

2.03 APPLICATION FOR PERMIT FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS: MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

2.03.1 Objective

This section provides the CDRMS with information regarding surface ownership, coal ownership, and compliance history at West Elk Mine. The status of MCC for continued coal mining operations at West Elk Mine is also presented.

2.03.2 Responsibilities

This application is provided by MCC to the CDRMS for their evaluation for continued underground mine operations at West Elk Mine.

2.03.3 Format and Supplemental Information

The information presented in this application contains the most current data available. All testing, analyses, surveys, mapping, reports, and permit text have been prepared by qualified individuals and organizations.

Data collection for the original permit application, various revisions, permit renewals, and subsequent monitoring and reports has been and will be conducted through the use of standard accepted scientific methodologies within each field of investigation. Much of the data is collected through field investigations, but has been and can be initiated and supplemented with data obtained from literature searches, aerial photographs, and other resources.

In the case of vegetation, soil, and surface hydrologic feature mapping, aerial photographs were evaluated to preliminarily identify land features, communities and/or associations. Field verification was undertaken through pedestrian surveys and first-hand observation. Technical reports generated from those investigations contain thorough discussions of the methodologies used.

Individuals and companies that have conducted investigations and provided data, analyses, reports, etc. for the permit document and subsequent revisions and renewals, include, but are not limited to:

Vegetation, Fish and Wildlife, Land Use, Climatological, Prime Farmland, Threatened and Endangered Species

BIO-Logic Environmental, Montrose, CO:
Steve Boyle, Owner/Biologist

Savage & Savage, Inc., Windsor, CO:
Michael Savage, Principal
Edith Savage, President

Monarch & Associates, Cedaredge, CO:
John Monarch, Owner/Biologist

Westec, Inc., Englewood, CO:
Dr. Robert Dorn

Michael Ward Outdoors, Paonia, CO:
Michael Ward, Owner/Forest Biologist

Barr Engineering Company, Minneapolis, MN:
Paul T. Swenson, P.E., Vice President, Sr. Civil Engineer
Phillip Solseng, P.E., Vice President
Jed Greenwood, Sr. Geotechnical Engineer
Matt Padgett, Civil Engineer
Genesis Humphrey, Natural Resources Specialist

Western Biology, LLC, Hotchkiss, CO:
Adam Petry, Owner/Biologist

Cultural and Historic

Greystone Development Consultants, Englewood, CO:
Dr. Carl Spath

Alpine Archaeological Consultants, Inc., Montrose, CO:
Dr. Susan Chandler, Archaeologist
Rand Greubel, M.A., RPA, Sr. Principal Investigator

Metcalf Archaeological Consultants, Inc., Eagle, CO:
Dr. Carl Spath

Western Cultural Resource Management, Inc., Boulder, CO

ERO Resources Corporation, Durango, CO:
Sean Larmore, Cultural Resource Manager/ Principal

Geology and Hydrology

Barr Engineering Company, Minneapolis, MN:
Paul T. Swenson, P.E., Vice President, Sr. Civil Engineer
Phillip Solseng, P.E., Vice President
Jed Greenwood, Sr. Geotechnical Engineer
Matt Padgett, Civil Engineer
Genesis Humphrey, Natural Resources Specialist

Greystone Development Consultants, Englewood, CO:
Catherine Begej, Hydrologist/Project Manager
Byron Walker, P.E.
Jerry Koblitz

HydroGeo, Inc., Crested Butte, CO:
Joe Frank, P.E., Principal

HydroGeology Solutions, Inc., Crawford, CO:
Paul Holder, PG, President

Mayo and Associates, Salt Lake City, UT:
Dr. Alan L. Mayo, Ph.D., Registered Geologist/Principal
Associated publications:

- Mayo, A.L., Morris, T.H., Peltier, S., Petersen, E.C., Payne, K., Holman, L.S., Tingey, D., Fogel, T., Black, B.J., and Gibbs, T.D., 2004, Active and inactive groundwater flow systems: Evidence from a stratified, mountainous terrain; Geological Society of America, Bulletin, v. 115, p. 1456-1472.
- Mayo, A.L., and Koontz, W., 2000, Fracture flow and groundwater compartmentalization in the Rollins Sandstone, Lower Mesaverde Group, Colorado, USA: Hydrogeology Journal, v. 8. p. 430-446.

