

## **2.03 LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION**

### **2.03.1**

The purpose of this section is to ensure that the CDMG receives all relevant information required on surface ownership, coal ownership and the complete history and status of New Elk Coal Company LLC (NECC) for continued coal mining operations at the Lorencito Canyon Mine. This information is provided in the following sections to answer each specific question with regards to operation.

### **2.03.2 RESPONSIBILITIES**

A written description is included in this permit application under which NECC will continue mining operations at the Lorencito Canyon Mine. The following sections provide the required information for conducting coal mining in Colorado.

### **2.03.3 FORMAT AND SUPPLEMENT INFORMATION**

Information which has been utilized by prior permittees to support the baseline data and other operating data is included in the text and presented in the Exhibits portion of this application. Data which has been taken from various reports, analysis, and other reference material is shown on the Maps and within the application for which this information was developed.

Numerous analyses of the land users, cultural resources, soils, overburden, coal, underburden, surface and ground water, air quality, vegetation, and wildlife have been completed by Lorencito Coal Company, LLC (LCC) from January 1996 to present. All, field and laboratory analyses were conducted in accordance with 40 CFR 136. All tests, analyses, and surveys carried out pursuant to the Rules and Regulations have been performed or certified by a qualified person. Time periods for all analyses are described in the text of exhibits of this application. Organizations responsible for collection and analysis of this information includes the following:

Mr. Jim Cooper	Project Manager
Mr. J. William Huber, P.E.	Project Engineer
Mr. Robert Bassett, Dorsey & Whitney	Legal Advisory, Mine Planning, Facilities Engineering

Mr. Jerry Koblitz, Greystone  
5231 South Quebec Street  
Greenwood Village, CO 80111

Project Manager, Permit Application  
Preparation and Land Use, Soils,  
Geochemistry, Surface and Ground  
Water, Vegetation, and Wildlife

Mr. Bob Lyman  
308 Timberhill Ct.  
Knoxville, TN 37922

Consulting Geologist, Geologic  
Interpretation, Subsidence

Mr. Mark Grey, P.E., CTL Thompson  
197 W. 12<sup>th</sup> Avenue  
Denver, CO 80204

Consulting Engineer, Geotechnical  
Stability Analysis

Ms. Anne McKibban,  
Metcalf Archaeological Consultants  
P.O. Box 899 Eagle, CO 81631

Consultant, Archaeological  
Investigations

Mr. Bruce Kroeker, Ted Zorich & Assoc.  
7333 West Jefferson, #210  
Lakewood, CO 80235

Consulting Engineer  
Water Rights

Mr. Scott Habermehl, ACZ Laboratories  
30400 Downhill Drive  
Steamboat Springs, CO 80487

Water Quality and Geochemical  
Analyses

Mr. Shane Nielson  
Colorado Analytical Laboratory  
204 S. Main St. Brighton, CO 80601

Soil Analyses

Mr. Dennis Kenyon, Data Map  
3110 S. Wadsworth Blvd. #306  
Denver, CO 80227

Aerial Photography and Mapping

Mr. John Christy,  
Foresight West Surveying  
5351 S. Roslyn St. Englewood, CO 80111

Site Surveying

Mr. Dave Lovell  
Colorado Division of Wildlife  
2126 N. Weber,  
Colorado Springs, CO 80907

Wildlife Biologist  
Wildlife Mapping, Data

Mr. Bill Grande, Sharpe Drilling  
P.O. Box 710, Trinidad, CO 81082

Hydrologic and Exploration Drilling

Mr. Robert Sipes, BPB, Inc.  
204 S. Purdue, Oklahoma City, OK 73128

E-log Analysis

Mr. Paul Zilus, Vranesh & Raisch, LLC  
1720 14<sup>th</sup> St., Boulder, CO 80306

Attorney at Law, Water Rights

This permit application contains text addressing the regulations of the Colorado Mine Land Reclamation Board of Coal Mining with narrative supported by appropriate exhibits and maps. NEWW believes that the information within the application is true and correct to the best of its knowledge.

## **2.03.4 INDENTIFICATION OF INTEREST**

(1) The applicant, operator, and permittee, New Elk Coal Company, LLC, is a Limited Liability Company registered in the State of Colorado.

