



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

January 16, 2024

New Elk Coal Company, LLC.

Attn: Chris Walker

12250 Highway 12

Weston, Colorado 81091

Re: New Elk Mine; C-1981-012
Fourth 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 December 21, 2023. The report covers the fourth quarter 2023 monitoring period. The site was inspected on December 18, 2023. The report appears to be in compliance with DRMS Regulations 4.09.1(11) and 4.10.2(2), unless noted below.

- The first paragraph states that *"New Elk Coal Company idled the project on May 9, 2022 and the only work on the RDA is for care and maintenance, no new material is being deposited on the waste bank."* However, on the 2023 production reports, the operation does not enter 'idle' status in 2023 until June. **Please revise this information.**
- 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 water is pumped into Pond 4 from various locations throughout the mine site. Therefore, NECC will need to obtain Phase II bond release for all affected land draining to this pond before the pond can be reclaimed and at that point no additional mine water could be pumped to the pond. Additionally, in accordance with 4.05.13(3)(b) NECC would need to submit a revision to revise the water monitoring plan before eliminating the requirement for sampling. **Please amend this sentence in future reports.**

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 December 8, 2023, and all levels are within 0.8 feet of the previous readings taken in September 8, 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. The clean water diversion ditch (D55) has recently been cleared of debris to prevent clean water from flowing onto the RDA Area.



On the top bench in the Southwest corner above the West sump, rills were forming and NECC has placed material in the rills.

- On page six of the document, under 'General description or reference to site plan' in the RDA section, the first paragraph states that the "plant has been in operation since June of 2021 and the RDA has been active since the start of the plant". **Please update the narrative to reflect the plant's idle periods since the start of the plant.**
 - Under 'activity during Inspection' in the RDA section, the 'Other' option is selected, and states that the facility has been idle since May 8, 2022. **Please revise this information to reflect the most recent date that the plant re-entered idle status**
- 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 December 20, 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: John Terry; NECC, jterry@newelkcoal.com
Brock Bowles, DRMS
Jared Ebert, DRMS