



March 1, 2024

Chris Walker
New Elk Coal Company, LLC.
2250 Highway 12
Weston, Colorado 81091

Re: Lorencito Canyon Mine, Permit No. C-1996-084; 2023 Annual Reclamation Report Review

Dear Chris Walker,

The Colorado Division of Reclamation, Mining and Safety (DRMS or Division) received the 2023 annual reclamation report (ARR) for Lorencito Canyon Mine on January 30, 2024. The report was reviewed by DRMS for compliance with Rule 2.04.13. **Items that will need to be addressed by New Elk Coal Company, LLC. (NECC) are preceded by bullet points.** The changes proposed for the tables on the last page of the report, mentioned in items **3 -9 and part of 11**, are attached in a table updated by the Division for your review. Please respond and indicate if NECC concurs with the Division's edits.

DRMS finds the following:

1. The ARR was received on January 30, 2024, prior to 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 new land was reported to have been disturbed in the ARR packet for 2023. However, 0.1 acres is listed as "re-disturbed" for the sediment drying area per the ARR map (submitted in accordance with Rule 2.04.13(1)(b)). Additionally, this 0.1 acre sediment drying area had been accounted for in the 2022 ARR in a table titled "2022 Work". It appears to have been accounted for in the Surface Disturbance category total in the Disturbance Table, but it is unclear from the report. Also, the Annual Reclamation Report form reflects the 2024 calendar year instead of 2023. Please:



- Indicate with an annotation on the Disturbance table on the second page of the report that the acres reported as re-disturbed (**see item #4 below for acreage**) on the map are included in the total Surface Disturbance. (*Suggestion: This may be done through an asterisk next to Surface Disturbance, and an annotation under the table stating the acres disturbed in the sediment drying area and that this area is included within the total Surface Disturbance.*)
 - Update the Annual Reclamation Report Form to reflect the 2023 calendar year.
4. In the March 15, 2022 inspection report, the Division measured the area that had been re-affected by pond and ditch cleanings (referred to the re-disturbed area in item #3 above). During that inspection, the Division determined that **1.68 acres** have been re-disturbed, which is **1.58 acres more** than what is reported on the 2022 and 2023 Annual Reclamation Reports, and on the 2022 and 2023 Annual Reclamation Report maps. Please:
- Refer to the Reclamation Success section of the March 15, 2022 report (attached to this review), and update the tables on the 2023 Annual Reclamation Report to account for this additional 1.58 acres of surface disturbance.
 - Update the 2023 annual report map to reflect a 1.68 acre area of un-reclaimed disturbance for the sediment drying area (see figure below from the Division's March 15, 2022 inspection report).

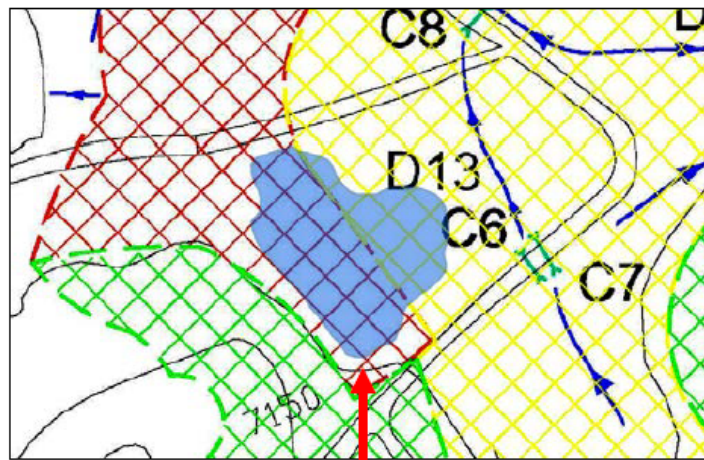


Figure 9. Area re-affected by pond and ditch cleanings.

5. There were no acres backfilled and graded in 2023 in accordance with Rule 2.04.13(1)(c). An additional 1.58 acres have been re-disturbed in previous years for the sediment drying area (see item #4 above).
 - Please subtract these additional acres from the backfill and graded cumulative total on the ARR.
6. There were no acres topsoiled in 2023 in accordance with Rule 2.04.13(1)(d). An additional 1.58 acres have been re-disturbed in previous years for the sediment drying area (see item #4 above).
 - Please subtract these additional acres from the topsoil cumulative total on the ARR.
7. The incorrect Cumulative Total acres from last year's ARR are reported in the Acres Seeded table on the last page of the report for the 10 Years and Greater and Totals portions of the table.
 - Please correct these acres to reflect the 124.88 and 125.08 (respectively) reported on the 2022 annual reclamation report.
8. There were no acres seeded in 2023 in accordance with Rule 2.04.13(1)(e). An additional 1.58 acres have been re-disturbed in previous years for the sediment drying area (see item #4 above).
 - Please subtract these additional acres from the seeded (10 years or greater) cumulative total on the ARR.
9. An additional 1.58 acres have been re-disturbed in previous years for the sediment drying area (see item #4 above).
 - Please subtract these additional acres from the Phase I Release cumulative total in the Bond Release total on the ARR.
10. In the Division's Adequacy Review of the 2021 ARR, the Division instructed NECC to include the 27.2 Phase III bond released acres into the total permanent facilities. In the 2022 ARR, these acres were added in on the Permanent Facilities portion of the Acreage in Long-term Facilities table on the last page, but not in the Permanent Facilities table on the second page.
 - Please include Phase III Bond released acres into the Permanent Facilities table on the second page of the report, bringing the total for that table to 40.19 acres.

