



Inspection Report, Lorencito, C-1996-084

1 message

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

Mon, Sep 16, 2024 at 2:56 PM

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

Good afternoon,

Attached for your records is a copy of the Division's inspection report for the Lorencito Canyon Mine, C-1996-084.

Let me know if you have any questions.

Thank you,

Amber M. Gibson
Environmental Protection Specialist I



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

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InspRpt_Lorencito_C1996084_September2024_partial_AMG.pdf
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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: None
Operator Representative Signature: (Field Issuance Only)	

INSPECTION INFORMATION

Inspection Start Date: September 5, 2024 Inspection Start Time: 11:37 Inspection End Date: September 5, 2024 Inspection End Time: 12:21	Inspection Type: Coal Partial Inspection Inspection Reason: Normal I&E Program Weather: Raining
Joint Inspection Agency: None	Joint Inspection Contacts:
Post Inspection Agency: None	Post Inspection Contacts:
Inspector(s): Amber M. Gibson	Inspector's Signature:  Signature Date: September 16, 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	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, the presence of staff onsite and available to represent NECC is unpredictable. At the time of the inspection, the weather was cool, there was a thunderstorm, and the ground was damp. 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 September 30, 2024.

OUTSTANDING MAINTANENCE ITEMS

Listed below are maintenance items cited in previous inspection reports. A corrective action date of September 30, 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 Operator also stated

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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.**

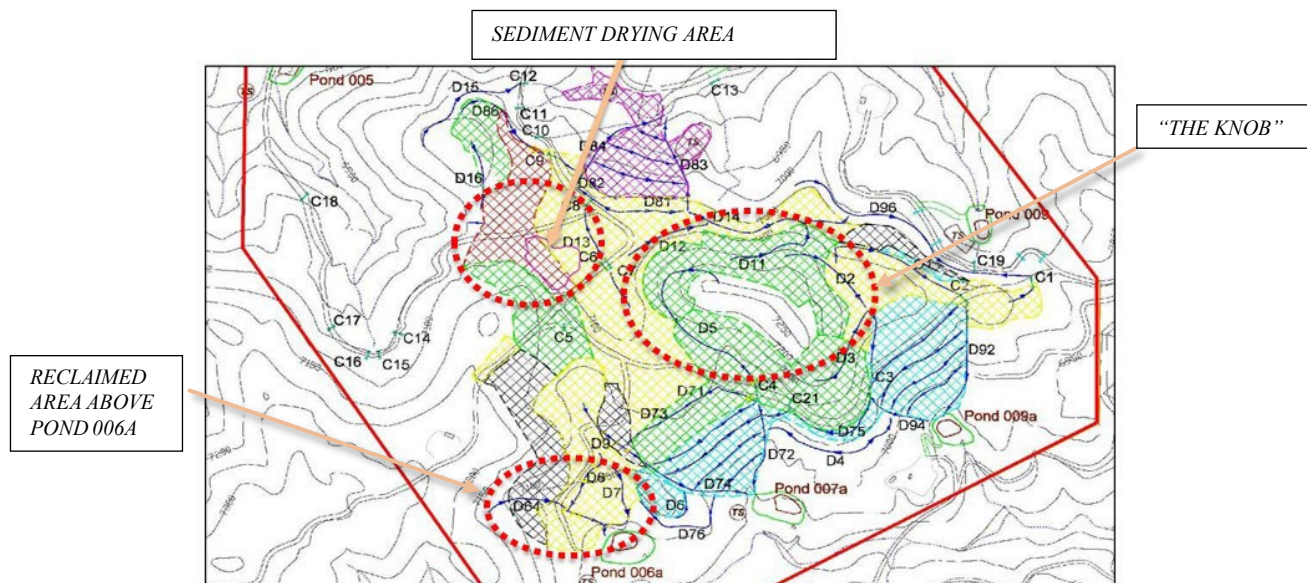


FIGURE 1. AREAS WHERE RILLS, GULLIES AND SPARSE VEGETATION HAS BEEN FOUND TO BE A PERSISTENT PROBLEM AT THE SITE ARE WITHIN THE DOTTED CIRCLE AREAS. BACKGROUND IMAGE IS THE 2020 ANNUAL REPORT MAP.

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. The deadline was extended to the full 90 days allowable by the Rules, and was set for August 28, 2024. The Permittee did not provide any abatement documentation by the deadline, and as a result, the Division issued a Failure to Abate Cessation Order on August 29, 2024. An informal public hearing will be held on September 23, 2024 to consider the Cessation Order issued to the Operator for failing to abate Violation NO. CV-2024-001.

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- **The Operator has not yet sent notice to the Division which indicates that the missing/incorrect documents (identified in the Division's records review during the August 2024 inspection) have been replaced/inserted in the correct locations.**

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 007a:
 - The pond contained some water at the time of the inspection (Photo 1).
 - The pond embankment appeared to be stable and vegetated.
 - The primary and emergency spillways appeared clear and functional.
 - The flume contained some water but was not discharging (Photo 2).



Photo 1: Pond 007a

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Photo 2: Flume at Pond 007a.

- Pond 009:
 - The pond held some water at the time of the inspection. (Photo 3).
 - The pond embankment appeared to be stable and vegetated. **The rills above the bank do not appear to have worsened, but the Operator shall continue to monitor this area.**
 - The primary and emergency spillways appeared clear and functional.
 - The flume contained some water but was not discharging.

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Photo 3: Pond 009

- Pond 009a:
 - The pond contained water at the time of the inspection. (Photo 4).
 - The pond embankment appeared to be stable and vegetated.
 - The primary and emergency spillways appeared clear and functional.
 - The flume contained some water but was not discharging.

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Photo 4: 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 5).



Photo 5: Fill 007

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- Fill 009 was observed. Fill 009 was well vegetated and appeared stable (Photo 6).



Photo 6: Fill 009

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REVEGETATION – Rule 4.15

Vegetative Cover; Timing:

- Pursuant to Rule 4.15.1(5), the Operator shall employ weed control measures to prevent spreading of noxious weeds. The state listed noxious weed Mullein has been observed near Pond 007a (Photo 7) and during the previous inspection at Pond 008 and in the test plot area southwest of the ‘Knob’. **The Operator shall eradicate the weeds within all disturbed areas.**



Photo 7: Mullein observed near the flume for Pond 007a.

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Photo 8: Mullein in an opening, southwest of Pond 007a.

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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 (Photo 9).



Photo 9: Mine sign

DOCUMENTS RECEIVED**OTHER (SPECIFY)**

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ENFORCEMENT ACTIONS/COMPLIANCE**Infraction Number:** CO2024001

Inspection Date: May 22, 2024

Date Issued: August 29, 2024

Primary Topic: Availability Of Records

Secondary Topic:

Tertiary Topic:

Description: On May 30, 2024, the Division issued the following violation:

“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.”

NECC had extended the abatement deadline to the full 90 days allowed by Rule 5.03.2(2)(b). The final abatement deadline, set for August 28, 2024, has passed. The Division finds that NECC has failed to abate the violation, and therefore has issued this cessation order in accordance with Rule 5.03.2(3).

Abatement #: 1

Abatement Due Date: 9/28/2024

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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Infraction Number: CV2024001

Inspection Date: May 22, 2024

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Secondary Topic: Availability Of Records

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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.

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