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

PERMIT INFORMATION

Permit Number: C-1981-012 **Mine Name:** New Elk Mine **Operator:** New Elk Coal Company, LLC **Operator Address:** Mr. John Terry 12250 Highway 12 Weston, CO 81091	**County:** Las Animas **Operation Type:** Underground **Permit Status:** Active **Ownership:** Private
	Operator Representative Present: John Terry
Operator Representative Signature: (Field Issuance Only)	

INSPECTION INFORMATION

Inspection Start Date: May 22, 2024 **Inspection Start Time:** 11:45 **Inspection End Date:** May 23, 2024 **Inspection End Time:** 12:17	**Inspection Type:** Coal Partial Inspection **Inspection Reason:** Normal I&E Program **Weather:** Clear
Joint Inspection Agency: None	**Joint Inspection Contacts:**
Post Inspection Agency: None	**Post Inspection Contacts:**
Inspector(s): Amber M. Gibson	**Inspector's Signature:** **Signature Date:** May 29, 2024

1313 Sherman St. Room 215
Denver, CO 80203
(303) 866-3567

Inspection Topic Summary
NOTE: **Y**=Inspected **N**=Not Inspected **R**=Comments Noted **V**=Violation Issued **NA**=Not Applicable

N - Air Resource Protection
N - Availability of Records
N - Backfill & Grading
N - Excess Spoil and Dev. Waste
N - Explosives
N - Fish & Wildlife
Y - Hydrologic Balance
N - Gen. Compliance With Mine Plan
N - Other
N - Processing Waste
N - Roads
N - Reclamation Success
N - Revegetation
N - Subsidence
N - Slides and Other Damage
N - Support Facilities On-site
Y - Signs and Markers
N - Support Facilities Not On-site
N - Special Categories Of Mining
Y - Topsoil

COMMENTS

This was a partial inspection of the New Elk Mine, Colorado Division of Reclamation, Mining and Safety ("DRMS" or "Division") permit number C-1981-012, operated by New Elk Coal Company, LLC. ("NECC"). Amber Gibson, with the Division, conducted the inspection. John Terry, with NECC, accompanied me during the inspection. The weather was warm and the skies were clear.

Maintenance items are listed below in bold text.

The Division sent an adequacy review to the Operator for their Renewal No. 8 (RN8) application on October 30, 2023. The RN8 decision date is set for May 31, 2024.

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:

- During the previous inspection, Containment #5 was observed. At that time, the Division informed the Operator that Containment #5 would require some maintenance, such as cleaning some of the sediment accumulation, before operations begin. The Operator stated during the April 2024 inspection that Containment Area #5 was expected to be cleaned within the following week. During the May 2024

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inspection, the Division observed that Containment Area #5 had been cleaned and appears to have an increased holding capacity as a result. Containment #5 held water at the time of the inspection (Photo 1).

Photo 1: Containment #5. Arrow points to area where an excavator was recently used to remove sediment from the pond.

- Pond 007A contained water at the time of the inspection, and was not discharging. The emergency spillway was free of obstructions and the embankment appeared to be stable. The Operator stated that the site had recently experienced a rainstorm, and that the water levels in Pond 007A had risen relatively high, but no discharge had occurred. Pond 007A was being pumped to Pond 006A at the time of the inspection.
- **The silt fences along the SAE near Pond 007A that were damaged, mentioned in the January-April 2024 reports, still need to be repaired.** The majority of the silt fences along the road in the SAE do appear to be functioning appropriately, and seem to have contained the sediment and run-off generated by the recent rainstorm (Photo 2). Also, the silt fences along the eastern side of the SAE at the south side of the permit **still need to be repaired.** During the April inspection, the Operator located some silt fencing that they will use to make these repairs. The Operator had not made the repairs by the time of the May inspection, but stated that they will likely do the repairs in the following week.

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Photo 2: Some of the silt fences at the SAE south of Pond 007A.

- Pond 006A contained water during the inspection. Water from Pond 007A was being pumped into Pond 006A (Photo 3). The banks around Pond 006A were damp from recent rain, but appeared to be stable.

Photo 3: Pond 006a

- The berm running under the refuse conveyor belt, south of the river, appears to be stable and functional (Photo 4).