11. In NECC's 2019 ARR submission, NECC stated that after re-measuring the disturbed acres on the map, an additional 4.01 acres were determined to be disturbed than what had previously been reported. These acres were added to the previously reported 119.77 Surface Disturbance acres. However, it appears that they were incorrectly added, because the total should have been 123.78 acres, but was increased to the currently reported 123.38 acres.
- Please add an additional 0.4 acres to the Surface Disturbance table on the second page of the report, and in the following categories on the tables in the last page of the report:
 - i. Acres Disturbed
 - ii. Acres Backfilled and Graded
 - iii. Acres Topsoiled
 - iv. Acres Seeded: 10 Years and Greater
12. It appears that the 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).
- However, please clarify to the Division that the 'Reclamation Year' categories on the ARR map are synonymous with the year that the areas in each category were planted.
13. No additional monitoring information for the ARR is required by the approved permit in accordance with Rule 2.04.13(2).
14. The surface disturbance polygon around Pond 008 goes outside the permit boundary. Please provide an explanation for this and/or submit a Technical Revision for an incidental permit boundary change to encompass this disturbance.

The Division has no further comments about this report at this time. If you have any questions or need additional information, please contact me at amber.gibson@state.co.us or (720) 836-0967.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amber Gibson". The signature is fluid and cursive, with the first name "Amber" and last name "Gibson" clearly distinguishable.

Amber M. Gibson,
Environmental Protection Specialist

Ec: John Terry; NECC, jterry@newelkcoal.com
Jared Ebert; DRMS, jared.ebert@state.co.us

Enclosures:

- *2023 ARR Table – Division's Edits*
- *DRMS March 15, 2022 Inspection Report*

Colorado Division of Reclamation, Mining and Safety

Annual Reclamation Report for Calendar Year – _____

Mine Name	Permit Number	Permittee
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Address

This report, required by Rule 2.04.13, is due by February 15 of each year, or other date, as agreed upon by the Division. It should include text, discussion, and maps, at a minimum, in addition to any other reclamation monitoring data as required by the approved permit. The location of the acreage reported under each land status category and year of seeding (if applicable) should be clearly identified on a map included with the report.

Land Category	Last Year's Cumulative Total (from last year's ARR)	This Calendar Year			Cumulative Total
		Acres Added (+)	Acres Subtracted (-)		
Acreage in Active Mining Areas ¹				=	

Land Category	Last Year's Cumulative Total (from last year's ARR)	This Calendar Year			Cumulative Total
		Acres Added (+)	Acres Subtracted (-)		
Acres Disturbed ²				=	
Acres Backfilled and Graded				=	
Acres Topsoiled				=	

Acreage in Long-term Facilities ³	Last Year's Cumulative Total (from last year's ARR)	This Calendar Year			Cumulative Total
		Acres Added (+)	Acres Subtracted (-)		
Non-Permanent Facilities				=	
Permanent Facilities (permitted)				=	
Totals				=	

Acres Seeded (permanent)	Last Year's Cumulative Total (from last year's ARR)	This Calendar Year			Cumulative Total
		Acres Added (+)	Acres Subtracted (-)		
9 Years and Less				=	
10 Years and Greater				=	
Totals				=	

Bond Release	Last Year's Cumulative Total (from last year's ARR)	This Calendar Year			Cumulative Total
		Acres Added (+)	Acres Subtracted (-)		
Phase I Released				=	
Phase II Released				=	
Phase III Released				=	

¹Includes pits, topsoil stripped areas in advance of pits, and spoil not backfilled and graded

²Surface Mine Acres Disturbed = B&G + Long-Term Facilities + Active Mining Areas; Underground Mine Acres Disturbed = B&G + Long-Term Facilities; Separately-permitted Loadouts = B&G + Long-Term Facilities

³Includes haul, access and light-use roads, temporary dams and impoundments; permanent dams and impoundments; diversion and collector ditches, water and air monitoring sites; topsoil stockpiles; overburden stockpiles; repair, storage and construction areas; office area, repair shops, and parking; coal stockpiles, loading, and processing areas; railroads; coal conveyors; refuse piles and coal mine waste impoundments; head-of-hollow fills; valley fills; ventilation shafts and entryways; and non-coal waste disposal area (garbage dumps and coal combustion by-products disposal areas).




