



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

June 29, 2023

New Elk Coal Company, LLC.

Attn: Mark Gray

12250 Highway 12

Weston, Colorado 81091

**Re: New Elk Mine; C-1981-012**  
**Second Quarter 2023 Coal Waste Bank Inspection Report Review**

Dear Mr. Gray:

The Colorado Division of Reclamation, Mining, and Safety (DRMS or Division) received a quarterly inspection report for the three coal waste banks at the New Elk Mine on June 23, 2023. The report covers the second quarter 2023 monitoring period. The site was inspected on June 22, 2023. The report appears to be in compliance with DRMS Regulations 4.09.1(11) and 4.10.2(2), unless noted below.

- The third paragraph states that “sampling from Pond 4 is no longer required as the DWDA#1 has been reclaimed and vegetation is becoming well established”. The Division agrees that the vegetation is well established but sampling from Pond 4 is required until a statistical demonstration has been made showing that DWDA#1 is not contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements pursuant to 34-33-125(9)(b). This demonstration is usually done during Phase II bond release. Please amend this sentence.*

Development Waste Disposal Area No. 1 (DWDA No. 1) was inspected. This feature was closed and reclaimed in 2004. The area received Phase 1 bond release in 2005. No issues were noted.

Development Waste Disposal Area No. 2 (DWDA No. 2) was inspected. According to the report refuse placement has been completed. The west end of the pile is used as a sediment drying area. The sump on the east end of the pile has been cleaned out. No refuse placement has occurred since the May 2012 compaction testing that indicated approved plan compliance. NECC cited they observed some surface erosion of the pile but not enough to make the area unstable and that no signs of failure or instability were noted.

The Refuse Disposal Area (RDA) was inspected. According to the report, positive drainage is maintained on the top of the RDA, sumps have been cleaned and there is no ponding on top of the pile. The Permit Application Package (PAP) states that compaction tests will be taken frequently and at locations of not less than one per every other layer at random locations across the pile. Three monitoring wells were monitored for water levels on June 21, 2023 and all levels are within 0.3 feet of the previous readings taken in March 24, 2023.

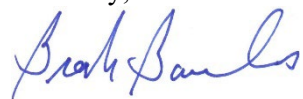
- The report states that the facility has been idle since May 8, 2022. Did the report mean to say May 8, 2023?*
- A compaction test was not included with the report. Please ensure that when the RDA becomes active again that the compaction test resumes as per permit requirements.*



The inspection was conducted by John Terry, under the direction of Stephen Miller, a registered professional engineer licensed in the State of Colorado. The inspection report was stamped by Mr. Miller and dated June 22, 2023.

If you have any questions feel free to contact me at [Brock.Bowles@state.co.us](mailto:Brock.Bowles@state.co.us) or (720) 774-0040.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brock Bowles".

Brock Bowles  
Environmental Protection Specialist

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