



STATE OF
COLORADO

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

New Elk Mine, C-1981-012, December 8, 2021 Inspection Report

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

Thu, Dec 9, 2021 at 11:15 AM

To: Nick Mason <nmason@newelkcoal.com>

Hello Nick,

Please see the attached inspection report. In the field Vince asked me what needs to be done on the DRMS end to burn the slash generated from cleaning out Pond 004. I have outlined the regulatory requirements in the inspection report. Please let me know if you have any questions or concerns.

Thanks,

Jared

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Jared Ebert

Senior Environmental Protection Specialist

***I am working remotely, please feel free to call my cell at (720) 413-6466**



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

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PERMIT INFORMATION

| | |
|---|--|
| Permit Number: C-1981-012 Mine Name: New Elk Mine Operator: New Elk Coal Company, LLC Operator Address: Mr. Mark Gray 12250 Highway 12 Weston, CO 81091 | County: Las Animas Operation Type: Underground Permit Status: Active Ownership: Private |
| | Operator Representative Present: Vince Massarotti |
| Operator Representative Signature: (Field Issuance Only) | |

INSPECTION INFORMATION

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|--|--|--|--|
| Inspection Start Date: December 8, 2021 Inspection Start Time: 09:45 Inspection End Date: December 9, 2021 Inspection End Time: 11:45 | | Inspection Type: Coal Partial Inspection Inspection Reason: Normal I&E Program Weather: Clear | |
| Joint Inspection Agency: None | | Joint Inspection Contacts: None | |
| Post Inspection Agency: None | | Post Inspection Contacts: None | |
| Inspector(s): Jared Ebert | Inspector's Signature:  | | Signature Date: December 9, 2021 |

Inspection Topic Summary

NOTE: Y=Inspected N=Not Inspected R=Comments Noted V=Violation Issued NA=Not Applicable

N - Air Resource Protection

N - Availability of Records

N - Backfill & Grading

R - Excess Spoil and Dev. Waste

NA - Explosives

N - Fish & Wildlife

R - Hydrologic Balance

R - Gen. Compliance With Mine Plan

N - Other

R - Processing Waste

N - Roads

N - Reclamation Success

N - Revegetation

N - Subsidence

N - Slides and Other Damage

N - Support Facilities On-site

N - Signs and Markers

N - Support Facilities Not On-site

N - Special Categories Of Mining

N - Topsoil

COMMENTS

This was a partial inspection of the New Elk Mine, Colorado Division of Reclamation, Mining and Safety (DRMS or Division) permit number C-1981-012, operated by New Elk Coal Company, LLC (NECC). Vince Massarotti with NECC accompanied me during the inspection.

EXCESS SPOIL and DEVELOPMENT WASTE – Rule 4.09

Placement; Drainage Control; Surface Stabilization:

Development Waste Disposal Area #1 was observed. The waste pile is stable and vegetated. NECC conducted some ditch maintenance on ditch D3 at the southwest corner of the pile to assist in maintaining positive drainage.

HYDROLOGIC BALANCE - Rule 4.05

Drainage Control 4.05.1, 4.05.2, 4.05.3; Siltation Structures 4.05.5, 4.05.6; Discharge Structures 4.05.7, 4.05.10; Diversions 4.05.4; Effluent Limits 4.05.2; Ground Water Monitoring 4.05.13; Surface Water Monitoring 4.05.13; Drainage – Acid and Toxic Materials 4.05.8; Impoundments 4.05.6, 4.05.9; Stream Buffer Zones 4.05.18:

Ditch D5 was inspected, the ditch was maintained, largely free of debris, and functional. Culverts C77 and C78 have not been installed.

On the south side of the Middle Fork of Purgatorie River west of the soil storage area, NECC is using this area to store equipment. A small quantity of trash and debris was observed in this area being blown by the wind. Vince Massarotti indicated that he would have some staff members clean up this area of excess debris. The berm on the north side of this area is in place and is vegetated. This berm is containing the excess debris observed in this area.

The clean water diversion ditch D-34BBB was observed, this ditch is stable, vegetated and appears functional. Culvert C2 was clear and functional.

