



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

1 message

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

Wed, Aug 14, 2024 at 5:17 PM

To: jterry@newelkcoal.com, john terry <jterry316314@gmail.com>, JimB@newelkcoal.com, Frank Kirby <fkirby0428@gmail.com>

Good evening,

Attached for your records is a copy of the Division's Partial Inspection - Inspection Report for the New Elk Mine, conducted on August 1, 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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INSP-REPORTC_New Elk_C1981012_Partial_8-2-24_AMG.pdf
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COLORADO
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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: Jim Begano and Bill Massarotti
Operator Representative Signature: (Field Issuance Only)	

INSPECTION INFORMATION

Inspection Start Date: August 1, 2024 Inspection Start Time: 10:19 Inspection End Date: August 1, 2024 Inspection End Time: 11:10	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: August 14, 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
Y - Availability of Records	N - Reclamation Success
N - Backfill & Grading	N - Revegetation
Y - Excess Spoil and Dev. Waste	N - Subsidence
N - Explosives	N - 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
N - Processing Waste	N - Topsoil

COMMENTS

This partial inspection was conducted by Amber Gibson representing the Division of Reclamation, Mining and Safety (Division/DRMS). I met with the Mine Manager Jim Begano, representing the Operator/Permittee (New Elk Coal Company, LLC (NECC)), upon arriving at the site. At the previous inspection, Jim informed me that as of July 18, 2024, no Operators representing NECC would remain. However, both Jim and Bill Massarotti were on-site and had been temporarily re-employed by a prospective buyer. Bill accompanied me during the inspection. At the time of the inspection, the weather was hot, the skies were partly cloudy, and the ground was dry.

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 August 27, 2024.

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 June 2024 inspection. As of the date of this August 2024 inspection report's issuance, the Operator has not yet provided any abatement documentation. The deadline for the abatement of violation number CV-2024-002 has been extended per the Operator's request to August 30, 2024.

EXCESS SPOIL and DEVELOPMENT WASTE – Rule 4.09 Placement; Drainage Control; Surface Stabilization:

- 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. The previous cleanings have some volunteer vegetation growing on them.
- Ditch D3 on the west side of DWDA #1 contained a small amount of water at the time of the inspection. The berm lining the outside of the ditch appeared to be in good condition and was effectively preventing any run-off from leaving the area.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 0

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:

- Bill had recently cleaned multiple ditches of sediment to enable them to function more efficiently. See Photos 1-5 showing the recently cleaned Ditch D58, D22A (east side), D22A (west side), D32B, and D23 (respectively).



Photo 1: Looking west along D58.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 0



Photo 2: Looking west at the east side of D22A, east of C32.



Photo 3: Looking north-west at the west side of D22A, on the east side C22.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 0



Photo 4: Looking down at D32B, on the west side of C22.



Photo 5: Looking south at D23.

- Pond 004A was mostly dry, with some water restricted to the southeast corner of the pond (Photo 6). Pond 004A was not discharging. The banks were vegetated and appeared to be stable. The principal and emergency spillways were clear.

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Photo 6: Looking south-east at Pond 004. A dying Mullein stalk is seen in the foreground.

- The state listed noxious weed, Mullein, was observed along the light use road leading to the southwest corner of Pond 004 during the July inspection. The Operator has since treated the Mullein from the area around Pond 004. Dead and dying stalks and florets were observed along the road and at the southwest corner of the pond (Photo 7).



Photo 7: Looking northwest along the light use road to Pond 004 at some dying Mullein stalks.

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- Pond 006A contained some water and appears to have had plenty of capacity remaining at the time of the inspection (Photo 8). The pond was not discharging. The banks were vegetated and appeared to be stable.



Photo 8: Looking west at Pond 006a.

- Pond 007A was mostly dry 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 east side of Pond 007A has vegetation growing within it, but the pond itself has plenty of capacity at this time. As noted in the June and July 2024 inspection reports, the Division observed what seems to be new erosion on the north-west side of the northern bank (Photo 9). **The Operator shall repair the erosion on the bank.**

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Photo 9: Looking southeast at 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 - June 2024 reports, have been repaired (Photo 10). Additionally, the portion of the ditches between the silt fences in the SAE have been cleared of excess sediment.



Photo 10: Looking east along the series of silt fences on the north side of the SAE, located south of Pond 007a.

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- Pond 08 contained some water, and was well below its capacity (Photo 11). The spillways appeared clear, and the banks were stable. Pond 08 was not discharging.



Photo 11: Pond 08.

- Containment Area #5 contained some water at the time of the inspection (Photo 12). The containment did not appear to be approaching capacity.



Photo 12: Containment Area #5.

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SIGNS AND MARKERS – Rule 4.02:

- Mine signs were posted in compliance with Rule 4.02.

DOCUMENTS RECEIVED

OTHER (SPECIFY)

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 0

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

Inspection Date: June 12, 2024

Date Issued: June 20, 2024

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: 8/30/2024

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: 2Number of Complete Inspections this Fiscal Year: 0