



STATE OF
COLORADO

Gibson - DNR, Amber <amber.gibson@state.co.us>

New Elk Mine, C-1981-012, Inspection Report

1 message

Gibson - DNR, Amber <amber.gibson@state.co.us>
To: JimB@newelkcoal.com

Thu, Jun 20, 2024 at 1:35 PM

Good afternoon,

Attached for your records is a copy of the Division's inspection report for the New Elk Mine for the complete inspection conducted on June 12th and 13th, 2024.

Thank you,

Amber M. Gibson
Environmental Protection Specialist I



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

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New Elk_C1981012_cmplt_AMG_with Violation CV2024002.pdf
6808K



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: June 12, 2024 Inspection Start Time: 12:05 Inspection End Date: June 13, 2024 Inspection End Time: 10:40	Inspection Type: Coal Complete 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: June 20, 2024

Inspection Topic Summary

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

N - Air Resource Protection

V - Availability of Records

N - Backfill & Grading

Y - Excess Spoil and Dev. Waste

N - Explosives

N - Fish & Wildlife

Y - Hydrologic Balance

Y - Gen. Compliance With Mine Plan

N - Other

Y - Processing Waste

N - Roads

Y - Reclamation Success

N - Revegetation

N - Subsidence

Y - Slides and Other Damage

N - Support Facilities On-site

Y - Signs and Markers

Y - Support Facilities Not On-site

N - Special Categories Of Mining

Y - Topsoil

COMMENTS

This was a complete 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 on June 12-13, 2024. Later on June 12, 2024, I was unaccompanied when I accessed the former Golden Eagle portion of the site, and the Jansen Loadout, with the Operator's consent. This inspection was conducted over the course of two days. On the first day, the weather was hot and the sky was clear. On the second day, the weather was hot and the sky was partly cloudy.

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 June 28, 2024.

AVAILABILITY OF RECORDS – Rule 5.02.4(1):

- The mine records were checked in the mine office. The records check list is available at the end of this report.
- During the records review, the Division found that the certificate certifying NECC has a public liability insurance policy for the operation had expired as of April 2024. NECC did not have or provide satisfactory evidence they had satisfied applicable State or Federal self-insurance requirements. This has been cited as a violation (see the Enforcement page of this document below) for failure to maintain a certificate certifying that NECC has a public liability insurance policy in full force and effect during the term of the permit or any renewal, including the term of all reclamation operations; or, in lieu of a certificate for public liability insurance policy, satisfactory evidence NECC has satisfied applicable State or Federal self-insurance requirements pursuant to C.R.S 34-33-110(5) and Rule 2.03.9. **The Operator shall** submit to the Division for inclusion in the permit application, a certificate certifying that the

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applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation. Or, in lieu of a certificate for public liability insurance policy, satisfactory evidence that NECC has satisfied applicable State or Federal self-insurance requirements in accordance with Rule 2.03.9. A Notice of Violation will be sent via certified mail to the Operator under separate correspondence.

EXCESS SPOIL and DEVELOPMENT WASTE – Rule 4.09

Placement; Drainage Control; Surface Stabilization:

- The Division and the Operator walked along the berms around the south and west sides of DWDA #1 and #2 (Photos 1 and 2). The berms appear to be stable and are functioning at this time.



Photo 1: Looking east along D4, south of DWDA #1.



Photo 2: Looking east along D14, south of DWDA #2.

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- The sediment basin at the east end of DWDA #2 held water at the time of the inspection. The berm around the basin appeared to be stable and has recently been improved. The check dam in the north-east corner of ditch D14 (around the DWDA #2) is beginning to fill with sediment (Photo 3). The Operator shall monitor the check dams and clean them of sediment within the next few months. The check dams still appear to be functional at this time.



Photo 3: First check dam, located on the north-east side of DWDA #2.

- Ditch D14 leading into the basin from the south side is clear.
- Culvert C13 was free of obstructions.
- Material from pond and ditch cleanings has not been placed in the east side of DWDA #2 since the cessation of pond pumping for the 2023 season. The Operator has been pumping the ponds this season, but no pond cleanings have occurred at this time.

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:

- Containment area #1 was dry (Photo 4). No signs of erosion were observed.

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Photo 4: Containment 1

- Containment area #2 was dry (Photo 5). No signs of erosion were observed.



Photo 5: Containment 2

- Containment area #3 was dry. No signs of erosion were observed.
- Containment area #4 was dry. No signs of erosion were observed.
- Containment area #5 contains water and is below capacity (Photo 6).

