



Lorencito Canyon Mine, C-1996-084, Complete Inspection, August 2024

1 message

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

Thu, Aug 15, 2024 at 2:38 PM

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

Good afternoon,

Attached for your records is a copy of the Division's Inspection Report for the complete inspection conducted at the Lorencito Canyon Mine 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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COLORADO


Division of Reclamation,
Mining and Safety

Department of Natural Resources

PERMIT INFORMATION

Permit Number: C-1996-084 Mine Name: Lorencito Canyon Mine Operator: New Elk Coal Company, LLC Operator Address: Mr. John Terry 12250 Highway 12 Weston, CO 81091	County: Las Animas Operation Type: Surface Permit Status: Permanent Cessation 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: 09:15 Inspection End Date: August 1, 2024 Inspection End Time: 14:21	Inspection Type: Coal Complete Inspection Inspection Reason: Normal I&E Program Weather: Cloudy
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 15, 2024

Inspection Topic Summary

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

N - Air Resource Protection	Y - Roads
V - Availability of Records	Y - Reclamation Success
N - Backfill & Grading	Y - 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 complete inspection was conducted by Amber Gibson representing the Division of Reclamation, Mining and Safety (Division/DRMS). Bill Massarotti, representing the Operator New Elk Coal Company, LLC (NECC), accompanied me during the inspection. The weather was hot and the skies were cloudy. The ground was dry at the time of the inspection. The Lorencito Canyon Mine is currently in permanent cessasion.

Maintenance items are in bold text.

On November 30, 2023, the Division sent updated requirments to the Operator (pertaining to the Division's second adequacy review) for the Renewal No. 5 (RN5) application. The RN5 decision date is set for August 27, 2024.

OUTSTANDING MAINTANENCE ITEMS

Listed below are maintenance items in previous inspection reports. The corrective action date for items 1-3 has been extended to August 30, 2024. 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

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1

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.**

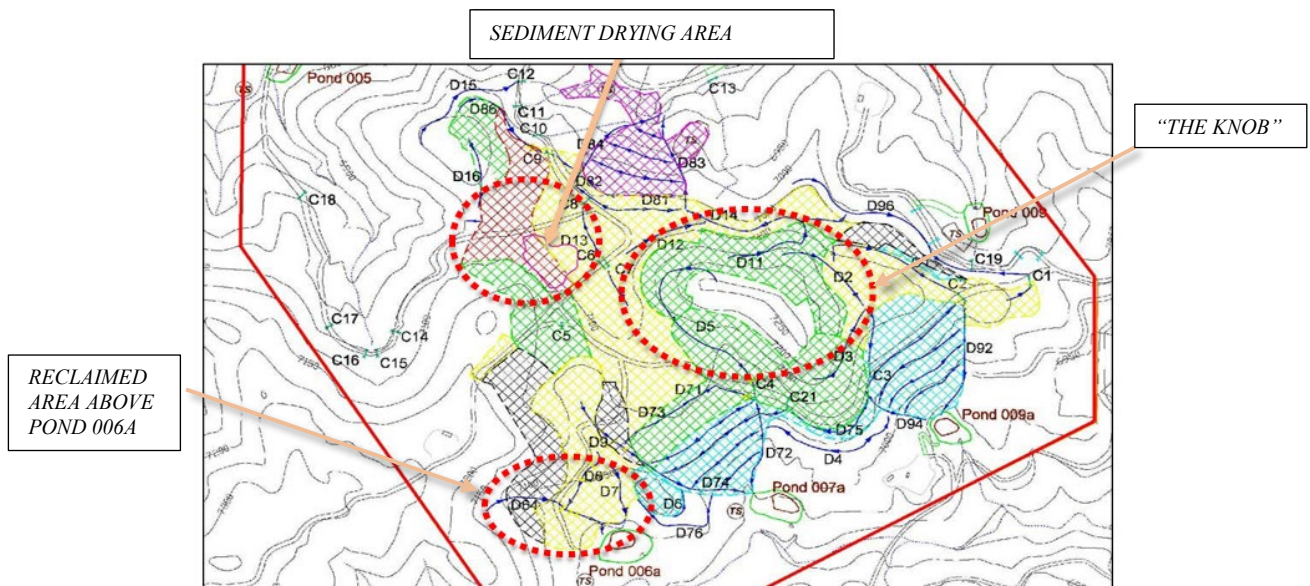


FIGURE 1. AREAS WHERE RILLS, GULLIES AND SPARSE VEGETATION HAS BEEN FOUND TO BE A PERSISTENT PROBLEM AT THE SITE ARE WITHIN THE DOTTED CIRCLE AREAS. BACKGROUND IMAGE IS THE 2020 ANNUAL REPORT MAP.

