



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

April 10, 2023

Mark Gray
New Elk Coal Company, LLC.
12250 Highway 12
Weston, Colorado 81091

Re: New Elk Mine, Permit No. C-1981-012
2022 Annual Reclamation Report Review

Dear Mr. Gray,

The Colorado Division of Reclamation, Mining and Safety (Division) received the 2022 annual reclamation report (ARR) for New Elk Mine on February 15, 2023. The report was reviewed by the Division for compliance with Rule 2.04.13. The Division finished its review and has the following comments/questions:

1. The ARR was received on February 15, 2023, before the February 15th deadline in accordance with Rule 2.04.13(1).
2. The name and address of the permittee as well as the permit number for the site was included in the ARR in accordance with Rule 2.04.13(1)(a).
3. No additional acres were disturbed in the permit area during 2022 and is shown on the ARR in accordance with Rule 2.04.13(1)(b).
4. No additional acres were backfilled and graded in the permit area during 2022 and is shown on the ARR in accordance with Rule 2.04.13(1)(c).
5. No additional acres were topsoiled in the permit area during 2022 and is shown on the ARR in accordance with Rule 2.04.13(1)(d).
6. No additional acres were seeded in the permit area during 2022 and is shown on the ARR in accordance with Rule 2.04.13(1)(e).
7. The location, number of acres and date of planting for all previously revegetated areas was provided in the ARR in accordance with Rule 2.04.13(1)(f).



8. No additional monitoring information for the ARR is required by the approved permit in accordance with Rule 2.04.13(2).
9. Please provide a map of the current location and extent of the active and inactive mine workings in the ARR in accordance with Rule 2.04.13(3).
10. The legends in all 3 maps submitted with the ARR shows backfilled/graded areas and seeded/mulched areas. Is topsoil application being tracked separately? Are areas that were seeded and mulched assumed to be topsoiled also?
11. On Table 2 in the ARR, the column between Backfilled & Graded and Seeded is labeled as 'acres'. Please clarify what kind of acres these are.
12. The acreages for the 4 benches at the toe of the RDA are listed on Table 2. The acreage for Bench 4 (1.26 ac.) is smaller than Bench 3 (1.73 ac.) yet Area 4 is clearly bigger than Area 3 on the Map. Please clarify the acreages for all 4 benches.
13. The ditches on either side of RDA Benches 1-4 are not part of any polygon and are not accounted for in Table 3. Please account for the disturbed acres of the two ditches by creating a polygon on the East Portals map and adding them to all the Tables.
14. There are 3 areas near the RDA Benches that are labeled 1993, 1994 and 1996. These areas are not accounted for on Table 3 of the ARR. Please label these areas on the East Portals map and clarify their map code on Tables 1-3.
15. The following questions are for Areas 2, 3, & 4:
 - a. The East Portals maps shows all three areas combined into one polygon. Tables 2 & 3 of the ARR shows that Area 4 is separate. Where is area 4?
 - b. Tables 2 & 3 shows all three areas have a combined area of 8.23 acres. DRMS calculated the combined total for these areas as 4.37 acres, according to the East Portals Map. Please clarify the acreage of these areas.
 - c. The east section of this area is shown as being backfill/graded and seeded. The west end of this area is only seeded. Please clarify if areas labeled as seeded were also backfilled/graded.
 - d. These areas are labeled as being seeded. Was it also topsoiled?