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Photo 6: Containment 5 (north of Highway 12)

- Stream buffer zones were observed throughout the site.
- Pond 001A held water at the time of the inspection, and was not discharging (Photo 7).



Photo 7: Pond 001A

- Pond 004A contained water, primarily from water pumped from Ponds 007a, 006a, and 08 (Photo 8). Pond 004A was not discharging. The bank appeared to be stable.

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Photo 8: Pond 004A.

- Pond 006A contained some water and was being pumped at the time of the inspection (Photo 9). The Operator stated that that was the last day that the site would have the generator that was being used to pump the pond. He stated that there was still one more generator, and that they also have gas pumps that may be used if needed.



Photo 9: Pond 006A

- Pond 007A contained a small amount of water but was not discharging. The emergency spillway was free of obstructions and the embankment appeared to be stable. The Operators had recently repaired the north and west banks of Pond 007A. However, the Division observed what seems to be new erosion on the north-west side of the northern bank. **The Operator shall repair the erosion on the bank** (Photo 10).

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Photo 10: Looking east across Pond 007A. In the foreground of the photo is the erosion along the north-west bank of Pond 007A.

- **The silt fences along the SAE near Pond 007A that were damaged as a result of snowfalls, mentioned in the January - May 2024 reports, still need to be repaired.** The western-most silt fence on the north side of the access road and the south side of Pond 007A (Photo 11) is in the most disrepair. The following silt fences in the sequence are in decent condition and appear to be functioning properly.



Photo 11: Western-most silt fence along the north side of the access road and south side of Pond 007A.

- Pond 08 contained some water, and was well below its capacity (Photo 12). The spillways appeared clear, and the banks were stable. Pond 08 was not discharging.

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Photo 12: Pond 08

- The S.A.Es along the southern portion of the permit, along Ditch D18, appeared stable. However, **the silt fence on the western border of the S.A.E. on the top of the hill still needs to be repaired.**

GENERAL MINE PLAN COMPLIANCE:

- Drill pad NE-02-20 was observed. The pad is reclaimed and revegetated. The drill hole was marked with a marker.

PROCESSING WASTE/COAL MINE WASTE PILES – Rule 4.10 and 4.11

Drainage Control; Surface Stabilization; Placement:

- The mine was idle at the time of the inspection. Therefore, the wash plant was not processing coal at the time of the inspection. The RDA appears to exhibit positive drainage at this time (Photo 13). The underdrains in the northeast and northwest corners appear to be clear of obstructions, and appear to be functioning as intended.

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Photo 13: Looking west at the north-west corner of the RDA. Ditch D55 is clear of obstructions.

RECLAMATION SUCCESS - Rule 4.15, Rule 3:

- During the November 2024 inspection, the Division observed that the former Golden Eagle ventilation shaft area had been grazed. The grazing and cattle occupancy at the vent shaft area had significantly impacted the revegetation reclamation efforts within the area. The Operator was advised that they may need to re-vegetate this area prior to consideration of its release. During the March 2024 inspection, it appeared that some vegetation had been able to re-establish, but may still need to be re-vegetated prior to consideration of its release. During the current June 2024 inspection, a lot more vegetation had established (Photo 14), however there are still a few bare spots. The Operator is advised to monitor this area and consider re-seeding if necessary.

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Photo 14: Establishment of some grasses in the Golden Eagle ventilation shaft area.

SLIDES and DAMAGE - Rule 4.12:

- The berm separating the yard from the Purgatoire River appears to be stable.
- The Portable Explosives and Chemical Storage area was overall stable. However, the Division observed a broken tank containing a small amount of Magnesium Chloride (Photo 15 – Left) and a broken empty tank (Photo 15 - Right). **The Operator stated that they will either replace or remove these tanks.**



Photo 15: Left - The top is cracked on the Magnesium Chloride tank. Right - Cracked and crushed empty tank.

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SIGNS AND MARKERS – Rule 4.02:

- A mine sign was posted at the main entrance to the New Elk mine site, the Golden Eagle ventilation shaft area, and at the Jansen Loadout in compliance with Rule 4.02 (Photo 16).



Photo 16: Top left – Sign at Golden Eagle Entrance. Top right – Sign at Jansen Loadout Entrance. Bottom – Sign at entrance to the RDA.

OFFSITE SUPPORT FACILITIES - Rule 4.04, 4.28:

- The facilities at the Jansen Loadout were observed. All equipment on-site appears to be stable at the time of the inspection (Photo 17).