(2) The name, address, telephone number and taxpayer identification number of the:

(2)(a) Permit Applicant:

New Elk Coal Company, LLC  
12250 Highway 12  
Weston, Colorado 81091  
7196316140  
Taxpayer ID: 20-4120615

(2)(b) Operator:

New Elk Coal Company, LLC  
12250 Highway 12  
Weston, Colorado 81091  
7196316140  
Taxpayer ID: 20-4120615

(2)(c) Applicant's registered agent:

Randy Wiles  
New Elk Coal Company, LLC  
122505 Highway 12

Weston, Colorado 81091  
 7786432843  
 Taxpayer ID: 20-4120615

(2)(d) **New Elk Coal Company, LLC**  
 12250 Highway 12  
 Weston, Colorado 81091  
 7196316140  
 Taxpayer ID: 20-4120615

<u>Directors</u>	<u>Title(s)</u>	<u>Address</u>	<u>Phone</u>	<u>Tax-ID</u>	<u>Appointment Date</u>	<u>End Date</u>
Jonathon Romcke	Director	46 Pershing St. Keperra QLD 4054	61 409-754-333	20-4120615	10/10/2022	Current
Mark Gray	President, CEO, Director	Lot 4, Vineyard Lane, Southdown Estate Rd 1 Martinborough 5781, New Zealand	61 412-899-979	20-4120615	10/26/2020	Current
Jonathan Reynolds	Treasurer, Director	48 Nelson St. Gordon NSW 2072	61 412-899-979	20-4120615	10/26/2020	Current
Saravanan Sivapathasundaram	Secretary	12250 State Highway 12 Weston, CO 81091	(719) 631-6141	20-4120615	5/16/2022	Current
Larry Cook	Director	12250 State Highway 12 Weston, CO 81091	(304) 376-0513	20-4120615	10/26/2020	5/16/2022

New Elk Coal Company, LLC parent company is New Elk Holdings, LLC.

**New Elk Holdings, LLC**  
 122505 Highway 12  
 Weston, Colorado 81091

<u>Officers</u>	<u>Title(s)</u>	<u>Address</u>	<u>Phone</u>	<u>Tax-ID</u>	<u>Appointment Date</u>	<u>End Date</u>
Jonathon Romcke	Director	46 Pershing St. Keperra QLD 4054	61 409-754-333	20-4120615	10/10/2022	Current
Mark Gray	President, CEO, Director	Lot 4, Vineyard Lane, Southdown Estate Rd 1 Martinborough 5781, New Zealand	61 412-899-979	32-0621314	10/26/2020	Current
Jonathan Reynolds	Treasurer, Secretary, Director	48 Nelson St. Gordon NSW 2072	61 412-899-979	32-0621314	10/26/2020	Current
Larry Cook	Director	12250 State Highway 12 Weston, CO 81091	(304) 376-0513	32-0621314	10/26/2020	5/16/2022

New Elk Holdings, LLC parent company is Allegiance Coal USA Limited.

**Allegiance Coal USA Limited**

122505 Highway 12

Weston, Colorado 81091

<u>Officers</u>	<u>Title(s)</u>	<u>Address</u>	<u>Phone</u>	<u>Tax-ID</u>	<u>Appointment Date</u>	<u>End Date</u>
Mark Gray	President, CEO, Director	Lot 4, Vineyard Lane, Southdown Estate Rd 1 Martinborough 5781, New Zealand	61 412-899-979	32-0621314	10/26/2020	Current
Jonathan Reynolds	Treasurer, Secretary, Director	48 Nelson St. Gordon NSW 2072	61 412-899-979	32-0621314	10/26/2020	Current
Larry Cook	Director	12250 State Highway 12 Weston, CO 81091	(304) 376-0513	32-0621314	10/26/2020	5/16/2022

Allegiance Coal USA Limited parent company is Allegiance Coal Limited.