- e. The west end of this area is labeled as being seeded. When the East Portals map is georeferenced to the mine it shows the west end of this area is being used for equipment storage. Please clarify if reclaimed areas are being used for storage.
 - f. Table 3 shows Area 4 being backfill/graded and seeded, but not topsoiled. Table 2 shows that it has been topsoiled. Please clarify if Area 4 has been topsoiled.
16. Area 5 is shown on Tables 2 & 3 as being backfill/graded and seeded, but not topsoiled. Was topsoil applied to this area?
17. Area 5 is labeled as being seeded. When the East Portals map is georeferenced to the mine it shows the west end of this area is being used for equipment storage. Please clarify if the reclaimed area is being used for storage.
18. Area 5 on the East Portals map shows that backfill/grading and seeding went past the approved disturbance boundary. Please verify the polygon on the map.
19. Table 2 shows that Area 6 has been backfilled/graded, topsoiled and seeded. Table 3 shows it has been backfilled/graded and seeded. Please clarify if the area has been topsoiled.
20. Area 6 on the East Portals map shows that backfill/grading and seeding went past the approved disturbance boundary. Please verify the polygon on the map.
21. Area 7 on the East Portals map shows 3 areas seeded in 1990, 2003 and 2007. Table 3 of the ARR only shows 2 area as being backfilled/graded, topsoiled and seeded. Please clarify the year-seeded acres for Area 7.
22. The East Portals map shows that Area 20 is mostly backfilled. Area 20 is the road to Pond 4 and is not permitted as a permanent feature. This area is not considered backfill/graded. Please amend the map.
23. Area 22 is labeled as the clean coal pile. The East Portals map shows this area as being backfill/graded, with the diagonal hatching. Active coal stockpiles are not considered as being backfill/graded. Please amend the map.
24. Area 26 is the prep plant and is shown as being partially backfill/graded. An active facilities area is not considered as being backfill/graded. Please amend the East Portals map.

25. Area 27 is the raw coal stockpile and is shown as being partially backfill/graded. An active stockpile is not considered as being backfill/graded. Please amend the East Portals map.
26. Area 31 has 5.08 acres according to Table 3 of the ARR. On the East Portals Map, the map code area 31 (purple line) is smaller than the area labeled as backfill/graded (brown diagonal lines) which DRMS calculated at 6.00 acres. Please adjust the polygon on the map to include all the backfilled/graded areas and adjust the acreage on Table 3.
27. Area 31 is shown as being backfill/graded. It has been noted in recent inspection reports that there are many gullies in this section and it will need to be graded again to fix the gullies. This area is not considered as being backfill/graded. Please amend the East Portals map.
28. On the south side of section 31, there is an area shown to be seeded in 1993. There is no evidence from the ground inspections this area was seeded. Please verify this is the correct location that was seeded in 1993.
29. Area 32 is shown as being backfill/graded and seeded. Was it topsoiled also? Is there a map symbol to show topsoiled areas?
30. Area 32 is shown as 2.98 acres. DRMS calculated the area of Area 32 as 3.39 acres. Please clarify the acreage of Area 32.
31. Area 35 is shown on the East Portals map as being backfill/graded. This area contains and SAE, a topsoil pile and a berm and does not meet the definition of being backfill/graded. Please amend the East Portals map.
32. Area 36 is shown on the East Portals map as being backfill/graded. This area contains the conveyor corridor and containment area 4. It does not meet the definition of being backfill/graded. Please amend the East Portals map.
33. Area 37 is shown on the East Portals map as being backfill/graded. This area contains containment Area 3 and does not meet the definition of being backfill/graded. Please amend the East Portals map.
34. The area just south of Area 37 is shown as being backfill/graded. It is in the approved disturbance area but is not part of any map code area. Are these acres being tracked?

35. The following questions are for Area 41.
- The map code area (purple line) for the RDA is smaller than the area labeled as backfill/graded (brown diagonal lines). Please clarify the correct polygon and acreage for this area.
 - This area is labeled as backfill/graded with brown diagonal lines but Table 3 calls it and active area. Please clarify the status of this polygon.
 - The backfill/graded area (brown diagonal lines) extends beyond the approved surface disturbance line (green line with o). There should be no mine related disturbance beyond the approved disturbance area. Please clarify the approved surface disturbance boundary and the backfill/graded areas.
36. Areas 42 and 47 appear to be the same polygon on the West Portals map. Each area has a different acreage (.76 and 1.4 respectively) in Table 2 of the ARR and both areas were seeded but were not backfill/graded. Please clarify the acreage of these areas, if they were backfill/graded, and if the polygon east of the #63 access road is part of these polygons.
37. Area 45 is labeled as Containment #2 on Table 2. The West Portals map shows Area 45 as a very small polygon that does not capture Containment #2. Please amend the Area 45 polygon on the West Portals map so it captures Containment #2 and update the acreage in Tables 2-3.
38. There is a small polygon south of Area 45 and east of Area 51 that is not labeled and the acreage is not accounted for. Please add this area to an adjoining polygon and adjust the acreage.
39. The following questions refer to Areas 49 and 58.
- Both areas are shown as the same polygon on the West Portals map. Please clarify the location of each polygon.
 - On Table 2 of the ARR, Area 49 had 1.4 acres backfill/graded, .57 acres topsoiled and 1.72 acres seeded. Why were only half of the backfill/graded acres topsoiled? Why were more acres seeded than were backfill/graded and topsoiled? Please clarify the acreages of these categories.
 - Table 2 lists Area 49 as 1.4 acres and Table 3 lists it with 1.72 acres. Please clarify the acreages for this area.
40. Area 50 in Table 2 of the ARR is labeled as containment #1, with 0.17 acres. Area 50 is shown on the West Portals map but does not have a defined area. Please clarify the Area 50 polygon on the West Portals map.

