



COLORADO
**Division of Reclamation,
Mining and Safety**
Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

August 21, 2020

Nick Mason
New Elk Coal Company LLC.
12250 State Highway 12
Weston, Co 81091

RE: New Elk Mine, C-1981-012, Technical Revision 75 Application, Adequacy Review

Dear Mr. Mason,

The Colorado Division of Reclamation, Mining, and Safety ("DRMS" or "Division"), received the above referenced application on July 24, 2020. The application was deemed complete and filed for review on July 27, 2020. The Division is required to issue a decision on the application by September 25, 2020. The following adequacy review items will need to be addressed prior to the Division's approval of the application:

General Questions

1. It appears 19 acres is referenced as the maximum area of exposed refuse at the Refuse Disposal Area (RDA) at any one time during construction. As the RDA moves up in benches, the length between the back wall and top of the benches will shorten, however the width of the RDA seems to expand. New Elk Coal Company (NECC) will need to demonstrate that the maximum exposed refuse at any one time is going to be no larger than 19 acres. Or, please commit to maintaining no more than 19 acres of uncovered refuse at any point during construction of the RDA.
2. Proposed revised page 2.05-58b references a field study conducted of the borrow area and back wall of the RDA that demonstrates adequate salvageable cover material is available. NECC will need to provide documentation and evidence that sufficient cover material exists in the proposed borrow area and back wall area.
3. As the RDA expands, a material balance log will need to be maintained that demonstrates sufficient cover material is available for reclamation of the RDA. Please provide a plan for tracking the material balance available for cover material for the RDA and commit to providing the results of this material balance with the annual reclamation report.

Layout maps

4. The proposed borrow area current contour map, has two yellow lines that run perpendicular to each other and stop in the middle of the RDA. Please identify these two lines or remove them and then submit a new map.
5. The proposed borrow area final contour map, has a stockpile area that is above the 100 year ditch. This area is not discussed in the application. NECC will need to clarify what will be stored in this area.

Rule 4.10.4 - Construction Requirements



6. Rule 4.10.4(5) states, "The Division may allow less than 4 feet of cover material based on physical and chemical analyses which show that the requirements of 4.15 will be met." NECC presented the Developmental Waste Pile (DWP) and an adjacent AML reclamation project vegetation establishment where a lesser cover material depth was used as evidence that a reduced cover depth at the RDA would likely allow compliance with Rule 4.15. What is the source of the cover material that was used on the DWP, and is the material similar to the cover material proposed to be used for the RDA?
7. Proposed revised page 2.05-58c indicates NECC plans to conduct a revegetation success analysis of the DWP in the future. Please commit to conducting a vegetation analysis of the DWP for success requirements in accordance with Rule 4.15 by the end of 2021 to ascertain the adequacy of the reduced cover material depth.

Bond Calculation

8. Page 39 of section 2.05 of the permit application indicates that the RDA will be bonded for 23 acres. This is in conflict with the submitted cost estimate. NECC will need to submit a new estimate to include the full 23 acres or revise Page 39 to be consistent with the proposed revised plan.
9. A bond calculation will be conducted as soon as the necessary information is provided.

Cultural Resource (SHPO)

10. A comment letter was received from the Office of Archaeology and Historic Preservation in regards to TR-75. The letter contains inaccurate information and the Division does not believe further action is necessary. The letter received and the Divisions response are attached to this letter. DRMS has requested the Office of Archaeology and Historic Preservation reevaluate their findings and will forward you any correspondence we receive back from them regarding this matter.

This concludes the Division's preliminary review of the technical revision application. The Division is required to issue a decision on the application by September 25, 2020. The adequacy issue listed above must be addressed to the Division's satisfaction prior to the decision date. If you need additional time to address these issues you must request an extension of the decision date. Please be aware that that the Division will deny the application if outstanding adequacy issues remain when the decision date arrives or inadequate time is provided for the Division to review the response to the adequacy items.

If you have any questions, please contact me at daniel.cunningham@state.co.us or (303) 866-3567 Ext. 8126.

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel Cunningham", is written over a light blue horizontal line.

Daniel J. Cunningham
Environmental Protection Specialist

EC: Jared Ebert, Division of Reclamation, Mining & Safety

New Elk Coal Company

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