

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

New Elk Mine, C-1981-012, MR132, Adequacy Review No. 3

1 message

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

Thu, Nov 3, 2022 at 9:27 AM

To: Nick Mason <nmason@newelkcoal.com>

Cc: Brock Bowles <brock.bowles@state.co.us>

Hello Nick,

Please see the attached adequacy review for MR132 and AVS report. Please let me know if you have any questions or concerns. The decision date is November 18, 2022. If you need additional time to address these issues please request an extension of the decision date.

Thanks,

Jared

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Jared Ebert

Senior Environmental Protection Specialist

**COLORADO**
Division of Reclamation,
Mining and Safety
Department of Natural Resources

P 303.866.3567 ext. 8120 | F 303.832.8106 | Cell (720) 413-6466

Physical: 1313 Sherman Street, Room 215, Denver, CO 80203

Mailing: DRMS Room 215, 1001 E 62nd Ave, Denver, CO 80216

jared.ebert@state.co.us | <https://drms.colorado.gov/>

2 attachments**MR132_NewElkMine_C1981012_AdequacyReview3_3Nov2022.pdf**

370K

**Evaluation Report MR132.pdf**

98K



COLORADO
**Division of Reclamation,
Mining and Safety**
Department of Natural Resources

November 3, 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 #3**

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 November 18, 2022. NECC responded to the Division's second adequacy review on October 24th, 2022. The following adequacy issues listed below were identified in the Division's second adequacy review letter. Adequacy items that have been resolved have been deleted from the list, issues that remain outstanding or if additional information is needed are discussed below. Please address the following issues:

Rule 2.03.4 – Identification of Interests

- A. The Owners of Surface and Subsurface Contiguous to the Permit Area listed on revised page 9-12 is not reflective of the currently approved permit area and appears to include owners from the proposed expansion area from PR5. Please revise these pages to list the Owners of Record of surface and subsurface within or contiguous to the current permit boundary as shown on approved Maps 1 and 2.
 - a. **NECC Response:** Pages 9-12 have been corrected.
 - b. **DRMS Response:** NECC's revised list does not include owners of the Jansen Loadout area and the Golden Eagle Fan Site. Please revise the table on proposed revised page 9 and 10 to include these owners.

Rule 2.03.5 – Compliance Information

- B. Attached is a report dated November 1, 2022 from the Applicant/Violator System (AVS) from the Office of Surface Mining, Reclamation and Enforcement (OSMRE). The report indicates Black Warrior Minerals, Inc. was cited for a recent violation in August of 2022. Therefore, please update permit Section 2.03.5(1)(c) with the information required by Rule 2.03.5(1)(c) pertaining to this violation.



Rule 2.03.6 – Right of Entry Information

- C. Proposed revised page 11 still cites PR-05 in the fourth sentence under section 2.03.6. Please revise this sentence to remove the citation of PR-05.
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.
- a. **NECC Response:** All revised sections of 2.03 have been revised to reflect the approval of TR 76.
 - b. **DRMS Response:** The revised text on proposed revised page 15 regarding TR76 is not reflective of what was approved. Please update this page with the approved text.
 - c. **NECC Response:** Now page 13 has been revised.
 - d. **DRMS Response:** The revised text on proposed revised page 13 regarding TR76 is not reflective of what was approved. Please update this page with the approved text.

2.03.10 Identification of other Licenses and Permits

- D. The footer on revised page 16 of section 2.03 cites PR-5, 09/29/2021. Please revise this to indicate MR132 and the correct date.

The Division is required to issue a decision on the application by November 18, 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@stat.co.us or at (303) 866-3567 extension 8120.

Sincerely,



Jared Ebert
Senior Environmental Protection Specialist

EC: Nick Mason, NECC. nmason@newelkcoal.com
Brock Bowles, DRMS

Permit Evaluation

1 Violations Found.

Permit Number: C1981012 SEQ:13
Permitee Name: 158034 New Elk Coal Company LLC
Date of Request: 11/1/2022 12:40:37 PM
Requestor: Jeffrey.Thompson

CAUTION: The Applicant/Violator System (AVS) is an informational database. Permit eligibility determinations are made by the regulatory authority with jurisdiction over the permit application not by the AVS. Results which display outstanding violations may not include critical information about settlements or other conditions that affect permit eligibility. Consult the AVS Office at 800-643-9748 for verification of information prior to making decisions on these results.

Violation Type	Violation Number	Violation Entities	Permit Number	Permitted State	Violation Status	Violation Date
1: State Civil Penalty	N22DDP004		P3987	AL	Outstanding	8/2/2022
		097961 Black Warrior Minerals Inc				

Evaluation OFT

Entities: 11

264528 Allegiance Coal Limited - ()
---144657 Gregory Bernie Mason - (Director)
---263965 Mark Gray - (Chairman of the Board)
---263965 Mark Gray - (Director)
---263965 Mark Gray - (President)
---263966 Jonathan Reynolds - (Director)
---263966 Jonathan Reynolds - (Secretary)
---263966 Jonathan Reynolds - (Treasurer)
---263967 Malcolm Carson - (Director)
---264527 Allegiance Coal USA Limited - (Subsidiary Company)
-----263965 Mark Gray - (Chief Executive Officer)
-----263965 Mark Gray - (Director)
-----263965 Mark Gray - (President)
-----263966 Jonathan Reynolds - (Director)
-----263966 Jonathan Reynolds - (Secretary)
-----263966 Jonathan Reynolds - (Treasurer)
-----264526 New Elk Holdings LLC - (Subsidiary Company)
-----158034 New Elk Coal Company LLC - (Subsidiary Company)

-----263965 Mark Gray - (Director)
-----263966 Jonathan Reynolds - (Director)
-----265981 Saravanan Sivapathasundaram - (Secretary)
-----263965 Mark Gray - (Chief Executive Officer)
-----263965 Mark Gray - (Director)
-----263965 Mark Gray - (President)
-----263966 Jonathan Reynolds - (Director)
-----263966 Jonathan Reynolds - (Secretary)
-----263966 Jonathan Reynolds - (Treasurer)
-----265985 Jonathan Romcke - (Director)
---265985 Jonathan Romcke - (Chief Executive Officer)
---265985 Jonathan Romcke - (Director)
---265986 Matthew Wall - (Director)

Narrative