41. Area 53 on the East Portals maps has 3 section for a total area of 3.12 acres. 2 sections are shown as backfill/graded and seeded (2.2 acres) and 1 that is not seeded (0.92 acres). Table 2 shows this area having 1 acre backfill/graded only. Table 3 shows that 1 acre has been backfill/graded and seeded. Please clarify the backfill/graded acres, seeded acres and the polygons on the West Portals map.
42. On either side of Area 54, there are several acres that appear to have been disturbed by mining activities that are not accounted for on the West Portals map and the ARR. Please clarify why these acres are not accounted for in the ARR.
43. Area 55 is shown as being seeded on the West Portals map and Table 3 but is not labeled as being seeded on Table 2. Please update the tables.
44. Areas 56 and 57 appear to be the same polygon on the West Portals map. Please clarify which polygons are 56 and 57 on the map.
45. Area 56 is shown on Table 3 to have .56 acres and Area 57 has .47 acres for a total of 1.03 acres. DRMS calculated the combined acreage of these areas as 1.3 acres. Please clarify the acreage of these areas.
46. Area 61 is labeled as an active stockpile area on Table 3. The East Portals map shows this area as being backfill/graded, with the diagonal hatching. Active coal stockpiles are not considered as being backfill/graded. Please amend the map.
47. The Area 62 polygon on the West Portals map does not capture all the mine related disturbance on the northeast side of the polygon. Please amend the polygon to capture all the surface disturbance and update the acreage on Tables 1-3 in the ARR.
48. The RDA access road (Area 66) has 1.77 acres according to Table 3. DRMS calculated the access road as 3.01. Please clarify the access road acreage.
49. The following questions reference the Annual Reclamation Report on page 2:
 - a. The ARR shows that 170.71 acres have been disturbed. Table 3 of the ARR, the Total Acres column adds up to 174.72 acres. Please clarify how many acres have been disturbed.
 - b. The ARR shows that 44.17 acres have been backfilled and graded. Table 3 of the ARR, the Backfilled and Graded Acres column adds up to 42.95 acres. Please clarify how many acres have been backfilled and graded.

- c. The ARR shows that 19.61 acres have been topsoiled. Table 3 of the ARR, the Topsoiled Acres column adds up to 16.14 acres. Please clarify how many acres have been topsoiled.
 - d. The ARR shows that 35.48 acres have been seeded. Table 3 of the ARR, the Seeded Acres column adds up to 36.23 acres. Please clarify how many acres have been seeded.
 - e. In the Acres Seeded section, the Last Year's Cumulative Total column does not add up correctly. Please correct the addition error.
50. The Golden Eagle site shows it was seeded but not backfilled/graded, and topsoiled. Please clarify if they were backfilled/graded and topsoiled.
51. SL2 approved Phase I bond release for 35.14 acres in the East and West Portal areas. The SL2 findings dated November 15, 2006 state in the summary section that all bond release areas will be shown on the Annual Reclamation Reports. Please show the bond release areas on the East Portals Map, West Portals map and indicate which areas achieved Phase I bond release on the tables provided in the Annual Reclamation Report.

The Division requests that NECC address the adequacy review items noted above by May 31, 2023.

If you have any questions or need additional information, please contact me at (720) 774-0040.

Sincerely,



Brock Bowles
Environmental Protection Specialist
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