AVAILABILITY OF RECORDS – Rule 5.02.4(1):

- The mine records were checked in the mine office. The records check list is available at the end of this report. **The Operator shall send notice to the Division that the files missing from the physical records in the mine office (see Comment section on the records page at the end of this report) have been placed in their designated locations by August 30th.**

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 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 August 2024 inspection report's issuance, the Operator has not yet provided any abatement documentation.

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 (Photo 1) and was not discharging.
 - The pond embankment was stable and vegetated.
 - The primary and emergency spillways appeared clear and functional.
 - The state listed noxious weed, Mullein, was observed by the spillway. **The Operator shall treat and/or remove Mullein in this area.**



Photo 1: Looking east along the north border of Pond 005.

- Ditch D9:
 - The check dams within Ditch D9, leading down to Pond 006a, contain an excess amount of sediment (Photo 2). A gully was also observed cutting down from the road and adding sediment to the third check dam. **The Operator shall remove the excess sediment from the check dams**

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1

within D9.



Photo 2: Looking southeast down the check dams within D9.

- Pond 006a:
 - Pond 006a contained water (Photo 3) and was not discharging.
 - The pond embankment still requires maintenance (see Item # 1 in the outstanding maintenance items list on the first page of this report).
 - The west bank referenced in Item #1 in the outstanding maintenance items list on the first page of this report, currently has a vegetative cover due to volunteer vegetation (circled area in Photo 4). This area will likely still need to be re-stabilized, but may need to be re-addressed at a later date once the vegetation has cleared for the season.
 - The primary and emergency spillways appeared to be clear and functional.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1



Photo 3: Looking northeast at Pond 006a. The erosion seen on the bank is that which is referred to in Item #1 on the first page of this report.



Photo 4: Circled is the area along the west bank of Pond 006a referenced in Item #1 in the ongoing maintenance section on the first page of this report.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1

- Pond 007a:
 - The pond contained some water at the time of the inspection (Photo 5).
 - The pond embankment was stable and vegetated.
 - The primary and emergency spillways appeared clear and functional.
 - The flume contained some water (Photo 6), but was not discharging.
 - Mullein was observed in the field to the south and west of Pond 007a, within the permit boundary (Photos 7-8). **The Operator shall treat/remove Mullein within this area.**



Photo 5: Looking northwest across Pond 007a.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1



Photo 6: Flume at Pond 007a.



Photo 7: Mullein located west of the flume at Pond 007a.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1



Photo 8: Area circled contains numerous stalks of Mullein. Fill 007 is seen in the background.

- Pond 008:
 - The pond contained water (Photo 9) but was not discharging (Photo 10).
 - The pond embankment still requires maintenance (see Item #2 in the outstanding maintenance items list on the first page of this report).
 - The primary and emergency spillways appeared clear and functional.
 - Some of the state listed noxious weed, Mullein, observed along the west bank of Pond 008 were treated by the Operator during the June inspection. However, more were observed during the August inspection. **The Operator shall treat/remove Mullein within this area.**

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1



Photo 9: Looking south at Pond 008.



Photo 10: Flume at Pond 005.

- Pond 009
 - Pond 009 contained water (Photo 11), but was not discharging.
 - The pond embankment was stable and vegetated.
 - The primary and emergency spillways appeared clear and functional.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1



Photo 11: Looking southeast at Pond 009.

- Pond 009a:
 - The pond contained water (Photo 12).
 - The pond embankment was stable and vegetated.
 - The primary and emergency spillways appeared clear and functional.
 - The flume was dry (Photo 13), and was not discharging.



Photo 12: Looking northeast at Pond 009a.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1



Photo 13: Looking south at the flume at Pond 009a.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1

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

Drainage Control; Surface Stabilization; Placement:

- The Reclaimed Area above and to the west of Pond 006a was observed (Photo 14). This area still requires maintenance (See Items 3 and 4 in the Ongoing Maintenance Items section on the first page of this report).



Photo 14: Reclaimed area to the west of Pond 006a. Run-off from reclaimed slopes is carrying sediment into and across the road, and depositing the sediment into the check dams.

- Fill 7 – was well vegetated and appeared stable (Photo 15)

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1



Photo 15: Looking southwest at Fill 7.

- Fill 8 was well vegetated and appeared stable (Photo 17).



Photo 16: Looking southeast at Fill 8.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1

- Fill 9 was well vegetated and appeared stable (Photo 18).



