



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

October 30, 2023

New Elk Coal Company, LLC.
Attn: Chris Walker
12250 Highway 12
Weston, Colorado 81091

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

Dear Chris Walker:

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 September 21, 2023. The report covers the third quarter 2023 monitoring period. The site was inspected on September 8, 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 September 8, 2023, and all levels are within 0.4 feet of the previous readings taken in June 21, 2023. Recent maintenance work was conducted on the Northwest corner of the top bench of the RDA to better define the ditch that wraps around the back of the RDA to the armored ditch. The ditch is now flowing correctly. On the top bench in the Southwest corner above the West sump, rills were forming and NECC has placed material in the rills. The West sump was also cleaned after a heavy a rain event.



- *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 September 19, 2023.

If you have any questions feel free to contact me at amber.gibson@state.co.us or (720) 836-0967.

Sincerely,



Amber M. Gibson
Environmental Protection Specialist

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