

2.03.6 RIGHT OF ENTRY AND OPERATION INFORMATION

NECC's right to enter and conduct surface coal mining operations is not subject to any pending litigation. NECC and its lessors own the surface and coal within the permit area. **Map 1** shows the surface ownership in and adjacent to the permit area.

The metes and bounds description of the permit boundary for PR-6 follows 48 courses:

| Point | Bearing | | Distance (Feet) | |
|--------------|----------------|-----|------------------------|------|
| 1 | S82°0'0"W | for | 1400 | then |
| 2 | S42°30'0"W | for | 2050 | then |
| 3 | S52°12'0"E | for | 900 | then |
| 4 | N35°0'0"E | for | 1200 | then |
| 5 | S86°0'0"E | for | 6700 | then |
| 6 | S6°0'0"E | for | 1200 | then |
| 7 | N87°0'0"E | for | 1550 | then |
| 8 | S4°30'0"W | for | 6000 | then |
| 9 | N85°0'0"W | for | 1000 | then |
| 10 | S1°42'0"W | for | 900 | then |
| 11 | N85°30'0"W | for | 500 | then |
| 12 | S2°0'0"W | for | 2100 | then |
| 13 | S84°3'3"E | for | 1081.77 | then |
| 14 | S83°30'0"E | for | 1718.17 | then |
| 15 | S6°0'0"W | for | 985.93 | then |
| 16 | S84°0'0"E | for | 591.4 | then |
| 17 | N6°30'0"E | for | 1000 | then |
| 18 | S84°11'8"E | for | 10756.69 | then |
| 19 | N2°21'25"E | for | 6845.6 | then |
| 20 | N0°18'31"E | for | 5286.63 | then |
| 21 | N5°14'2"W | for | 1300 | then |
| 22 | N58°56'57"W | for | 665.14 | then |
| 23 | N74°36'46"W | for | 5178.85 | then |
| 24 | N25°0'0"W | for | 3400 | then |
| 25 | N85°0'0"W | for | 2300 | then |
| 26 | S55°0'0"W | for | 1300 | then |
| 27 | N86°0'0"W | for | 600 | then |
| 28 | S57°57'15"W | for | 1025.5 | then |
| 29 | S26°0'0"E | for | 700 | then |
| 30 | S66°0'0"E | for | 1000 | then |
| 31 | S88°24'43"W | for | 736.1 | then |
| 32 | S66°0'0"W | for | 600 | then |
| 33 | S80°8'56"W | for | 1049.7 | then |
| 34 | S81°30'0"W | for | 1650 | then |
| 35 | N25°30'0"W | for | 200 | then |
| 36 | S75°0'0"W | for | 420 | then |
| 37 | S7°0'0"W | for | 1500 | then |
| 38 | N86°0'0"E | for | 900 | then |
| 39 | N4°30'0"E | for | 700 | then |
| 40 | N90°0'0"E | for | 800 | then |
| 41 | S66°30'0"W | for | 650 | then |

| Point | Bearing | | Distance (Feet) | |
|-------|-------------|-----|-----------------|-------------------|
| 42 | S4°30'0"W | for | 400 | then |
| 43 | N72°30'0"E | for | 650 | then |
| 44 | S12°0'0"E | for | 396.8 | then |
| 45 | S76°45'19"W | for | 1331 | then |
| 46 | S83°5'24"W | for | 3056.5 | then |
| 47 | S83°59'12"W | for | 376.7 | then |
| 48 | S86°0'46"W | for | 1091.46 | to point of start |

The right of entry and operation lease information documents that are contained as part of **Exhibit 34** contain the following:

- Metes and bounds for the haul road for TR-76
- May 2008 – Quitclaim Deed from Trinidad Railway Holding, LLC and New Elk Coal Company
- July 11, 2012–Application for Temporary Special Use Agreement on CDOW Lands
- March 14, 2008 – Coal mining lease information between the State of Colorado acting by and through the Department of Natural Resources, for use and benefit of the Division of Wildlife and Wildlife Commission and NECC
- June 1, 1997 – Quitclaim Deed from North Central Energy, Inc and Picketwire Processing, LLC
- Details of **Exhibit 34** include that the mineable coal within the permit boundary is owned by the State of Colorado acting by and through the Department of Natural Resources for the use and benefit of the Division of Parks and Wildlife.

NECC signed a quit claim deed in May 2008 with Trinidad Holding, LLC. The purpose of doing this was to utilize the rail bed (TR-76) as a haul road which is approximately 2.7 miles in length and will be constructed on the existing rail bed and no new disturbance outside of the existing rail bed will be necessary for the construction and operation of the road. The road will be a maximum of 15 feet wide and have the necessary berms as required by MSHA. The permit area and affected area is 11.3 acres and the permit area and disturbed area is 6.4 acres for this haul road. Map 15A shows the location of the road.