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

PERMIT INFORMATION

Permit Number: C-1996-084 Mine Name: Lorencito Canyon Mine Operator: New Elk Coal Company, LLC Operator Address: Mr. Mark Gray 12250 Highway 12 Weston, CO 81091	County: Las Animas Operation Type: Surface Permit Status: Permanent Cessation Ownership: Private
	Operator Representative Present: Vince Massarotti
Operator Representative Signature: (Field Issuance Only) 	

INSPECTION INFORMATION

Inspection Start Date: March 15, 2022 Inspection Start Time: 12:30 Inspection End Date: March 22, 2022 Inspection End Time: 14:30		Inspection Type: Coal Partial Inspection Inspection Reason: Normal I&E Program Weather: Clear	
Joint Inspection Agency: None		Joint Inspection Contacts: None	
Post Inspection Agency: None		Post Inspection Contacts: None	
Inspector(s): Jared Ebert	Inspector's Signature: 		Signature Date: March 17, 2022

Inspection Topic Summary

NOTE: Y=Inspected N=Not Inspected R=Comments Noted V=Violation Issued NA=Not Applicable

N - Air Resource Protection

N - Roads

N - Availability of Records

N - Reclamation Success

R - Backfill & Grading

R - Revegetation

N - Excess Spoil and Dev. Waste

N - Subsidence

N - Explosives

N - Slides and Other Damage

N - Fish & Wildlife

N - Support Facilities On-site

R - Hydrologic Balance

N - Signs and Markers

N - Gen. Compliance With Mine Plan

N - Support Facilities Not On-site

N - Other

N - Special Categories Of Mining

N - Processing Waste

N - Topsoil

COMMENTS

This was a partial inspection of the Lorencito Canyon Mine, Colorado Division of Reclamation, Mining and Safety (DRMS or Division) permit number C-1996-084, operated by New Elk Coal Company, LLC (NECC). I, Jared Ebert with DRMS conducted the inspection. Mr. Vince Massarotti accompanied me during the inspection.

Maintenance items are in bold text below.

There are no pending permitting actions. However it was discussed that the permit for the site will expire on November 7, 2022. In order to ensure that NECC may continue operating the mine beyond that date, a complete application for renewal of the permit must be received at least 180 days prior to its expiration (Rule 2.08.5(3)(f)). Therefore, a complete application would be required on or before May 11, 2022. NECC is encouraged to file this application before this date.

BACKFILL and GRADING – Rule 4.14

Contemporaneous Reclamation 4.14.1; Approximate Original Contour 4.14.2; Highwall Elimination 4.14.1(2)(f); Steep Slopes 4.14.2, 4.27; Handling of Acid and Toxic Materials 4.14.3; Stabilization of Rills and Gullies 4.14.6:

The reclaimed area around the Knob was observed. The areas above ditches D2, D14, D11 and D5 have sparse vegetation established in some areas and these areas have a number of rills and gullies that have developed. The area reported to have been reclaimed in 2006 and 2005 above the area where pond and ditch cleanings are being stored was observed as well. This area has sparse vegetation established and the area has a significant number of rills and gullies that have formed. NECC has placed straw waddles on this slope and have placed brush in most of the rills. It appears elk and wildlife have heavily used this area and have damaged the waddles. The brush does seem to help prevent the rills from growing, and the brush seems to catch and hold soil and growth medium. These areas were discussed with Vince Massarotti and NECC is exploring options in addressing similar rills and gullies that have formed in the reclaimed area above Pond 006a. **Given the age of the reclamation of these areas in question, NECC will need to evaluate these areas around the Knob, above the pond cleanings and above Pond 006a to determine the best methods to fill, regraded, or otherwise stabilized these areas from erosion.**

Number of Partial Inspection this Fiscal Year: 6

Number of Complete Inspections this Fiscal Year: 3

Also, it is likely these areas will need to be reseeded in places given the sparse nature of the vegetation that has established.



Figure 1. Ditch D2



Figure 2. Rill above ditch D2

Number of Partial Inspection this Fiscal Year: 6

Number of Complete Inspections this Fiscal Year: 3



Figure 3. Sediment deposited below rills formed above ditch D2



Figure 4. Rill above ditch D11.

Number of Partial Inspection this Fiscal Year: 6

Number of Complete Inspections this Fiscal Year: 3



Figure 5. Rills on the Knob



Figure 6. Area above pond/ditch cleanings where rills and gullies have formed.

