



STATE OF  
COLORADO

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

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## New Elk Mine, C-1981-012, Inspection Report

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**Ebert - DNR, Jared** <jared.ebert@state.co.us>  
To: Nick Mason <nmason@newelkcoal.com>  
Cc: Connor Drinkard - DNR <connor.drinkard@state.co.us>

Wed, Mar 16, 2022 at 1:08 PM

Hello Nick,

Please see the attached inspection report and let me know if you have any questions.

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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**COLORADO**  
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Mining and Safety  
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**PERMIT INFORMATION**

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

**INSPECTION INFORMATION**

<b>Inspection Start Date:</b> March 15, 2022 <b>Inspection Start Time:</b> 09:40 <b>Inspection End Date:</b> March 15, 2022 <b>Inspection End Time:</b> 12:15		<b>Inspection Type:</b> Coal Partial Inspection <b>Inspection Reason:</b> Normal I&E Program <b>Weather:</b> Clear	
<b>Joint Inspection Agency:</b>  None		<b>Joint Inspection Contacts:</b>	
<b>Post Inspection Agency:</b>  None		<b>Post Inspection Contacts:</b>	
<b>Inspector(s):</b>  Jared Ebert	<b>Inspector's Signature:</b> 		<b>Signature Date:</b>  March 16, 2022

**Inspection Topic Summary**

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

N - Air Resource Protection

N - Roads

N - Availability of Records

N - Reclamation Success

N - Backfill &amp; Grading

N - Revegetation

N - Excess Spoil and Dev. Waste

N - Subsidence

N - Explosives

N - Slides and Other Damage

N - Fish &amp; Wildlife

R - Support Facilities On-site

R - Hydrologic Balance

N - Signs and Markers

R - Gen. Compliance With Mine Plan

N - Support Facilities Not On-site

N - Other

N - Special Categories Of Mining

R - Processing Waste

N - Topsoil

**COMMENTS**

This was a monitoring 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). I, Jared Ebert with DRMS conducted the inspection. Mr. Vince Massarotti with NECC accompanied me during the inspection. Nick Mason and Bill Storm with NECC were aware of the inspection. **Maintenance items are in bold text below.**

*Pending permitting actions:*

Technical Revision No. 76 (TR76) - this technical revision was deemed incomplete on February 3, 2022. According to Mr. Mason, NECC is working on a response to the incompleteness review.

Permit Revision No. 5 (PR5) - the decision date for PR5 is May 13, 2022. Mr. Mason indicated that NECC is preparing a response to the Division's last adequacy review letter.

**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:

Pond 001a was holding water but was not discharging. The embankment was stable and vegetated. The new pump installed at the northeast corner of the pond was leaking slightly. The primary and emergency spillway was clear and functional.

Number of Partial Inspection this Fiscal Year: 6

Number of Complete Inspections this Fiscal Year: 3



Figure 1. Pond 001a



Figure 2. From emergency spillway of Pond 001a looking west.

A pump house is constructed southwest of the foot bridge #1 west of the pump vault. This pump house is not shown on Map 11-Sheet 3, or the Map 11 - East Portal Sediment and Surface Water Control Map. NECC

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withdraws water from the Middle Fork of the Purgatorie River to supply the water to the mine. Mine water is then pumped to the surface into Pond 001a. To maintain adequate capacity in Pond 001a, this mine water is then pumped to the pumphouse where it is being diverted and discharged into ditch D15 where it is allowed to flow to Pond 007a.

The sediment control ditching was walked from where culvert C-19 discharges to ditch D15 to where the water discharges to Pond 007a. Overall this ditch is clear and functional, but several areas were noted to have more sediment built up in the ditch and where the outer embankment of the ditch is less robust and slightly eroded. For example, **just west of culvert C13 the sediment is built up in ditch D15 and the embankment of the ditch appears to be slightly eroding on the north side. NECC should repair this area to insure mine water does not over-top the ditch and discharge into the river without treatment.**



*Figure 3. Ditch D15, location of where sediment built-up was noted. Erosion on the out-slope of the ditch embankment is noted with a red arrow above.*

NECC appears to have previously placed hay bales and other sediment control devices to catch sediment and water from a small area north of the wash plant just under and adjacent to where the conveyor exits the plant. These hay bales were largely disintegrated and no longer functional. Water in the area is frozen. Mr. Massarotti indicated once the water has melted he plans to dig a small ditch in this location to direct water into the ditch that flows to Pond 007a and will also install sediment control devices, possibly hay bales, at this location again. **NECC must re-establish proper drainage in this area and install these sediment control devices.**

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*Figure 4. Maintenance needed at this location just north of the wash plant. Sediment control devices need installation and water drainage needs to be improved.*

Pond 006a was holding water and the embankment was stable and vegetated.

Pond 007a was holding water but not discharging. The embankment was stable and vegetated, and the primary and emergency spillway was clear and functional.

Outfall 010 was not discharging and the SAE south of Pond 007a was observed, no issues were noted.

Ditch D55 was observed, no problems were noted. Coal waste is being placed very close to the southwest portion of ditch D55. Mr. Massarotti indicated that waste will not be placed any closer to the ditch at this location and will be off-set from the ditch and sloped to tie into the final slope face of the current upper lift of waste material.

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*Figure 5. Waste being placed adjacent to ditch D55 on the southwest side of the RDA.*

#### GENERAL MINE PLAN COMPLIANCE:

NECC was actively mining in the Blue Seam with access from the Bates Portal. According to Mr. Mason, it appears they are actively mining in areas that were planned to be mined in 2021 based on Map 03 in the Permit Application Package (PAP). NECC was producing coal at the time of the inspection. The raw coal stockpile and the clean coal stockpile were active at the time of the inspection. NECC is considering revising their five year mine plan and several maps were hanging in the mine office with conceptual plans for future mining. NECC will need to revise their mine plan if their adopted plan is different than what is currently approved.

#### PROCESSING WASTE/COAL MINE WASTE PILES – Rule 4.10 and 4.11

##### Drainage Control; Surface Stabilization; Placement:

The Refuse Disposal Area (RDA) was observed. Waste was actively being conveyed to the top of the waste pile. One truck was actively receiving waste and then hauling it to the west and north end of the RDA and dumping the waste into piles. A compactor was actively compacting the waste at the time of the inspection.

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*Figure 6. RDA from the northeast side looking southwest.*



*Figure 7. RDA from the northwest end looking southeast.*

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Number of Complete Inspections this Fiscal Year: 3





*Figure 8. From the east end of the RDA looking west.*

**SUPPORT FACILITIES - Rule 4.04:**

As indicated in the hydrologic balance section of the report, a pump house is constructed southwest of the foot bridge #1 west of the pump vault. **This pump house is not shown on Map 11-Sheet 3, or the Map 11 - East Portal Sediment and Surface Water Control Map and is not discussed in permit section 2.05 of the PAP. NECC will need to submit a Minor Revision to depict this facility on these maps and update permit section 2.05 to comply with Rule 2.05.3(3) for the construction and use of the pump house.**

**DOCUMENTS RECEIVED - None**

**OTHER (SPECIFY) - None**

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**ENFORCEMENT ACTIONS/COMPLIANCE****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.

TR76 has been submitted, deemed incomplete, and DRMS is waiting of NECC response to the incompleteness determination.

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