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Photo 4: Berm under the refuse conveyor belt.

- Ditch D32 and Culvert C64 were observed during the inspection. They appear be functional and no significant sediment accumulation due to recent rainfall was observed. Culvert C64 was clean at the time of the inspection (Photo 5).

Photo 5: Looking east from Ditch D32 at culvert C64.

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- The sediment containment sump at the east side of DWDA #2 contained water. The check dams appeared functional and the berm along the south side of the pile, north of the river, appeared stable (Photo 6). Culvert C13 also appeared clear and functional at the time of the inspection.

Photo 6: Water held within the sump area to the east of DWDA #2. Culvert C13 pictured in the left side of the photo.

- Pond 004A contained some water, primarily from the water that had been pumped from Pond 007A and was being pumped from Pond 006A (Photo 7). Ditch D2 is used to pump water from Pond 006A that had been pumped from Ponds 007A and 08. Ditch D2 contained water that had recently been pumped from Pond 006A. Pond 004A was not discharging. Some mullein was observed along the south bank of Pond 004A. The Operator stated that mullein had been sprayed around the site, but this area will either be sprayed if it hasn't or a shovel will be used to manually remove the weed.

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Photo 7: Pond 004A

- Pond 08 contained water at the time of the inspection, but was not discharging. The banks appeared stable and the emergency and principle spillways were unobstructed. The Operator stated that Pond 08 would be pumped to Pond 006A within the next few days following the inspection.
- During the previous inspection, Culvert C17A contained an accumulation of sediment. The Operator has since cleaned the culvert and removed the sediment (Photo 8). Culvert C17A appears to be able to function properly.

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Photo 8: East side of C17A. The Division observed that both sides had been cleaned out.

- The S.A.E. located east of DWDA#2 had evidence of recently holding water, but the Division did not observe signs that the water had left the sump and out the rock lined channel on the south-west side of the area.
- During the inspection, a subset of ditches were observed, measured, and photographed. *Table 1 continued* (enclosed with this document) corresponds with the measurements taken, and the observations made, of the ditches reached during the inspection. In combination with the ditches measured during the Division's April inspection, all ditches seen on Maps 13 and 14 have been measured, besides those at the RDA. The ditches at the RDA will be measured by the Division over the course of the inspection year. No maintenance issues pertaining to the ditches were identified at this time. However, the Division will conduct further investigations once the ditch data has been completely collected which may potentially determine that revisions to the PAP are required.

SIGNS AND MARKERS – Rule 4.02:

- A mine sign was posted at the main entrance in compliance with Rule 4.02 (Photo 9).

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Photo 9: Mine sign posted at the entrance to the site.

TOPSOIL – Rule 4.06
Removal 4.06.2; Substitute Materials 4.06.4(4); Storage and Protection 4.06.3; Redistribution 4.06.4:

- Additional material had been added to the new topsoil pile, located northwest of the Topsoil Pile #1. The Operator has domed the pile in an attempt to aid in stabilization while more material may be added.

Enclosures:

1. ***Table 1 (continued): Division's Ditch Observations and Measurements Collected during the May 22-23, 2024 Partial Inspection.***
2. ***Figure 1: Approximate Ditch Measurement Locations During the May 22-23, 2024 Partial Inspection, Overlain on Map 13-East Portal Sediment and Surface Water Control Plan.***
   Figure 2: Approximate Ditch Measurement Locations During the May 22-23, 2024 Partial Inspection, Overlain on Map 14-West Portal Sediment and Surface Water Control Plan.
3. ***(Annotated table from the PAP) Table 20: Ditch Data.***

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DOCUMENTS RECEIVED

OTHER (SPECIFY)

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ENFORCEMENT ACTIONS/COMPLIANCE