**Allegiance Coal Limited**

Suite 107, 109 Pitt Street

Sydney, NSW 2000, Australia

61412899979

<u>Officers</u>	<u>Title(s)</u>	<u>Address</u>	<u>Phone</u>	<u>ABN no.</u>	<u>Appointment Date</u>	<u>End Date</u>
Mark Gray	President, Chairman, Director	Lot 4, Vineyard Lane, Southdown Estate Rd 1 Martinborough 5781, New Zealand	61 412-899-979	4714353	11/30/2016	Current
Jonathan Reynolds	Treasurer, Secretary	48 Nelson St. Gordon NSW 2072	61 412-899-979	4714353	11/30/2016	Current
Jonathon Romcke	CEO, Director	46 Pershing St. Keperra QLD 4054	61 409-754-333	4714353	5/3/2022	Current
Gregory 'Bernie' Mason	Director	1416 Jomar Dr. Ashland, KY 41102	(606) 922-9198	4714353	5/3/2022	Current
Matthew Wall	Director	31 Radnor Rd. Galston NSW 2159	61 408-229-953	4714353	2/23/2022	Current
Paul Vining	Chairman, Director	3073 Zula Rd. The Plains, VA 20198	N/A	4714353	5/16/2022	7/6/2022
Larry Cook	Director	12250 State Highway 12 Weston, CO 81091	(304) 376-0513	4714353	7/23/2019	6/6/2022

2.03.4(3) Applicant, operator, and partners or principal shareholders of the New Elk Coal Company, LLC and Black Warrior Minerals, LLC.

(3)(a) New Elk Coal Company, LLC controls the Lorecito Canyon Mine, currently in reclamation. The one of applicant's parent companies Allegiance Coal USA Limited, has a subsidiary company Black Warrior Minerals, LLC that operates a surface mines BWM #1 and BWM #2, BWM #1 is in reclamation & BWM #2 is currently operating.

(3)(a)(i) Names and addresses, and taxpayer identification number:

**New Elk Coal Company, LLC**

<u>Name</u>	<u>Address</u>	<u>Tax-ID</u>
Mark Gray	12250 State Highway 12 Weston, CO 81091	20-4120615
Jonathan Reynolds	12250 State Highway 12 Weston, CO 81091	20-4120615

**Black Warrior Minerals, LLC**

<u>Name</u>	<u>Address</u>	<u>Tax-ID</u>
Mark Gray	2 Office Park Cir. Suite 205 Birmingham, AL 35223	63-0906486
Jonathan Reynolds	2 Office Park Cir. Suite 205 Birmingham, AL 35223	63-0906486
Rance Perry	2 Office Park Cir. Suite 205 Birmingham, AL 35223	63-0906486

(3)(a)(ii) Person's ownership or control relationship to the operation, including percentage of ownership:

**New Elk Coal Company, LLC**

<u>Name</u>	<u>Control Relationship</u>	<u>Ownership</u>
Mark Gray	President	0%
Jonathan Reynolds	Director	0%

**Black Warrior Minerals, LLC**

<u>Name</u>	<u>Control Relationship</u>	<u>Ownership</u>
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Mark Gray	Secretary	0%
Jonathan Reynolds	Treasurer	0%
Rance Perry	President	0%

(3)(a)(iii) Title of person's position and date position was assumed:

**New Elk Coal Company, LLC**

<u>Name</u>	<u>Title</u>	<u>Appointment Date</u>	<u>End Date</u>
Mark Gray	President	9/9/2021	Current
Jonathan Reynolds	Director	10/19/2021	Current

**Black Warrior Minerals, LLC**

<u>Name</u>	<u>Title</u>	<u>Appointment Date</u>	<u>End Date</u>
Mark Gray	Secretary	8/2/2021	Current
Jonathan Reynolds	Treasurer	8/2/2021	Current
Rance Perry	President	8/2/2021	Current

Allegiance Coal USA Limited is wholly owned by Allegiance Coal Limited, whose address and phone number are listed below:

Suite 107, 109 Pitt Street  
Sydney, NSW 2000, Australia  
61412899979

(3)(a)(iv) Operation's Federal or State permit number, the regulatory authority with jurisdiction over the permit, and the MSHA number with date of issuance:

The name of the mine is the New Elk Mine. The MSHA identification numbers are Surface 05-04461 (6/1/1991), and Mi Vida Portals Underground Mine 05-04975 (5/16/2011). The State permit number is: DRMS Permit #C-81-012 (5-year permit renewed 2/28/2019).

BWM #1 Mine: MSHA ID 01-03437, Alabama Surface Mining Commission Permit # P-39-50.

