



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman St. Room 215 Denver, CO 80203

P (303) 866-3567 F (303) 832-8106

<https://drms.colorado.gov>

NOTICE OF VIOLATION

NOV No. **CV-2024-002**
Permit No.: **C-1981-012**
Type of Mine: **Underground**
Operator (If Other than Permittee): **New Elk Coal Company, LLC**
Mail Address: **12250 Highway 12**
Weston, CO 81091
Weston, CO 81091
Inspector: **Amber M. Gibson**
Person Served: **Chris Walker or Registered Agent**

Mine: **New Elk Mine**
County: **Las Animas**
Permittee: **New Elk Coal Company, LLC**
Mail Address: **12250 Highway 12**
Weston, CO 81091
Date/Time of Inspection: **June 12, 2024**
Served by: **Amber M. Gibson**

*(Signature of Authorized Representative of the
Division of Reclamation, Mining and Safety)*

(Signature of Person Served)

(Please Print Name and Title)

CERTIFIED MAIL NO.
7019 2280 0001 8254 8012

Date and Time of Service:
June 20, 2024 at 1:00 PM

The Division of Reclamation, Mining and Safety ("the Division") has conducted an inspection of the above mine and has made the findings stated in the attached schedule and has found violations of the Colorado Surface Coal Mining Reclamation Act, or violations of required permit conditions, listed in the attached schedule. This notice constitutes a separate notice of violation for each violation listed.

You must abate each of these violations within the designated abatement time. Where the remedial action requires submission of plans, the plans are to be submitted to the Division within the designated time. You are responsible for doing all work in a safe manner in compliance with all applicable laws and regulations.

The undersigned finds that cessation of mining is not expressly, or in practical effect, required by this notice. For this purpose, "mining" means extracting coal from the earth or from a waste pile and transporting it within or from the mine site.

C.R.S. 1973, 34-33-123(8) provides for imposition of civil penalties of up to \$5,000 for each violation and provides that each day of continuing violation may be deemed a separate violation.

Important: Please read the reverse side of this page.

IMPORTANT: Please read carefully.

1. Expiration Date of Notice - Informal Hearing at Site. If this notice requires cessation of mining, expressly or in practical effect (but not otherwise), it will expire automatically 30 days after service upon you, unless, within that time, (a) an informal hearing on the cessation has been held at or near the site, or (b) the operator has waived the holding of such a hearing. The hearing will be presided over by representatives of the Division other than the representative who issued the order. Temporary relief from the order may not be requested at such hearing. Your right to a formal review is not affected by any waiver on your part of an informal hearing.
2. Formal Review and Temporary Relief. The operator has the legal right to a review of this notice of violation in a public hearing before the Colorado Mined Land Reclamation Board. You may apply for review by submitting a request for review within 90 days of the issuance of this order. The request for review must be submitted to: Colorado Mined Land Reclamation Board, 1313 Sherman Street, Room 215, Denver, Colorado 80203.

If you request a formal hearing, you may request temporary relief from this notice of violation, pending hearing, but the filing of a request for review does not operate as a stay of any order or notice. Procedures in this regard are found in C.R.S. 1973, 34-33-124.

3. Penalties. If you fail to correct any of the violations described in this notice within the period permitted for its correcting, a minimum penalty of \$750.00 or more must be assessed for each day during which the violation(s) continues beyond the abatement period set forth in this notice.

If you willfully and knowingly fail or refuse to comply with a condition of a permit, you will be subject to criminal prosecution and will, upon conviction, be punished by a fine of not more than \$10,000.00 or by imprisonment for not more than one year, or both.

In accordance with Section 5.04.3(1) of the Rules and Regulations of the Colorado Mined Land Reclamation Board for Coal Mining, within 15 days of service of a notice of violation or cessation order, you may submit written information about the violation to the Division. The Division shall consider any information so submitted in determining the facts surrounding the violation and the amount of civil penalty to be proposed under Section 5.04.3(2).

4. Effect on Permit. In addition, if it is determined that a pattern of violations exists and that the violations were caused by unwarranted failure to comply, or were willful, your permit may be suspended or revoked.

SCHEDULE TO NOTICE OF VIOLATION

Notice of Violation No.: **CV-2024-002**

NATURE OF VIOLATION:

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.

ACT, REGULATION, OR PERMIT PROVISION(S) VIOLATED:

ACT SECTION(S): **34-33-110(5)**

REGULATIONSECTION(S): **2.03.9**

PERMIT SECTION(S): **Exhibit 03**

PORTION OF THE OPERATION TO WHICH THIS NOTICE APPLIES:

This notice applies to the entire underground coal mining operation at the New Elk Mine under permit C-1981-012. The Operator is found in violation for failure to comply with C.R.S 34-33-110(5) and Rule 2.03.9.

STEPS NECESSARY TO ABATE VIOLATION (REMEDIAL ACTION):

Abatement Step #	Description
1	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.

TIME FOR ABATEMENT (NOT MORE THAN 90 DAYS):

ON OR BEFORE last abatement due date

Abatement Step #	Due Date
1	July 1, 2024