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

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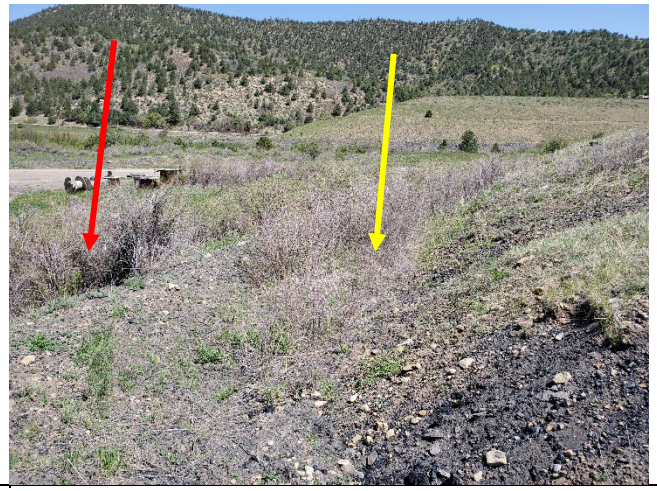
Table 1 (continued): Division's Ditch Observations and Measurements Collected during the May 22-23, 2024 Partial Inspection.

The following field measurements and shape observations are collected and compared to the Operator's information in *Table 20: Ditch Data* from the PAP.					
Ditch No.	**Depth (ft) x Top Width (ft) from Table 20 in PAP**	**Shape, Table 20**	**Depth (ft) x Top Width (ft) from field measurement**	**Shape, field obsv.**	**Photo/Comments**
5	0.88 x 4.41	V	0.75 x 4	Trap.	
6	0.96 x 3.84	V	3.5 x 10.83	Trap.	(Not pictured)
7	2 x 8	Trap.	6 x 27	Trap.	See red arrow in image for the *no name ditch.

*No Name 1	N/A	N/A	2 x 14.5	Trap.		The red arrow points to D7, and the yellow arrow points to the unnamed/unnumbered ditch (see Figure 1).
9	2.5 x 13.8	V	3.33 x 14.5	V, Trap. in some areas		

15	1.23 x 6.16	V	10 x 3.33	Trap.		East side of D32 (D32 measured during the April inspection)
25A	None provided in Table 20.	None provided in Table 20.	N/A	N/A		D25A doesn't exist as depicted on Map 13. Pictured is the south side of the road where D25A is depicted on Map 13. The road slopes to the north, and water instead runs along the north side (see image below).

						North side of road where water runs along the south side of the berm.
27	0.8 x 3.3	V	1.17 x 10.83	V		

28	1.75 x 10	Trap.	3.33 x 10	V		
29	2.5 x 13.8	V	0.17 x 11	Trap.	Not pictured	
*No Name 2	N/A	N/A	1.5 x 20.5	Trap.		*Section of ditch not numbered on Map 14 (see Figure 2). Appears to be part of a clean water diversion ditch. Channel is rock lined.

30	N/A	N/A	1.83 x 9.5	V		*D30 not included in Table 20, but is seen on Map 14 (see Figure 2).*
30E	0.9 x 7	Trap.	7 x 24	Trap.	Not pictured	
30W	0.5 x 5.1	Trap.	0.25 x 8.75	Trap.		

31	3.3 x 19.8	Trap.	5.83 x 30	Trap.		
34A	None provided in Table 20.	None provided in Table 20.	1.33 x 6.75	Trap.		D34A is shown as being the ditch on both the north and south side of the road, but this measurement was taken on the north side, since D34A on the south side is also abled as D34B further to the east on Map 14.

34AA	0.81 x 4.04	V	1.08 x 8.25	V	
34B	None provided in Table 20.	None provided in Table 20.	0.92 x 6.17	Trap.	Not pictured
34BB	0.72 x 3.61	V	0.25 x 7.25	Trap.	