Mountain Coal Company, LLC, Somerset, CO:
Wendell Koontz, Registered Geologist
Michael Peacock, P.E., Mine Engineer
John Poulos, P.E., Mine Engineer
Cody Rapke, P.G., Mine Geologist
Mark Scanlon, Registered Geologist
Casey Smith, Registered Geologist
Kathleen Welt, Environmental Engineer
Jessica (Loveland) Wilczek, P.E., Mining Engineer

Wright Water Engineers, Inc., Denver & Glenwood Springs, CO:
Kenneth R. Wright, P.E., Principal Engineer/CFO
Jonathan Jones, CEO
Jonathan M. Kelly, Vice President/ Sr. Water Resources Engineer
Gary D. Witt, P.G., Vice President/Sr. Hydrogeologist/Geological Engineer
C. Richard Dunrud, P.E., Engineering Geologist
Ernest Pemberton, P.E., Adjunct Scientist, former Head of Sedimentation & River Hydraulics Section, U.S. Bureau of Reclamation
E. Robert Weiner, Ph.D., Environmental Scientist

Tetra Tech, Salt Lake City, UT:
Michael Egan, P.G. Senior Geologist
Chris Hayes, Geologist
Tom Grey, Mine Engineer

Government Agencies & Specialists Consulted:

Bureau of Land Management, Montrose, CO:

Lynn Lewis, Geologist

Desty Dyer, Mining Engineer

Grand Mesa, Uncompahgre, and Gunnison National Forests, Paonia & Delta, CO:

Levi Broyles, Paonia District Ranger

Daniel Gray, Natural Resource Specialist

Terry Hughes, Soils Specialist

Ryan Taylor, Geologist

Andrea Wang, Range Conservationist

Natural Resources Conservation Service (formerly Soil CS), Delta & Montrose, CO:

Dennis Waggoner, Soil Conservationist

Martin Jiminez, District Conservationist

U.S. Fish and Wildlife Service, Grand Junction, CO:

Keith Rose, Assistant Field Supervisor

Colorado Natural Heritage Program, Colorado State University, Fort Collins, CO:

Daryl Burkhardt, Information Manager

Lee Grunau

University of Colorado, Boulder Herbarium, Boulder, CO:

Dr. William A. Weber, Curator *Emeritus*

Gunnison County Community Development Department (Planning), Gunnison, CO:

Cathie Pagano, Director of Planning

Joanne Williams, Director of Planning (former)

Neal Starkebaum, Director of Planning, Assistant Director (former)

Bobbie Schmalz, Assistant Planner

2.03.4 Identification of Interests

- (1) Mountain Coal Company, LLC, a Delaware Limited Liability Company established in March 1998, is owned 100% by Arch Western Bituminous Group, LLC, which is owned 100% by Arch Western Resources, LLC. Arch Western Resources, LLC is owned 99.5% by Arch Western Acquisition Corporation and 0.5% by Arch Western Acquisition, LLC, which is owned 100% by Arch Western Acquisition Corporation. Arch Western Acquisition Corporation is owned 100% by Arch Resources, Inc. (formerly known as Arch Coal, Inc.) The officers and directors of each company are provided in Exhibit 1.

- (2) (a) Mountain Coal Company, LLC
5174 Highway 133
Somerset, Colorado 81434

Employer Identification Number - 95-3046274

(b) The resident agent for service of process:

Weston Norris, General Manager
Mountain Coal Company, LLC
5174 Highway 133
Somerset, Colorado 81434
Phone: (970) 929-5015

(c) Person who will pay the abandoned mine land reclamation fee:

John Lorson, Vice President & Chief Accounting Officer
Arch Resources, Inc.
1 CityPlace Drive, Suite 300
St. Louis, MO 63141
(314) 994-2820

(3) Corporate Directors and Officers of Mountain Coal Company, LLC, Arch Western Bituminous Group, LLC, Arch Western Resources, LLC, Arch Western Acquisition, LLC, Arch Western Acquisition Corporation, Arch Resources, Inc. and Ark Land LLC are identified in Exhibit 1.

(4) Current and previous coal mining permits and pending permit applications are included as Exhibit 2. Other permits and licenses for the West Elk Mine are listed in Table 1.

(5) All information contained in Sections 2.03.4(1) through (4) is up-to-date and correct as of the date this permit application was submitted.

(6) (a) The distributions of surface ownership and coal ownership are shown on Map 2, and Map 4. A list of owners of record is included as Exhibit 3.

(b) Information on other leasehold interests is included on Exhibit 3.

