

STATE OF  
COLORADO

Ebert - DNR, Jared &lt;jared.ebert@state.co.us&gt;

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**New Elk Mine, C-1981-012, MR132 Adequacy Review No. 1**

1 message

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

Thu, Aug 25, 2022 at 12:56 PM

To: Nick Mason &lt;nmason@newelkcoal.com&gt;

Cc: bstormes@newelkcoal.com, Jeffrey Thompson - DNR &lt;jeffreyc.thompson@state.co.us&gt;

Bcc: "Stark, Jim" &lt;jim.stark@state.co.us&gt;

Hello Nick,

Please see the attached adequacy review letter for MR132. Since this is an MR, there is a short review period and the decision date is September 1, 2022. This MR picks up where PR5 left off updating the compliance/owner and control information in section 2.03. We need to get these issues resolved ASAP given the outstanding issues surrounding Larry Cook and Amon Mahon.

Please feel free to reach out to me should you have any questions, but I have also included Jeff Thompson with this email as well. Jeff works with our Office of Surface Mining, Reclamation and Enforcement contact to work through issues in the Applicant Violator System (AVS). The documentation we are requesting with this review is needed to address the violations flagged in AVS for NECC and their associated corporate hierarchy. If you have questions surrounding what appropriate documentation is needed to address these issues, I encourage you to reach out to Jeff Thompson.

Thank you,

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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[jared.ebert@state.co.us](mailto:jared.ebert@state.co.us) | <https://drms.colorado.gov/>**MR132\_NewElkMine\_C1981012\_AdequacyReview1\_25Aug2022\_Final.pdf**

360K

August 25, 2022

New Elk Coal Company, LLC.  
Attn: Nick Mason  
12250 Highway 12  
Weston, Colorado 81091

**RE: New Elk Mine, C-1981-012, Minor Revision No. 132 (MR132)  
Adequacy Review #1**

Dear Mr. Mason,

The Colorado Division of Reclamation, Mining and Safety (DRMS or Division) received Minor Revision No. 132 (MR132) on August 19, 2022 from New Elk Coal Company, LLC (NECC). MR132 was deemed complete and filed on August 22, 2022. The Division is required to issue a decision on the application by September 1, 2022. DRMS has reviewed MR132 for compliance with Section 2.03 of Rules. Please address the following adequacy review items:

**Rule 2.03.4 – Identification of Interests**

1. Based on a review of NECC's and Allegiance Coal Limited's (AC) corporate structure and Board of Directors/Management, it does not appear the applicant has identified the interests required under Rule 2.03.4 accurately. Please revise the following Permit Applications Pages (PAP) sections:
  - a. 2.03.4(2)(d) – For each entity in the applicant's and operator's organizational structure (New Elk Coal Company, LLC., New Elk holdings LLC., Allegiance Coal USA Limited, and Allegiance Coal Limited) please list these entities in this section. Also, please provide the name address, telephone number and taxpayer identification for every president, chief executive officer, and director (or other persons in similar positions) for each business entity in the organizational structure.
  - b. NECC has provided documentation that the following individuals are officers of Allegiance Coal Limited: Jonathan Reynolds, Mark Gray, Matthew Wall, Gregory Mason, Jonathan Romcke and Paul Vining. Please insure section 2.03.4(2)(d) accurately reflect the officers of Allegiance Coal Limited and all the other companies in NECC corporate hierarchy.
  - c. Section 2.03.4(4)(c) – For each entity in the applicant/operator's organizational structure, and any officer, director, etc. of those entities, please provide the date the entity or person began functioning in that position.
  - d. Please provide internal documentation showing officer/director personnel for each entity in the NECC's corporate hierarchy with exact hire dates of current officers and termination dates of past officers since 2020.



2. NECC has provided documentation that Larry Cook has resigned from the applicant/operator's organizational structure that DRMS received between May 26, 2022 and June 6<sup>th</sup>, 2022. NECC has indicated Amon Mahon is no longer an owner, controller, officer, director, etc. within the corporate hierarchy of NECC. However, DRMS will need the following documentation:
  - a. Board meeting minutes or internal official documentation that Amon Mahon is no longer an owner or controller of NECC and/or any business entity in the applicant/operator's organizational structure. This documentation must include end dates for the roles Mr. Mahon held.
  - b. Board meeting minutes or internal official documentation that Larry Cook is no longer an owner, controller, officer, etc. of Allegiance Coal Limited. This documentation must include termination dates for the roles Mr. Cook held. The June 6<sup>th</sup>, 2022 announcement provided to DRMS is not sufficient.
3. The purpose of section 2.03.4(3) is to provide a list of all names under which the applicant, operator, and partners, or principle shareholders of the applicant or operator operate or previously operated a surface coal mining operation in the United States within the five year period preceding the date of the submission of this MR132 application. Please update this section accordingly and address the following:
  - a. Does not Allegiance Coal Limited own and operate two coal mines in Alabama? If so, please provide the names under which they operate or previously operated a surface coal mining operation in the United States within the five-year period preceding the date of the submission of the MR132 application.
  - b. Please provide the information required by Rule 2.03.4(3)(a) for any surface coal mining operations that the applicant or operator owned or controlled within the five-year period preceding the date of the submission of the MR132 application.
  - c. The applicant has a pending renewal application for the Lorencito Canyon Mine C-1996-084. Please update section 2.03.4(3)(b) with this information.
4. As indicated in item #3a above it appears NECC's parent companies may own/operate surface coal mining operations in the United State. For any surface coal mining operation owned or controlled by the applicant or operator, every officer, partner, member, or director of the applicant or operator, person performing a function similar to a director, Person who owns, of record, 10 percent or more of the applicant or operator, or by any person who owns or controls the applicant or operator under the definition of " own, owner, or ownership" in Rule 1.04(83.1), please provide the information required under Rule 2.03.4(4)(a) though (c) for that entity.

#### **Rule 2.03.5 – Compliance Information**

5. NECC was issued a violation on October 22, 2021 (CV-2021-001) by the Division. Please revise section 2.03.5(1)(c) to provide the required information regarding this violation.

**Rule 2.03.6 – Right of Entry Information**

6. Proposed revised pages 9 through 11 includes a metes and bounds description of the permit boundary that was proposed with PR5. Please revise these pages to remove the reference to PR5 and update the metes and bounds survey for the current permit boundary.
7. Technical Revision No. 76 (TR76), currently under review by the Division, includes proposed revisions to section 2.03 of the PAP; it is likely TR76 will be approved and issued first before MR132 is approved and issued, therefore please make sure the revisions to section 2.03 in MR132 are reflective of TR76. For example, please update proposed revised page 12 with an accurate disturbance acreage for the proposed haul road under consideration for TR76.

**Rule 2.03.10 – Identification of other Licenses and Permits**

8. Proposed revised page 15 cites PR-5 and 9/29/2021 in the footer. Please update this information for MR132, or add the Office of the State Engineer permit/license information to Table 2 included on proposed revised pages 13 and 14 and remove proposed revised page 15.

The Division is required to issue a decision on the application by September 1, 2022. If you need additional time to address the Division's adequacy review items, please request an extension of the decision date. If the decision date arrives and there are outstanding adequacy review items, the Division will issue a proposed decision to deny the application.

If you have any question, please do not hesitate to contact me at [Jared.Ebert@state.co.us](mailto:Jared.Ebert@state.co.us) or at (303) 866-3567 extension 8120.

Sincerely,



Jared Ebert  
Senior Environmental Protection Specialist

EC: Nick Mason, NECC. [nmason@newelkcoal.com](mailto:nmason@newelkcoal.com)