34BBB	0.72 x 3.62	V	4.33 x 9.67	V		

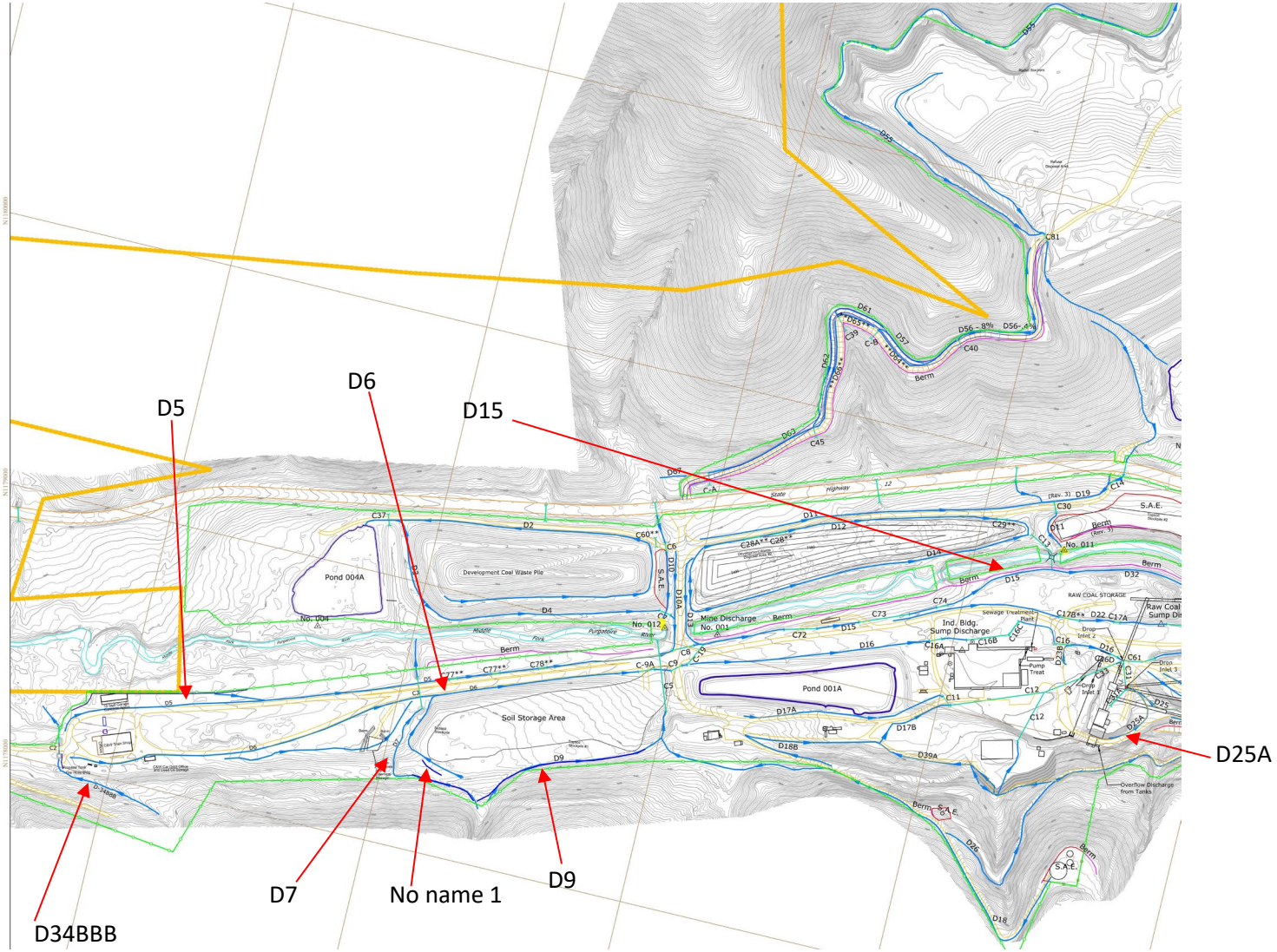


Figure 1: Figure indicating the approximate locations where photos and measurements were taken for each ditch in Table 1 (continued), overlain onto the *Map 13: East Portal Sediment and Surface Water Control Plan* map from the PAP. *There is some error in the photo locations in relation to the locations indicated on the map.

