78.10% live vegetative cover was more than adequate to control sediment from the mixed soil and slope.

The post-mining land use is approved as irrigated pasture. Based upon vegetation sampling data and visual observations, this post-mining land use blends with the surrounding area, and appears to have established on this reclaimed ditch.

#### **Summary and Conclusions**

Based upon a review of the mine permit, the applicant's bond release application, and site inspections, the Division finds that Elk Ridge Mining and Reclamation, LLC has completed backfilling, grading and drainage reestablishment on the SL23 parcel at the New Horizon Mine in accordance with the approved reclamation plan.

The Division finds that Elk Ridge Mining and Reclamation, LLC has replaced topsoil in accordance with the approved reclamation plan. Elk Ridge Mining and Reclamation, LLC has established vegetation which supports the approved post mine land use and meets the approved success standard for vegetative cover.

Based upon a review of the mine permit, the applicant's bond release application, and site inspections, the Division finds that Elk Ridge Mining and Reclamation, LLC has successfully completed all surface coal mining reclamation operations in accordance with the approved reclamation plan and met all requirements of the Act and the Rules.

#### **IV. PROPOSED DECISION**

Based on the observations above, the Division proposes to approve Elk Ridge Mining and Reclamation, LLC's request for a Partial Phase I, II, and III bond release for the New Horizon Mine. This proposed decision will release the applicant from liability for backfilling, grading, and drainage reestablishment, topsoil redistribution and establishment of vegetation, and all reclamation work for this 0.4 acre parcel.

##### **PARTIAL PHASE I, II, and III**

The Division holds a performance bond of \$3,641,605.69 for the New Horizon Mine. The Division previously approved a bond release of \$1,955,966.69 with the approval of SL22. This decision is still within the comment period and has not been finalized at this date. The current liability for the site is \$3,641,605.69. The Division estimates its cost to complete remaining reclamation work at the site to be \$1,685,639.00 after SL22 is finalized. The Division proposes to release \$2,361.00 for SL23. The remaining \$1,683,728.00 is sufficient to assure completion of the remaining reclamation work at the site if the work had to be performed by the Division, including the cost of reestablishing vegetation on any revegetated areas, should those areas fail (Rule 3.03.1(3)(a) and 3.01.3(3)(d)).

Reclamation work which remains to be done at the site includes final grading of the pit, topsoil replacement, vegetation establishment and maintenance over the liability period, removal of remaining ditches and ponds.

Any person with a valid legal interest which might be adversely affected by this proposed decision may request a formal public hearing before the Mined Land Reclamation Board in accordance with Rule 3.03.2(6). Public notice of this proposed decision will be published twice in the *San Miguel Basin Forum* as soon as possible. Requests for public hearing must be submitted to the Division in writing within thirty days of the first publication in the *San Miguel Basin Forum*. If no hearing is requested within those thirty days, the Division's decision will become final.