HYDROLOGIC BALANCE - Rule 4.05

Drainage Control 4.05.1, 4.05.2, 4.05.3; Siltation Structures 4.05.5, 4.05.6; Discharge Structures 4.05.7, 4.05.10; Diversions 4.05.4; Effluent Limits 4.05.2; Ground Water Monitoring 4.05.13; Surface Water Monitoring 4.05.13; Drainage – Acid and Toxic Materials 4.05.8; Impoundments 4.05.6, 4.05.9; Stream Buffer Zones 4.05.18:

The water collection drainages or ditches around the area known as “The Knob” was inspected. This included ditches D3, D2, D11, D14, and D5. The affected land around the Knob was reclaimed in 2006 and 2004 according to the 2020 annual reclamation report map submitted by NECC. Overall, these ditches were maintained and appeared functional. There is a steep stretch of ditch D11 as it bends and drains due north into ditch D14. The center of the ditch is rock lined but the side of the channel has sparse vegetation established and is partially eroding. **NECC should evaluate this ditch and stabilize the side slopes.**

Number of Partial Inspection this Fiscal Year: 6

Number of Complete Inspections this Fiscal Year: 3

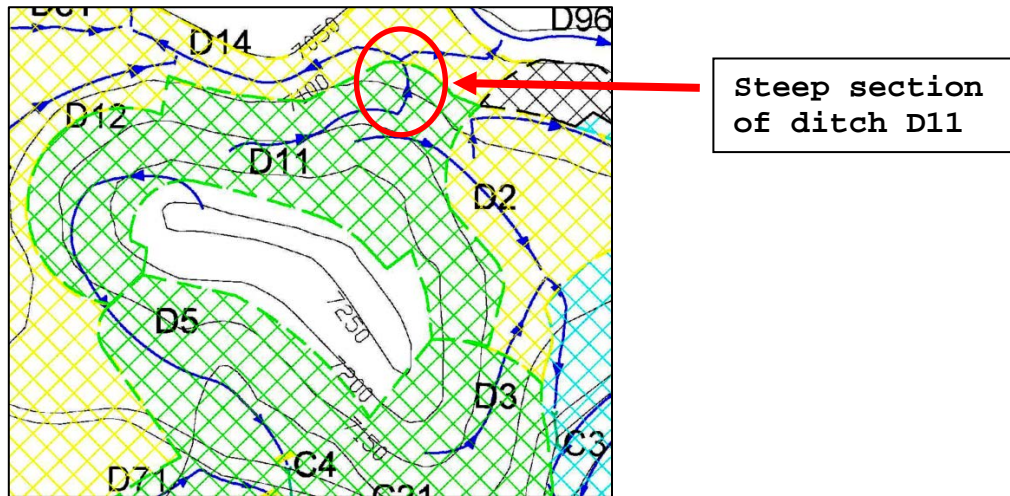


Figure 7. The Knob



Figure 8. Steep section of D11

RECLAMATION SUCCESS:

NECC has placed pond and ditch cleanings in an area west of ditch D13 in an area reported to have been reclaimed in 2004 and 2005. This area was measured using ArcCollector and found to be about 1.68 acres in size. This area has been re-affected by the operation at the site and will need to be reclaimed and revegetated and can no longer be considered in a state of reclamation.

Number of Partial Inspection this Fiscal Year: 6

Number of Complete Inspections this Fiscal Year: 3

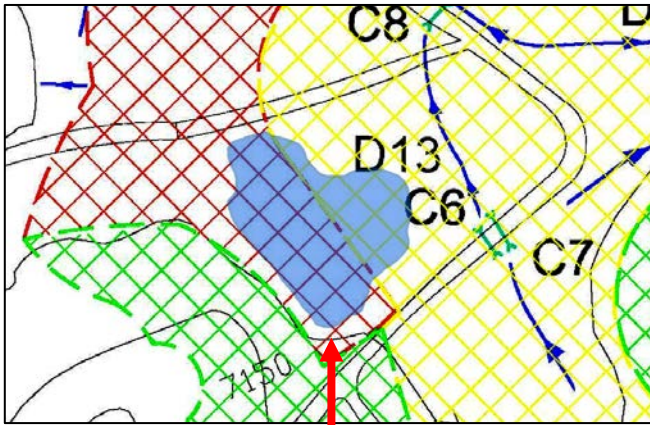


Figure 9. Area re-affected by pond and ditch cleanings.

REVEGETATION – Rule 4.15

Vegetative Cover; Timing:

The areas to be repaired for rills and gullies where sparse vegetation has established discussed above will likely need to be revegetated.

DOCUMENTS RECEIVED – None

OTHER (SPECIFY) - None

ENFORCEMENT ACTIONS/COMPLIANCE

No enforcement actions were initiated as a result of this inspection, nor are any pending.

Number of Partial Inspection this Fiscal Year: 6

Number of Complete Inspections this Fiscal Year: 3