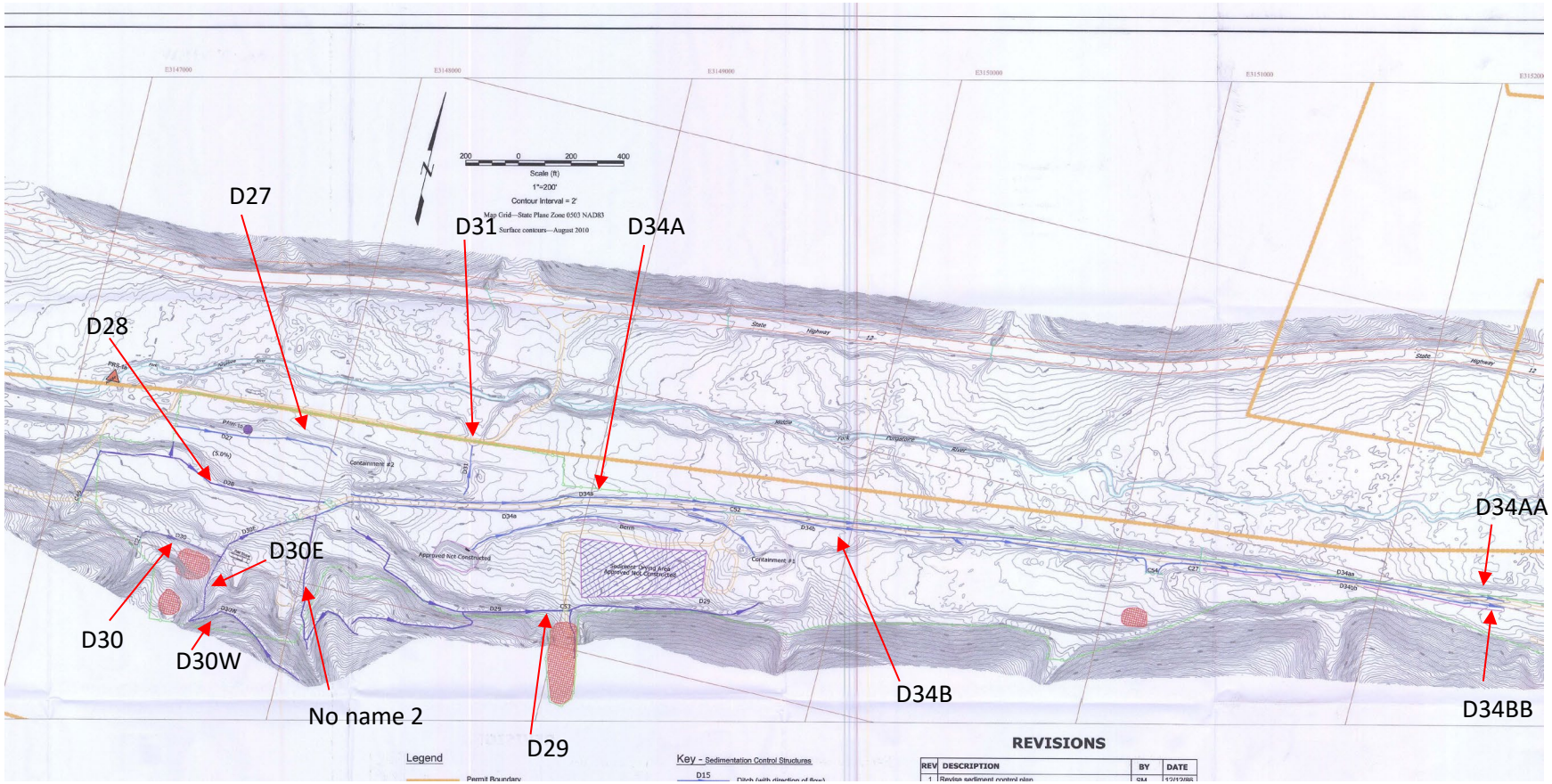


Figure 2: Figure indicating the approximate locations where photos and measurements were taken for each ditch in Table 1 (continued), overlain onto the *Map 14: WEstPortal Sediment and Surface Water Control Plan* map from the PAP. *There is some error in the photo locations in relation to the locations indicated on the map.

Below is a copy of Table 20 from the PAP, with annotations from the Division for use as a reference in the April 10, 2024 Inspection Report. The pink and blue highlighted ditches are labeled on Maps 13 and 14 in the PAP, with the blue names being specifically located in or around the RDA.

