



STATE OF  
COLORADO

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

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## Coal partial Inspection Report, Lorencito Canyon Mine, C-1996-084

1 message

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**Gibson - DNR, Amber** <amber.gibson@state.co.us>  
To: JimB@newelkcoal.com, drychalsky@capstonepartners.com  
Cc: Jared Ebert - DNR <jared.ebert@state.co.us>

Thu, Jul 25, 2024 at 6:01 AM

Good morning,

Attached for your records is a copy of the Division's Inspection Report for the Lorencito Mine, conducted on July 17, 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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**Inspection Report\_Lorencito Canyon\_C1996084\_AMG\_July 18\_2024.pdf**  
2909K




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

**PERMIT INFORMATION**

<b>Permit Number:</b> C-1996-084 <b>Mine Name:</b> Lorencito Canyon Mine <b>Operator:</b> New Elk Coal Company, LLC <b>Operator Address:</b> Mr. John Terry 12250 Highway 12 Weston, CO 81091	<b>County:</b> Las Animas <b>Operation Type:</b> Surface <b>Permit Status:</b> Permanent Cessation <b>Ownership:</b> Private
	<b>Operator Representative Present:</b>  None
<b>Operator Representative Signature: (Field Issuance Only)</b>	

**INSPECTION INFORMATION**

<b>Inspection Start Date:</b> July 17, 2024 <b>Inspection Start Time:</b> 10:20 <b>Inspection End Date:</b> July 17, 2024 <b>Inspection End Time:</b> 12:00	<b>Inspection Type:</b> Coal Partial Inspection <b>Inspection Reason:</b> Normal I&E Program <b>Weather:</b> Cloudy
<b>Joint Inspection Agency:</b>  None	<b>Joint Inspection Contacts:</b>
<b>Post Inspection Agency:</b>  None	<b>Post Inspection Contacts:</b>
<b>Inspector(s):</b>  Amber M. Gibson	<b>Inspector's Signature:</b>  <b>Signature Date:</b>  July 25, 2024

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

**COMMENTS**

This partial inspection was conducted by Amber Gibson representing the Division of Reclamation, Mining and Safety (Division/DRMS). I conducted the inspection unaccompanied by an Operator representative for the Permittee New Elk Coal Company, LLC (NECC). As of July 18, 2024, no Operators representing NECC remain. At the time of the inspection, the weather was warm, the skies were partly cloudy, and the ground was dry. The Lorencito Canyon Mine is currently in permanent cessation. **Outstanding maintenance items are cited in the first underlined section below and additional items are in bold text throughout this report.**

On February 29, 2024, the Division sent a Third Adequacy Review to the Operator for the Permit Renewal No. 5 (RN5) application. The RN5 decision date is set for July 28, 2024.

**OUTSTANDING MAINTANENCE ITEMS**

Listed below are maintenance items in previous inspection reports. A corrective action date of July 31, 2024 has been set for items 1-3. A corrective action date of December 31, 2024 has been set for item 4.

1. Erosion rills are forming on the north and west banks of Pond 006a. The erosion on the north bank appears to have been addressed at some point, because rebar is placed above the rills. However, it appears that the prior BMPs are no longer functioning adequately. **Pursuant to Rule 4.05.5(1)(c), the Operator shall address the erosion and repair the north bank.** The erosion on the west bank appears to have been caused by runoff from the road located east of Pond 006a. **Pursuant to Rule 4.05.5(1)(c), the Operator shall address the erosion and repair the west bank.**
2. The majority of Pond 008's embankment was stable and vegetated, however, the west bank contains some erosion rills and gullies. The erosion appears to have been caused by run-off from the roads above and down to the pond. **Pursuant to Rule 4.05.5(1)(c), the Operator shall repair the erosion and stabilize the west bank of Pond 008.** The Operator stated that they will likely install additional rock berms along the western-most road to help prevent run-off from running down the slopes and into the pond. The

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Operator also stated that they plan to remove the sediment (deposited as a result of the bank erosion) along the west bank of Pond 008.

3. The following items pertain to ongoing maintenance issues, cited in previous reports for the area in and around the reclaimed area above Pond 006a:
  - a. The ditch along the road leading to Pond 006a is eroding and nearly full of sediment. The overloaded ditch is contributing to the build-up of sediment in the check dams of ditches D8 and D64. **Pursuant to Rule 4.03.2(4), the ditch along the west side of the road leading to Pond 006a needs to be cleaned out and repaired.**
  - b. The check dams leading to Pond 006a, within ditches D8 and D64, are nearly full of sediment. **Pursuant to Rules 4.05.3(1)(c)-(e) and 4.05.5, the Operator shall clean out the sediment from the check dams to prevent excess sediment from entering the pond.**
4. The following items pertain to ongoing erosional issues in the areas shown in Figure 1, that pursuant to Rule 4.14.6 need to be addressed. A Technical Revision will be required to expand on the current Rill and Gully plan in the PAP. **The Operator shall submit the technical revision, obtain approval, repair the erosion, and stabilize the slopes pursuant to the approved plan by December 31, 2024.**