BWM #2 Mine: MSHA ID 01-03437, Alabama Surface Mining Commission Permit # P-39-87

(3)(b) The applicant New Elk Coal Company, LLC has a pending permit revision for the New Elk Mine C-1981-012 in the state of Colorado.

2.03.4(4) Any surface coal mining operation owned or controlled by the applicant or operator:

NECC owns the surface coal mining operation at the Lorencito Coal Mine (Colorado Permit number C-1996-084).

(4)(a) Permit Applicant, Operator, and Permittee:

New Elk Coal Company, LLC  
12250 Highway 12  
Weston, Colorado 81091  
7196316140  
Taxpayer ID: 20-4120615  
Colorado State Permit Number C-1996-084  
MSHA Identification Number: Surface 05-04461

Black Warrior Minerals, LLC  
2 Office Park Circle, Suite 205  
Birmingham, AL 35223  
205-648-2290  
Taxpayer ID: 63-0906486  
Alabama Mining Commission Permit # P-3950 & P-3987  
MSHA ID: 01-03437

(4)(b) Ownership or control relationship to the applicant, including percentage of ownership:

**New Elk Coal Company, LLC**

<u>Name</u>	<u>Control Relationship</u>	<u>Ownership</u>
Mark Gray	President	0%
Jonathan Reynolds	Director	0%

**Black Warrior Minerals, LLC**

<u>Name</u>	<u>Control Relationship</u>	<u>Ownership</u>
Mark Gray	Secretary	0%



Jonathan Reynolds	Treasurer	0%
Rance Perry	President	0%

(4)(c) Date the entity began functioning in that position:

**New Elk Coal Company, LLC**

<u>Name</u>	<u>Title</u>	<u>Appointment Date</u>	<u>End Date</u>
Mark Gray	President	9/9/2021	Current
Jonathan Reynolds	Director	10/19/2021	Current

**Black Warrior Minerals, LLC**

<u>Name</u>	<u>Title</u>	<u>Appointment Date</u>	<u>End Date</u>
Mark Gray	Secretary	8/2/2021	Current
Jonathan Reynolds	Treasurer	8/2/2021	Current
Rance Perry	President	8/2/2021	Current

2.03.4(6) Each permit application shall contain the names and address of:

**Surface Ownership**

100% held by Hill Ranch except certain mining rights

The owners of record of surface and subsurface contiguous to the permit boundary are listed below and shown on **Map 2.03.4-1**.

**ADJACENT OWNERS OF RECORD- SURFACE AND SUBSURFACE**

Hill, B.F. dba Hill Ranch	Parsons, Bernard & Ann
F.R. Hill dba F.E. Hill Co.	P.O. Box 210
P.O. Box 226	Trinidad, CO 81082
Fairfield, TX 75840	

Hill B.F. Trustee for Amy L Hill	Parsons, Robert
P.O. Box 107	15250 CR 130
Fairfield, TX 75840	Weston, CO 81091

Hill F.R. dba F.E. Hill Co.  
P.O. Box 226  
Fairfield, TX 75840

Parsons, Robert  
MGP Enterprises  
c/o Bernard Parsons  
P.O. Box 98  
Weston, CO 81091

Hill, B.F.  
20200 Highway 12  
Fairfield, TX 75840

Map ID No. 13  
Hill B.F. dba Hill Ranch F.R>Hill dba  
F.E. Hill Co. P.O. Box 226  
Fairfield, TX 75840

2.03.4(6) Each permit application shall contain the names and address of are listed below and shown on **Map 2.03.4-1**:

#### **Coal Ownership**

46.5% held jointly by:

Hill Ranch	F.E. Hill Company
3974-C Hwy 67 West	P.O. Box 226
Glen Rose, TX 76043	Fairfield, TX 75840

53.46% held by:

MGP Enterprises  
2615 Oak Drive #8  
Lakewood, CO 80215

The MSHA identification number for the Lorencito Canyon Mine, 05-04712, has been deactivated by MSHA.

There are no purchasers or holders of leasehold interest of record under a real estate contract for property overlying area which NECC's mining activities will affect during the next five (5) years. There are no outstanding interests in lands, option, or pending bids on interests held or made by NECC for lands which are contiguous to the area covered by the permit.