Table 20 Ditch Data

Ditch Number	10-Year 24-Hour Peak Discharge	Contributing Drainage Area (Acres)	Disturbed (D) or Undisturbed (UD)	CN	Depth (FT)	Top Width (FT)	Shape	Ditch Slope (%)	Rip- Rap (In.)
1	10.5	3.9	D	88	1.5	7.5	V	1.5	
2	13.38*	4.4	D	85	0.87	10.35	Trap.	5.0	
3	3.65*	1.4	D	85	1.0	7.51	V	4.0	
4	1.83*	0.76	D	82	0.83	4.2	V	1.8	
5	1.75	1.95	D	79	0.88	4.41	V	1.0	
6	3.98	2.2	D	89	0.96	3.84	V	3.0	
7	40.6	18.9	UD	80	2.0	8.0	Trap.	3.2	
8	3.12	3.22	D	89	0.82	4.08	V	6.0	
9	34.8	15.9	UD	80	2.5	13.8	V	5.9	
10	40.46*	71.86	UD	64	1.12	6.7	V	4.6	
D10A	0.19	0.14	D	82	0.49	2.43	V	5.0	
11	44.4	23.5	UD	80	2.0	8.0	Trap.	2.9	
12	8.75*	2.83	D	94	0.95	4.3	Trap.	1.0	
13	0.59	0.43	D	82	0.59	2.93	V	5.0	
14	6.83*	2.24	D	94	0.86	4.12	Trap.	1.0	
15	8.75	6.95	D	86	1.23	6.16	V	2.0	
16	11.35	13.44	D	80	1.34	6.69	V	1.9	
17A	1.63	1.75	D	89	0.70	3.52	V	6.0	
17AA	1.00	1.07	D	89	0.65	3.24	V	5.0	
17B	2.92	3.01	D	89	0.92	4.59	V	2.0	
17C	5.71	6.31	D	89	1.09	5.47	V	2.0	
17D	0.26	0.30	D	87	0.51	2.55	V	5.0	
18	140.0	92.5	UD	80	2.5	13.8	V	6.2	
19	4.3	0.9	D	87	1.0	3.85	V	3.4	
20	7.37	6.1	D	80	1.10	5.48	V	3.3	
21	9.1	0.7	D	89	1.5	7.5	V	1.8	
22	21.51	14.71	D	82	1.79	8.94	V	1.0	
23	47.2	34.0	D	89	2.5	13.8	V	2.0	
23A	0.95	0.61	D	85	0.71	3.53	V	2.0	
23AA	1.48	0.95	D	85	0.78	3.9	V	2.0	
23B	0.09	0.14	D	85	0.48	2.38	V	1.5	
24	15.8	6.90	D	85	1.0	7.0	Trap.	1.75	
24A	0.28	0.18	D	85	0.56	2.78	V	2.0	
24B	1.01	0.65	D	85	0.72	3.58	V	2.0	
24BB	0.08	0.05	D	85	0.48	2.38	V	2.0	
24C	4.81	0.09	D	94	1.1	4.3	V	2.8	
24C1	0.43	0.2	D	94	1.0	4.04	V	2.2	
24C2	2.23	0.89	D	93	1.0	4.1	V	10.0	