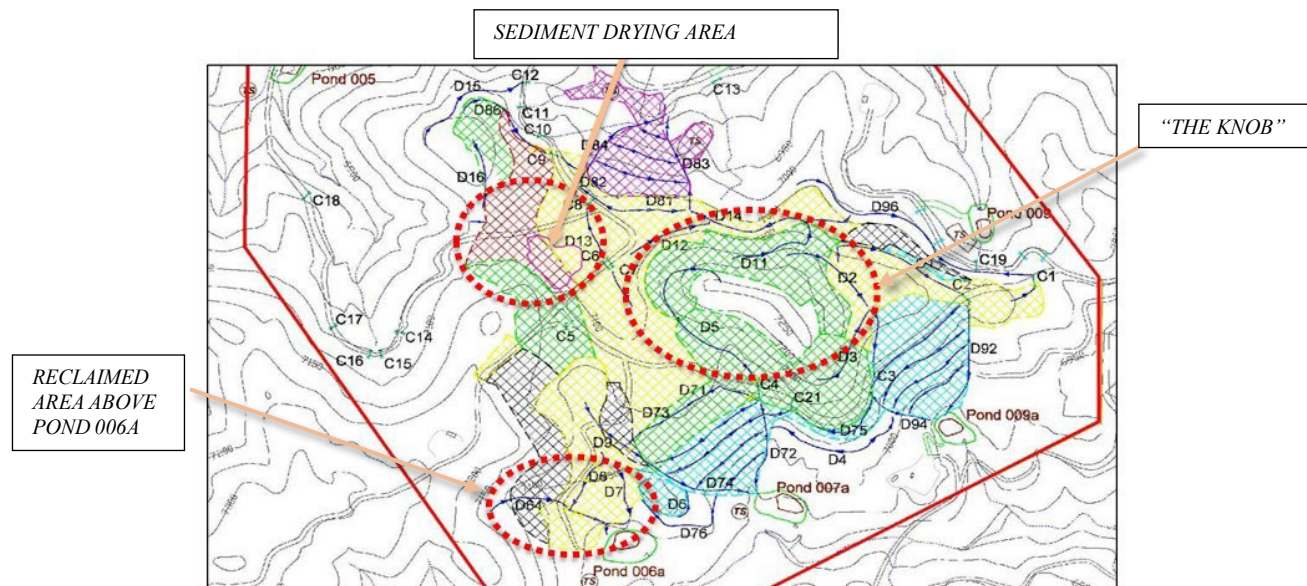


FIGURE 1. AREAS WHERE RILLS, GULLIES AND SPARSE VEGETATION HAS BEEN FOUND TO BE A PERSISTENT PROBLEM AT THE SITE ARE WITHIN THE DOTTED CIRCLE AREAS. BACKGROUND IMAGE IS THE 2020 ANNUAL REPORT MAP.

#### AVAILABILITY OF RECORDS – Rule 5.02.4(1):

- The Enforcement page at the end of the report describes an outstanding violation issued by the Division as a result of the May 2024 inspection. As of the date of this July 2024 inspection report's issuance, the Operator has not yet provided any abatement documentation.

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- As of July 16, 2024, the Pond Inspection Reports and the Valley Fill Inspection Reports compliance requirements are **overdue**. These reports **must be received by the Division within 60 days of this inspection report (September 21, 2024)** to avoid enforcement action.

#### 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:

- Pond 005:
  - The pond was dry at the time of the inspection. (Photo 1).
  - The pond embankment was stable and vegetated.
  - The primary and emergency spillways appeared clear and functional.



*Photo 1: Pond 005*

- Pond 007a:
  - The pond was dry at the time of the inspection and. (Photo 2).
  - The pond embankment was stable and vegetated.
  - The primary and emergency spillways appeared clear and functional.
  - The flume was dry and was not discharging (Photo 3).

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*Photo 2: Pond 007a*



*Photo 3: Flume for Pond 007a*

- Pond 009a:
  - The pond held some water at the time of the inspection. (Photo 4).
  - The pond embankment was stable and vegetated.
  - The primary and emergency spillways appeared clear and functional.

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- The flume was dry and was not discharging (Photo 5).



*Photo 4: Pond 009a*



*Photo 5: Flume for Pond 009a*

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

Drainage Control; Surface Stabilization; Placement:

- Fill 007 was observed. Fill 007 was well vegetated and appeared stable (Photo 6).



*Photo 6: Looking north-west at Fill 7. Pond 007a pictured along the bottom of the photo.*

- Fill 009 was observed. Fill 009 was well vegetated and appeared stable (Photo 7).



*Photo 7: Looking south down Fill 009. Pond 009a seen in the bottom right corner of the photo.*

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RECLAMATION SUCCESS - Rule 4.15, Rule 3:

- The area above where NECC stores pond and ditch cleanings consists of a steep slope. This slope was observed (Photo 8). Erosion rills and gullies were observed but the vegetation on this slope appears better established this year than previously observed by DRMS. NECC is encouraged to continue to monitor this area and conduct maintenance as needed.



*Photo 8: Sediment drying area and seeded slope*

SIGNS AND MARKERS – Rule 4.02:

- Mine signs were posted at road entrances and at the entrance to the permit boundary in compliance with Rule 4.02.

**DOCUMENTS RECEIVED****OTHER (SPECIFY)**

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 0

**ENFORCEMENT ACTIONS/COMPLIANCE****Infraction Number:** CV2024001

Inspection Date: May 22, 2024

Date Issued: May 30, 2024

Primary Topic: Availability Of Records

Secondary Topic: Availability Of Records

Tertiary Topic:

Description: During the records review, conducted as part of a complete inspection of the Lorencito Canyon Mine (permit number C-1996-084), operated by New Elk Coal Company, LLC. ("NECC" or "Operator") in May 2024, the Division found that the certificate certifying NECC has a public liability insurance policy for the operation had expired as of April 2024. At the time of the inspection, NECC's representative was unsure if the insurance policy had been renewed, and 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: 7/31/2024

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.

Number of Partial Inspection this Fiscal Year: 1Number of Complete Inspections this Fiscal Year: 0