

2(h) Compliance with Clean Water and Air Acts

The Applicant has valid Discharge and Air permit(s) issued the Colorado Department of Public Health and Environment. The Applicant abides by the conditions of the permits to assure compliance with Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and other applicable air and water quality laws and regulations. The applicant also abides by its safety standards and those required by MSHA to assure compliance with applicable health and safety standards.

2.05.5 Post-Mining Land Use

Similar to the pre-mining land use as determined by the Las Animas County Board and coal rule definitions, the post-mining land use will consist of rangeland and wildlife habitat.

Reclamation of the disturbed areas will provide a permanent cover of plant species which are consistent with the planned post-mining land use. Particularly where wildlife habitat is a post-mining land use, care will be taken to ensure that the growth of plant species will attract and support wildlife will be carried out. Achievement of the post-mining land use consisting of rangeland and wildlife habitat will be by the grading and backfilling plan and the revegetation plan reviewed in Section 2.05.4 of this application. The 2.7-mile haul road (TR-76) located on the railroad bed will not be reclaimed and will remain as an access road to the reclaimed surface facilities area and also serve as access to lands managed by Colorado Parks & Wildlife. Upon release of bond and final revegetation, the land will be returned to each of these uses, similar to the process which NECC currently uses on other adjacent surface. NECC currently owns all of the surface which is affected by the New Elk mining operations (excluding the pond 4 and DWP area owned by Colorado Parks and Wildlife) and plans to retain ownership. Therefore, upon completion of final reclamation and revegetation, the land use will be returned to each specific use and utilized by lessees or renters. NECC will continue to maintain control over these areas consistent with the post-mining land uses. Access to the revegetated area will be controlled to ensure that the post-mining land uses are achieved as soon as possible.

2.05.6 Mitigation of Surface Coal Mining Operation Impacts

Air Pollution Control Plan

A determination has been made by the Colorado Department of Health that an air emission permit is not required and that the New Elk Mine is "Grandfathered" from this portion of the Colorado Air Pollution Control Act. Correspondence from the Colorado Department of Health is shown in Exhibit 23, Air Emission Permits. However, new facilities associated with the prep plant and refuse disposal area have been permitted through the Department of Health. Exhibit 23, Air Emission Permits, presents correspondence from the Colorado Department of Health indicating status of these permits for The New Elk preparation plant.

Mitigation of impacts to fish and wildlife, which currently and historically have used the area around the New Elk Mine consists of minimizing the total disturbed area during the life of the operation and by continuous efforts to minimize disturbance and pollution to the existing environmental