Ditch Number	10-Year 24-Hour Peak Discharge	Contributing Drainage Area (Acres)	Disturbed (D) or Undisturbed (UD)	CN	Depth (FT)	Top Width (FT)	Shape	Ditch Slope (%)	Rip- Rap (In.)
24C3	0.71	0.33	D	85	1.0	4.1	V	1.0	
24C4	0.86	0.4	D	85	1.0	4.0	V	22.0	Pit Run
24C5	3.06	0.18	D	89	1.0	4.0	V	2.0	
24C6	2.67	0.21	D	93	1.0	4.0	V	12	
24D	2.21	1.42	D	85	0.86	4.28	V	2.0	
24E	0.26	0.17	D	85	0.55	2.74	V	2.0	
25	5.3	1.5	D	89	1.5	7.5	V	4.0	
25A	5.3	1.5	D	89			V	5.2	
26-Conc	32.38	52.7	UD	71	1.0	3	Rect.	5.0	
26	32.38	52.7	UD	71	1.44	10.61	V	5.0	
27	1.75	1.23	D	81	0.8	3.3	V	2.0	Pit Run
28	18.27	0.45	D	87	1.75	10	Trap.	3.0	
29	70.0	67.2	UD	72	2.5	13.8	V	13.0	Pit Run
30-E	7.22*	4.01	D	72	0.9	7	Trap.	1.7	
30-W	1.15*	0.4	D	89	0.5	5.1	Trap.	2.7	
31 Traps.	157.2		UD		3.3	19.8	Trap.	1.0	
31 Ariz.	157.2		UD		1.3	100	V	2.0	
32		0.07			2.0	8	Trap.		
32A	0.10	0.21	D	82	0.48	2.38	V	2.0	
32B	0.34		D	88	0.58	2.88	V	2.0	
33		1.16			1.0	5.0	V		
34A		1.01						2.0	
34AA	2.07		D	89	0.81	4.04	V	2.0	
34AAA	1.8	0.83	D	89	0.78	3.91	V	2.0	
34B		0.72						2.0	
34BB	1.27	5.41	D	89	0.72	3.61	V	2.0	
34BBB	1.29	5.41	D	89	0.72	3.62	V	2.0	
39A	5.73		UD	71	1.0	2.5	Trap.	3.25	
39AA	5.73		UD	71	1.0	2.5	Trap.	3.25	
40	8.04*	0.52	D	73	1.2	6.5	Trap.	18.0	15
41	12.21*	0.44	D	89	1.3	6.8	Trap.	12.0	15
42	16.07*	1.34	D	89	1.10	7.4	Trap.	2.0	
43	2.44*	0.45	D	89	0.50	4.6	Trap.	6.2	
44(22%)	4.43*	0.25	D	87	1.1	6.3	Trap.	22.0	12
44(4%)	5.20*	0.27	D	89	0.7	5.1	Trap.	4.0	
45	7.06*	0.65	D	89	0.76	6.8	Trap.	3.2	
46(32%)	23.21*	0.03	D	87	1.20	7.7	Trap.	32.0	24
46(5%)	14.32	0.01	D	87	2.12	8.49	V	5.0	Pit Run
47	2.91*	1.00	D	90	0.60	14.25	V	2.0	
48	1.31*	0.45	D	90	0.54	12.35	V	2.0	
49(2%)	53.24*	47.35	UD	71	2.60	10.8	Trap.	2.0	Pit Run
49(8%)	65.04*	9.79	UD	71	2.20	10.2	Trap.	8.0	12

Ditch Number	10-Year 24-Hour Peak Discharge	Contributing Drainage Area (Acres)	Disturbed (D) or Undisturbed (UD)	CN	Depth (FT)	Top Width (FT)	Shape	Ditch Slope (%)	Rip- Rap (In.)
49(9%)	65.57*	0.07	UD	87	2.10	10.2	Trap.	9.0	15
49(1.6%)	65.53*	1.34	UD	73	2.80	11.7	Trap.	1.6	Pit Run
49(64%)	65.54*	0.02	UD	87	1.50	7.52	Trap.	64.0	12" Grouted Rip Rap
49(30%)	65.59*	0.00	UD	87	1.63	7.89	Trap.	30.0	12" Grouted Rip Rap
49(7%)	65.67*	0.16	UD	87	2.10	8.6	Trap.	12.0	12
50	0.83	0.47	D	87	0.70	2.79	V	2.0	
51	0.64	0.36	D	87	0.64	2.57	V	2.5	
52	1.01	0.57	D	87	0.58	2.33	V	17.0	
53	15.85	0.39	D	87	1.43	5.70	V	6.0	Pit Run
54	16.33	0.27	D	87	2.28	9.14	V	3.0	Pit Run
55	13.90*	9.10	UD	74	1.60	4.97	V	2.80	
55	13.90*	9.10	UD	74	1.31	4.03	V	15.30	
56(.4%)	3.51	3.10	UD	74	1.90	2.5	V	0.4	
56(8%)	3.51	3.10	UD	74	2.10	2.67	V	8.0	3
57	0.62	0.70	UD	74	0.55	2.77	V	7.0	
58									
59									
60									
61	7.57	7.30	UD	74	1.81	9	V	6.0	3
62	2.28	2.20	UD	74	1.80	2.4	V	13.0	3
63	4.16	3.80	D	87	2.10	2.7	V	10.0	3
64	1.24	0.70	D	87	0.90	1.2	V	10.0	
65	0.25	0.14	D	87	0.61	0.80	V	10.0	
66	0.71	0.40	D	87	0.78	1.01	V	10.0	
67	0.75	0.64	D	87	0.79	1.02	V	10.0	
68	1.37	0.20	D	87	0.69	2.77	V	5.6	
69	17.78	0.05	D	87	2.17	8.66	V	7.0	6
* 100-year 24-hour storm									
** Depth includes freeboard									