



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

October 8, 2024

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

Re: New Elk Mine; C-1981-012
Third Quarter 2024 Coal Waste Bank Inspection Report Review

Dear NECC Personnel:

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 October 8, 2024. The report covers the third quarter 2024 monitoring period. The site was inspected on September 30, 2024. The report cannot be found in compliance with DRMS Regulations 4.09.1(11) and 4.10.2(2) because they have not been certified by a registered engineer:

Additionally, **please address all bulleted items 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 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.

- 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.
- Three monitoring wells were monitored for water levels on **September 30, 2023**. Quarter 1’s and Quarter 2’s reports for 2024 also state that the measurements were taken on **March 20, 2023**. (However, the measurements differ slightly between Q1 and Q2.) Between the Q2 and Q3 reports, all Quarter 3 levels are within 0.2 feet of the previous readings. **Please clarify to the Division what date the Quarter 2 monitoring well readings were taken and update the year for the following reports.**

Maintenance work on the Clean Water Ditch above the RDA was completed in May 2024.

The inspection was conducted by John Terry and the report was signed and dated one October 6, 2024. The inspection report was not stamped by a registered professional engineer.

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: Jim Begano, NECC
John Terry; NECC
Jared Ebert, DRMS