Pond 004 was dry. NECC recently cleared the shrubby vegetation/willows established in the pond area. Also while conducting this maintenance work, NECC found that the outlet concrete collar and pipe was being undercut

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2

by erosion. To correct this, Mr. Massarotti placed large rocks upstream of the structure to armor the bank of the river and to protect the outlet. The primary and emergency spillway appeared clear and functional. Some of the desired vegetation on the pond embankment was disturbed as a result of the maintenance work conducted at Pond 004. Mr. Massarotti indicated that he would seed this disturbance area in the future to help establish desired vegetation at the site.

Pond 008 was holding water but not discharging. The primary and emergency spillway appeared clear and functional.

GENERAL MINE PLAN COMPLIANCE:

Mining appears to be occurring in the 2021 area approved in the Blue Seam as shown on Map 3.

According to Mr. Massarotti, NECC would like to burn the shrubby/willow slash removed from Pond 004. Mr. Massarotti indicates NECC must work with the local government on the timing of this activity when sufficient snow is on the ground and when the wind conditions are optimal. In accordance with Rule 2.05.3(8), the permit must include a plan for non-coal waste removal, handling, storage, and transportation and disposal areas and structures within the permit area in accordance with Rule 4.10 and 4.11. The slash material is currently being stored in the northeast corner of the soil storage area. Currently NECC Permit Application Package (PAP) section 2.05.3(8) includes how non-coal waste will be handled. This plan does not include a provision for the burning of the Pond 004 slash materials. **DRMS requests that NECC submit a minor revision to update this plan in section 2.05.3(8) of the PAP to discuss the disposal procedures associated with the Pond 004 slash and how it will comply with Rule 4.11.4.**

PROCESSING WASTE/COAL MINE WASTE PILES – Rule 4.10 and 4.11, Drainage Control; Surface Stabilization; Placement:

The Refuse Disposal Area (RDA) was observed. NECC was placing and compacting waste at the time of the inspection. NECC has begun to add waste to the drainage area above Culvert C81 below the clean water ditch D55. A large rock check dam structure has been constructed upstream of Culvert C81 to assist with drainage control in this area. The eastern and western rip-raped channel of the RDA was observed. Overall, these drainages were stable and functional. Some undercutting was observed near where the top of the 2nd bench intersects the eastern drainage channel. Mr. Massarotti indicated that NECC is planning to conduct some maintenance of this area in the spring of 2022.

DOCUMENTS RECEIVED – None

OTHER (SPECIFY) - None

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ENFORCEMENT ACTIONS/COMPLIANCE

No enforcement action was taken during this inspection. The following violation is pending:

Infraction Number: CV2021001

Inspection Date: October 13, 2021

Date Issued: October 22, 2021

Primary Topic: Roads

Secondary Topic:

Tertiary Topic:

Description: Failure to describe the reconstruction of a light use road into a coal haul road to be constructed, used, or maintained within the permit area. Failure to provide specifications of the light use road reconstruction width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure. Failure to provide plans and drawings for each haul road prepared by, or under the direction of, and certified by a qualified, registered professional engineer, experienced in the design and construction of roads. Failure to comply with performance standard requirements for haul roads.

Abatement #: 1

Abatement Due Date: 10/22/2021

Abatement Due Extended Date:

Abatement Date:

Abatement Description: No additional construction and no coal hauling on the road pertaining to this violation may occur until the technical revision required by Abatement Step #2 has been approved and issued.

Abatement #: 2

Abatement Due Date: 11/22/2021

Abatement Due Extended Date:

Abatement Date:

Abatement Description: Submit and receive approval of a technical revision to revise the road design for the light use road to comply with Rule 2.05.3(3)(c) and Rule 4.03.1 for the new haul road. The technical revision must be submitted on or before the abatement due date noted below.

DRMS has received the technical revision (TR76). TR76 is currently incomplete. Mr. Nick Mason indicated NECC is working on a response to the Division's incompleteness items.

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PHOTOGRAPHS



Figure 1. South side of the Middle Fork of the Purgatoire River, looking at the equipment storage area south of Ditch D5.



Figure 2. Pond 004

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Figure 3. Rip-rap placed on river bank upstream of the outlet of Pond 004.



Figure 4. The west side of the RDA, recent waste placement.

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Figure 5. From the top of the eastern drainage of the RDA looking south. Pond 008.



Figure 6. West drainage ditch of the RDA from the south end looking north.

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