### **2.03.5 COMPLIANCE INFORMATION**

Neither NECC nor any of its affiliates or persons controlled by or under common control with it, has had a mining permit for surface coal mining operations suspended or revoked within the last five years. Nor have any such entities forfeited a mining bond or similar security deposited in lieu of a bond in connection with any surface mining operations.

NECC received a notice of violation on October, 22, 2021 (CV-2021-001), the violation was terminated on September 21, 2022. NECC prematurely reconstructed a light use road to a haul road before getting approval from CDRMS. The violation was abated via the approval of TR-76.

Black Warrior Minerals, Inc. Permit (P-3987) received a violation on August 2, 2022 (N22DDP004), the violation was terminated on August 2, 2022. The violation was served for 2 ponds discharging water that did not meet water quality compliance. The violation was abated because the ponds stopped discharging.

Black Warrior Minerals, Inc. Permit (P-3987) received a violation on September 14, 2022 (N22DDP005), the violation was terminated on September 14, 2022. The violation was served for 1 pond discharging water that did not meet water quality compliance. The violation was abated because the ponds stopped discharging. The violation was also served because a proof of insurance coverage was submitted. The violation was abated because the insurance coverage was submitted.

Black Warrior Minerals, Inc. Permit (P-3950) received a violation on September 14, 2022 (N22DDP006), the violation was terminated on September 14, 2022. The violation was served because a proof of insurance coverage was submitted. The violation was abated because the insurance coverage was submitted.

Black Warrior Minerals, Inc. Permit (P-3987) received a violation on November 9, 2022 (N22DDP007), the violation was terminated on November 9, 2022. The violation was served for 2 ponds discharging water that did not meet water quality compliance. The violation was abated because the ponds stopped discharging.

MSHA violations are not listed. A compilation of violation history can be obtained by interested parties by contacting the Mine Office.

## **2.03.6 RIGHT OF ENTRY AND OPERATION INFORMATION**

NECC's right to enter and conduct coal mining operations is not subject to any pending litigation. Lorencito Coal Company, LCC (LCC) has leased its right to conduct coal mining operations to NECC; Coal ownership is leased to A.P. Maxwell by the landowners (Exhibit 2). This lease has been assigned to LCC. Exhibit 2 provides the lease agreement of the landowner and A.P. Maxwell and LCC and NECC. Assignments of the A.P. Maxwell lease are listed below.

1. Lessor's consent of assignment of interests as recorded at the offices of the Las Animas County Clerk on October 1, 1996, Reception Number 620720, Book 935, Page 120.

2. Assignment of 50 percent interest from A.P. Maxwell to Taiheiyo (U.S.A.), Inc. as recorded at office of the Las Animas County Clerk on October 1, 1996, Reception Number 620723, Book 935, Page 128.

3. Assignment of 50 percent interest from A.P. Maxwell to Lorencito Coal Company, LLC, as recorded at the office of the Las Animas County Clerk on October 1, 1996, Reception Number 620722, Book 935, Page 123.

4. Assignment of 50 percent interest from Taiheiyo (U.S.A.), Inc. to Lorencito Coal Company, LCC, as recorded at the office of the Las Animas County Clerk on October 1, 1996, Reception Number 620721, Book 935, Page 126.

### **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 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, public building, school, church, community building, institutional building, public park, or on lands within 100 feet of a cemetery.

### **2.03.8 PERMIT TERM INFORMATION**

Operation is in final reclamation. A second five year permit term began November 7, 2002.

### **2.03.9 PERSONAL INJURY AND PROPERTY DAMAGE INSURANCE INFORMATION**

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

### **2.03.10 IDENTIFICATION OF OTHER LICENCES AND PERMITS**

Numerous other licenses and permits will be obtained for the operation of the New Elk Mine. **Table 2.03.10-1** shows the listing of permits that NECC issued for the project.

### **2.03.11 IDENTIFICATION OF LOCATION OF PUBLIC OFFICE FOR FILING APPLICATION**

A copy of the permit application which is available for public inspection in the Las Animas County Clerk/Recorder's office located at the County Courthouse, First and Maple Streets, Trinidad, Colorado.

### **2.03.12 NEWSPAPER ADVERTISEMENT AND PROOF OF PUBLICATION**

A copy of the proposed newspaper advertisement to be published once in the Trinidad Chronicle is contained in **Exhibit 4**.