(c) The Mountain Coal Company, LLC is not aware of any purchasers of record under a real estate contract for property overlying areas of West Elk Mine that may be affected by mining activities during the next five years.

(7) Owners of record of surface and subsurface areas contiguous with the permit area are identified in Exhibit 3.

(8) The name of the mine is West Elk Mine. The MSHA Identification Number is 05-03672.

(9) Mountain Coal Company, LLC is presently operating West Elk Mine under Permit Number C-1980-007. Mountain Coal Company, LLC does not control any lands, interests in lands, options, or pending bids on interests held or made for lands that are contiguous to the area covered by the permit.

2.03.5 Compliance Information

(1) (a-b) Neither Mountain Coal Company, LLC nor any of its subsidiaries, affiliates, or persons

controlled by or under common control with it, has had a mining permit for surface coal mining operations suspended or revoked within the last five years. Nor have any of such entities forfeited a mining bond or similar security deposited in lieu of a bond in connection with any surface coal mining operations.

- (2) This subsection does not apply to MCC because no suspension, revocation, or forfeiture has occurred.
- (3) MCC received a violation notice (CV-2020-001) and a cessation order (CO-2020-001) during the three-year period preceding the most recent Renewal application (RN-08) for any violation of a provision of the Act, or of any law, rule or regulation of the United States, or of any State law, rule, or regulation enacted pursuant to Federal law rule or regulation pertaining to air or water environmental protection. Violation CV-2020-001 was issued on October 23, 2020 to Weston Norris, General Manager of West Elk Mine by Leigh Simmons of CDRMS. The violation alleged that Exhibits 60E and 55B were not valid for the actual mining conditions. To mitigate the violation, TR-149 was submitted on December 30, 2020 to update these two Exhibits. The violation was terminated on February 05, 2021. Cessation order CO-2020-001 was terminated on January 12, 2022. There are no unabated cessation orders or air or water quality violation notices by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant.

2.03.6 Right of Entry and Operation Information

- (1) MCC holds several multiple-seam Federal leases and fee coal properties comprising the current permit area and other adjacent affected lands. Presently, all or portions of Federal Coal Lease Numbers D-044569, C-0117192, COC-54558, COC-56447, COC-67011, C-1362, COC-67232, and the Mt. Gunnison Fuel Company fee coal property are within the 5-year permit boundary. Detailed descriptions of the sources of MCC's legal right-of-entry are provided in Exhibit 4.

MCC's right to enter and mine coal is not subject to any pending litigation. MCC owns surface lands and leases coal in fee and from the Federal Government.

2.03.7 Relationship to Areas Designated Unsuitable for Mining

- (1) The permit area is not within an area designated unsuitable for coal mining operations.
- (2) No occupied dwellings exist within 300 feet of MCC surface operations.

2.03.8 Permit Term Information

The current 5-year permit area is shown on Map 1. The permit term is for 5 years.

2.03.9 Personal Injury and Property Damage Insurance Information

As required by the CDRMS, MCC has and will continue to have in effect a Certificate of Insurance.

A copy of this Certificate has been included in Exhibit 5. The original certificate is on file at the CDRMS' office.

2.03.10 Identification of Other Licenses and Permits

Table 1 lists all permits and licenses currently held by MCC for West Elk Mine. Copies of the air emissions permits, NPDES permit, and Spill Prevention Control and Countermeasures Plan, are included in Exhibit 6, Exhibit 7, and Exhibit 8, respectively.

2.03.11 Identification of Location of Public Office for Filing of Application

In accordance with the requirements of Rule 2.07.3(4), MCC has filed a copy of the permit document and related permit and technical revision applications for West Elk Mine with the county. The document is available for public inspection at the following location:

Gunnison County Community Development Department
221 N. Wisconsin, Suite D
Gunnison, CO

2.03.12 Newspaper Advertisement and Proof of Publication

The newspaper advertisements of Permit Revision and Renewal notices are published in the Delta County Independent of Delta, CO. Copies of Proofs of Publication of all published notices have been provided to the CDRMS. Figure 2 shows a copy of an example notice.