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Photo 17: Conveyor belt at the Jansen Loadout

TOPSOIL – Rule 4.06

Removal 4.06.2; Substitute Materials 4.06.4(4); Storage and Protection 4.06.3; Redistribution 4.06.4:

- Topsoil piles were observed throughout the site. Each pile had been stabilized with vegetative cover (except for the newest one located in the Stockpile Storage Area north-west of Topsoil Stockpile #1), and was out of the way of on-going mining operations, and had a sign to identify the stockpiles as topsoil.

DOCUMENTS RECEIVED

OTHER (SPECIFY)

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ENFORCEMENT ACTIONS/COMPLIANCE**Infraction Number:** CV2024002

Inspection Date: June 12, 2024

Date Issued:

Primary Topic: Availability of Records

Secondary Topic:

Tertiary Topic:

Description: During the records review, conducted as part of a complete inspection of the New Elk Mine (permit number C-1981-012), operated by New Elk Coal Company, LLC. ("NECC" or "Operator") in June 2024, the Division found that the certificate certifying NECC has a public liability insurance policy for the operation had expired as of April 2024. By the time of the inspection report issuance, proof of insurance had not been provided to the Division. Also, NECC did not have or provide satisfactory evidence they had satisfied applicable State or Federal self-insurance requirements.

This is a **violation** for failure to maintain a certificate certifying that NECC has a public liability insurance policy in full force and effect during the term of the permit or any renewal, including the term of all reclamation operations; or, in lieu of a certificate for public liability insurance policy, satisfactory evidence NECC has satisfied applicable State or Federal self-insurance requirements pursuant to C.R.S 34-33-110(5) and Rule 2.03.9.

Abatement #: 1

Abatement Due Date: **7/1/2024**

Abatement Due Extended Date:

Abatement Date:

Abatement Description: New Elk Coal Company, LLC. shall submit to the Division for inclusion in the permit application, a certificate certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation. Or, in lieu of a certificate for public liability insurance policy, satisfactory evidence that NECC has satisfied applicable State or Federal self-insurance requirements in accordance with Rule 2.03.9.

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AVAILABILITY OF RECORDS**PERMIT RECORDS**

DRMS Permit	X, expires Feb 2024
Permit Application w/Revisions Findings Document	X
Insurance Certificate	X, RN7, Nov 2019
Bond Document	X, Exp. April 2024
Phased Bond Release Documents/Findings	X, 2020
Air Emission Permits	X, SL2 (also additionally SL7 for Golden eagle C-1981-013)
County Special Use Permits	X, 2021 (4)
UG Mining Landowner Notification	Exempt
Subsidence Monitoring Reports	X, Feb 2012
Subsidence Monitoring Data	n/a
Rill & Gully Survey	n/a
Vegetation Monitoring Data	X, 2024 ARR
Specific Variance Approvals	n/a
Annual Reclamation Reports	n/a
Midterm Review Documents	X, 2023 ARR
DRMS/OSM Inspection Reports/Enforcement Actions (3 Years)	X, MT8 2021
Transfers/Succession of Operator	X, through May 2024
Temporary Cessation Notification	X, 2021
Reclamation Cost Estimate	n/a
CERTIFICATIONS	X, MT8, 2021
Pond Certifications	001A, 004, 005, 006A, 007A, 008
Annual Certifications for Impoundments	X, December 2023
Fill Certifications for Excess Spoil or Underground Development Waste	
• Quarterly Inspections	X, December 2023
• Compaction Testing	X, March 2023
• Final Certification	n/a
Coal Processing Waste Banks	X, December 2023
Haul Road Certifications	X, 2014
Access Road Certifications	X, 2021

HYDROLOGIC RECORDS

NPDES Permit	X, On Extension (2019 letter)
NPDES Records	X, May 2024
Stormwater Management Plan	X
SPCC Plan	X
MSHA Pond Inspections	X, Pond 8, April 24, 2024
State Engineer's Pond Inspection Quarterly Pond Inspections	X, March 26, 2024
Annual Hydrology Reports	X, 2023
• Ground Water Monitoring	X, 2023
• Surface Water Monitoring	X, 2023
• Spring & Seep Monitoring	n/a
• Mine Water Discharge Monitoring	n/a
• Mine Inflow Study	n/a
• Water Consumption Records	X
Well Permits	X

BLASTING RECORDS

Blasting Publication	n/a
Blasting Records (3 years)	n/a
ATFE Explosives Permit	n/a
Blasting Variances	n/a
Pre-Blast Surveys	n/a

ADDITIONAL RECORDS (specify)

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COMMENTS: Items in **red text** indicate problems in the on-site records.

-The insurance document on-file in the mine office expired in April 2024. The Operator did not have a copy of an
Updated insurance policy at the time of the inspection. This has been cited as a Violation above.

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