Photo 17: Looking south down Fill 9.

ROADS – Rule 4.03

Construction 4.03.1(3)/4.03.2(3), Drainage 4.03.1(4)/4.03.2(4), Surfacing and Maintenance 4.03.1(5) and (6)/4.03.2(5) and (6), Reclamation 4.03.1(7)/4.03.2(7):

- See ongoing maintenance Item #2 and #3. The road along Pond 006A is washed out in the area between the reclaimed area and Pond 006A, and needs to be repaired. The road leading down into Pond 008 has some ruts that will require repairs. *These are planned to be addressed at the time the west bank is stabilized.

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 18). 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.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1



Photo 18: Sediment drying area and seeded slope.

- A previously disturbed area north of Fill 7 and north of the road, referred to as “The Knob”, exhibits erosion on the south facing slope (Photo 19). There is also a small catchment at the base of the slope that was not holding water at the time of the inspection. NECC is required to provide a plan to stabilize this area through a revision following the approval of RN5 (see ongoing maintenance item number 4).



Photo 19: The “Knob” with rills that have formed on the less vegetated areas on the south and west facing slopes.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1

- An area designated as a vegetation test plot has been infested with Mullein (Photo 20). **The Operator shall treat and/or remove the Mullein within this area.**



Photo 20: Mullein growing in the test plot area southwest of the “Knob”.

SIGNS AND MARKERS – Rule 4.02:

- Mine signs were posted at road entrances and at the entrance to 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: 1

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: 8/28/2024

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: 1

AVAILABILITY OF RECORDS**PERMIT RECORDS**

DRMS Permit	X, expired November 2022 – RN5 in progress
Permit Application w/Revisions	X
Findings Document	X, April 2020
Insurance Certificate	X, April 2024
Bond Document	X, 2020
Phased Bond Release Documents/Findings	X, SL-2 2008
Air Emission Permits	X, doc showing permits were terminated
County Special Use Permits	Exempt
UG Mining Landowner Notification	n/a
Subsidence Monitoring Reports	n/a
Subsidence Monitoring Data	n/a
Rill & Gully Survey	X, 2022 ARR submitted 2023
Vegetation Monitoring Data	n/a
Specific Variance Approvals	n/a
Annual Reclamation Reports	X, submitted 2023

Midterm Review Documents	MT-4
DRMS/OSM Inspection Reports/Enforcement Actions (3 Years)	X, through May 2024
Transfers/Succession of Operator	X, 2021
Temporary Cessation Notification	n/a
Reclamation Cost Estimate	X, MT-4 2016 and RN-4 2017

CERTIFICATIONS

Pond Certifications	006A, 007A, 008, 009, 009A, 005
Annual Certifications for Impoundments	X, December 2023
Fill Certifications for Excess Spoil or Underground Development Waste	X, Dec 2023
• Quarterly Inspections	X, Dec 2023 –Q4-2023
• Compaction Testing	n/a
• Final Certification	n/a
Coal Processing Waste Banks	n/a
Haul Road Certifications	n/a
Access Road Certifications	n/a

Number of Partial Inspection this Fiscal Year: 1Number of Complete Inspections this Fiscal Year: 1**HYDROLOGIC RECORDS**

NPDES Permit	X expired 2015, on extension since 2020
NPDES Records	n/a
Stormwater Management Plan	X
SPCC Plan	n/a
MSHA Pond Inspections	n/a
State Engineer's Pond Inspection Quarterly Pond Inspections	March 2024 –Q1-2024
Annual Hydrology Reports	Terminated via TR-16 in 2009
• Ground Water Monitoring	n/a
• Surface Water Monitoring	n/a
• Spring & Seep Monitoring	n/a
• Mine Water Discharge Monitoring	n/a
• Mine Inflow Study	n/a
• Water Consumption Records	n/a
Well Permits	X, #201451-201476, excluding 201452

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)

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**. The Pond Certification for Pond 005 is not in the record, and the Operator has been given until **August 30, 2024** to provide a copy to the Division. The Rill & Gully Survey, Annual Reclamation Report, DRMS/OSM Inspection Reports, Quarterly Fill Certification for Excess Soil inspections, and the State Engineer Inspection Reports are up-to-date and on-file in the Laserfiche database, but have not been updated in the physical binders in the New Elk mine office at the time of this report's issuance. The Operator shall confirm with the Division by **August 30, 2024** that these files have been added to the binders in the mine office.

Number of Partial Inspection this Fiscal Year: 1

Number of Complete Inspections this Fiscal Year: 1