NECC signed a temporary use agreement with the Colorado Division of Parks and Wildlife in order to be able to install a culvert necessary to relieve flow from the upper diversion ditch for DWDA #3.

NECC leases the Jansen Loadout facility for coal shipments. Right of entry information for the loadout site can be found in **Exhibit 40**.

There are no purchases of record under real estate contract for property overlying areas that NECC's mining activities will affect during the next five years.

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The New Elk Mine Workings are owned by NECC and **Map 2** illustrates the coal ownership.

2.03.7 RELATIONSHIP TO AREAS DESIGNATED UNSUITABLE FOR MINING

The proposed permit area is not located within an area designated unsuitable for surface coal mining operations or under study for such designation. NECC does not intend to conduct surface mining activities or to conduct or locate surface operations or facilities within 300 feet of an occupied dwelling.

2.03.8 PERMIT TERM INFORMATION

- (1) Does not apply
- (2) During the next five year permit term, beginning in February 2019 and ending in February 2024, the operator conducting mining operations as approved under Rule 2.05.4 of this application. The mine anticipates affecting less than 20 additional acres over the next five years, although accurate estimates are not possible given mining and production uncertainties. All disturbances, whether anticipated or otherwise will be approved prior to undertaking said activities. Underground workings and approved mine plan maps are available as part of this application and change based on operational needs and as approved.
- (3) Does not apply as the mine operates under successive 5 year mining permits. The projection as calculated using approved production levels at this time is a 20 to 30 year mine life. Accurate estimates are not known and cannot be accurately estimated due to market variability.

2.03.9 PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE INFORMATION

NECC has been issued a certificate of insurance for general liability. This certificate has been placed in **Exhibit 3**.

2.03.10 IDENTIFICATION OF OTHER LICENSES AND PERMITS

Numerous other licenses and permits will be obtained for the operation of the New Elk Mine. **Table 2** shows the listing of permits that NECC needs for the project.

2.03.11 IDENTIFICATION OF LOCATION OF PUBLIC OFFICE FOR FILING APPLICATION

A copy of any permit of revision application materials that are required to be available during the specific review time periods will be made available for public inspection in the Las Animas County Clerk/Recorder's office located at the County Courthouse, 200 East 1st Street, Room 205, Trinidad, Colorado.

2.03.12 NEWSPAPER ADVERTISEMENT AND PROOF OF PUBLICATION

The Chronicle-News will be the location of any public notice of any proposed revision that requires a notice be published. Proof of publication will be provided to the Division when received for those public notices initiated by NECC.

Table 2 New Elk Mine Permits and Licenses

| Agency | Permit/License |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Colorado Division of Reclamation, Mining & Safety 215 Centennial Building 1313 Sherman Street Denver, CO 80203 (303) 866-3567 | DRMS Permit#C-81-012 5-year permit renewed 2/28/2019 |
| Colo. Department of Public Health and the Environment Air Pollution Control Division 4300 Cherry Creek Drive South Building B, 1st Floor Denver, CO 80222-1530 (303) 692-3100 | Emission Permits 21LA0184F issued August 2021 21LA0185 issued August 2021 21LA01856 issued August 2021 21LA201 issued August 2021 |
| Colo. Department of Public Health and the Environment Water Quality Control Division 4300 Cherry Creek Drive South Denver, CO 80222-1530 (303) 692-3605 | Colorado Discharge Permit Systems Permit Nos. COG-310069 CO-0000906 Renewal effective June 1, 2015; awaiting approval from renewal application on May 31, 2020 COR 040192 |
| Colo. Department of Public Health and the Environment Radioactive Materials Unit Hazardous Materials and Waste Management Division 4300 Cherry Creek Drive South Denver, CO 80222-1530 (303) 692-2000 | Radioactive materials License Colo. 1198-01 |
| US Department of Labor Mine Safety and Health Administration Health and Safety Analysis Center PO Box 25367 Denver CO 80225 | MSHA ID 05-04461 Prep Plant MSHA ID 05-00296 UG (Allen) MSHA ID 05-04975 UG (Bates) MSHA Impoundment (pond 008) 1211-CO-9-0039 |
| Las Animas County Land Use Planning Office Trinidad, CO 81082 (719) 846-4486 | Special Use Permit 9/1/1977 and 3/8/1984 |
| Colo. Department of Transportation 4201 East Arkansas Avenue Denver CO 80222 | Access Permit mine site turn lane Access permit Jansen decel lane |

This completes Section 2.03

Identification of Other Licenses and Permits

Office of the State Engineer
Colorado Department of Water Resources
818 Centennial Bldg
1313 Sherman St.
Denver, Colorado 80203
See Exhibit 11 for:
Well Permit Nos. 286861, 286862, 286863
Slurry Return Wells S-1, S-2, and S-3 respectively Well Permit Nos. 286990, 286991
Slurry Return Wells NE-S2 and NE-S3 respectively