Figure 2 – Example Public Notice

Public Notice

Mountain Coal Company, LLC (MCC), 5174 Highway 133, Somerset, CO 81434, (970) 929-5015, has filed a complete application for Permit Renewal No. RN-08 to MCC's Mining and Reclamation Permit No. C-1980-007 with the Colorado Mined Land Reclamation Board (Board), under the provisions of the Colorado Surface Coal Mining Reclamation Act of 1979. The permit was originally issued by the Board in July 1981, and subsequently renewed in August 1986, January 1993 (effective August 1991), July 1996, July 2001, April 2007 (effective July 2006), and November 2011 (effective July 2011.) The current five-year permit term expires July 31, 2016. The West Elk Mine five-year permit area contains lands in Sections 9-11, 13-36, T13S, R90W, 6th PM; and Sections 23-26, T13S, R91W, 6th PM, and Sections 1-5 , 8-12, T14S, R90W, 6th PM in Delta and Gunnison Counties. The location of the lands can be found on the USGS 7.5 minute Somerset and Minnesota Pass Quadrangle Topographic Maps. The current permit area encompasses approximately 17,154.9 acres.

The purpose of the proposed Permit Renewal application No. RN-08 is to continue mining and reclamation operations per MCC's Permit No. C-1980-007. No surface facilities or related surface disturbance is proposed in conjunction with this permit renewal application, and it would not result in any increase in production above currently permitted levels.

Copies of the permit renewal application are available for review at the Colorado Division of Reclamation, Mining, and Safety (CDRMS) office, Centennial Building, 1313 Sherman Street, Room 215, Denver, Colorado, 80203, phone (303) 866-3567, and the Gunnison County Planning Office, 221 N. Wisconsin, Suite D, Gunnison, CO 81230. Comments, objections, requests for informal conference concerning the application for permit renewal, or requests for a public hearing to determine whether the interests of the public and affected landowners will be protected, should be directed to the CDRMS at the above address not later than 30 days after the last date of publication of this notice in order to be considered. If a public hearing is requested, it would be held at a location in the area of the proposed operations.

Table 1
Permits and Licenses for West Elk Mine

Permit Issuing Agency	Permit No.	Purpose	Date of Issuance	Date of Renewal	Renewal Requirements
Colorado Department of Reclamation, Mining, and Safety	C-1980-007	Mining and Reclamation	Original 1981	Renewal effective July 2016 (RN-7). Renewal RN-8 submitted 01/21.	Complete Regulatory Review @ Mid-Term and Renewal, (2.5 and 5 years respectively)
Colorado Air Pollution Control Division	09GU1382 10GU1130 13GU1462	Fugitive Dust – Air Emissions	June 18, 2010 March 24, 2010 October 7, 2013	APENs submitted on or before: November 2019; February 2020; & October 2023, respectively	APEN renewal every five years
Colorado Water Quality Control Division	CO-0038776	Water Discharge NPDES and SPCC Plan	Permit Issued August 2019 & last modified (Mod 4) December 2020.	Renewal application due before February 2024.	Complete Regulatory Review Current Status: In Administrative Extension. Renewal Application must be submitted 180 days to the Water Quality Control Division before expiration date.
Army Corps of Engineers	7995	Dredge and Fill	6-4-98	- - -	Monitoring and Regulatory Review
Colorado Water Quality Control Division	PWSID 226838	Water Treatment Plant	Original 1981	Continuous	Daily, Monthly, Quarterly, and Annual Sampling and Analysis Requirements.
MSHA Identification Number	05-03672	Mining	Original 1981	None	None
Army Corps of Engineers	199675244 199775012	Wetlands Mitigation Wetlands Mitigation	1996 1997	 - - -	Review by the ACOE, Monitoring, Regulatory Review
Mine Safety and Health Administration	1211-CO-09-03672-01; 1211-CO-09-03672-03; CO09-03672-04	Lower Refuse Pile; Refuse Pile Expansion (RPE); RPE East	1985 1997 2010	None None None	None None None

Table 1 Permits and Licenses for West Elk Mine					
Permit Issuing Agency	Permit No.	Purpose	Date of Issuance	Date of Renewal	Renewal Requirements
Federal Communications Commission	KNHA311 WPKY325	Radio Station Authorization	10-10-02 9-27-02	Prior to: 12-16-2022 9-29-2022	Filing Fee
Nuclear Regulatory Commission	Nationwide Permit	Nuclear Sources			Applied Health Sciences – Makes Application
United States Forest Service	Road-use Permit	USFS Road-Use	10-27-2017	Expires 12-31-2022	Regulatory Review. Renew every 5 years.
Bureau of Alcohol, Tobacco, and Firearms License	Explosives Magazine Permit No. 5-CO-051-33-9F-00221	Storage of Explosives and usage	6-01-08	June 1, 2024	Renewal every 3 years. Resubmit photos and fingerprints of responsible persons and list of possessors and addresses