



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

1 message

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

Wed, Sep 18, 2024 at 12:36 PM

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

Good afternoon,

Attached for your records is a copy of the Division's Inspection Report for the complete inspection conducted at the New Elk Mine from September 4-5, 2024.

Thank you,

Amber M. Gibson
Environmental Protection Specialist I



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

P 720.836.0967 | F 303.832.8106 |
amber.gibson@state.co.us

Mailing: DRMS Room 215, 1001 E 62nd Ave, Denver, CO 80216

Physical: 1313 Sherman Street, Room 215, Denver, CO 80203

<https://drms.colorado.gov/>



INSP-REPORTC_newelk_C1981012_Complete_Sept2024_AMG.pdf
5995K



COLORADO


Division of Reclamation,
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: None
Operator Representative Signature: (Field Issuance Only)	

INSPECTION INFORMATION

Inspection Start Date: September 4, 2024 Inspection Start Time: 13:43 Inspection End Date: September 5, 2024 Inspection End Time: 11:21	Inspection Type: Coal Complete 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 18, 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	Y - Revegetation
Y - 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
Y - Gen. Compliance With Mine Plan	Y - Support Facilities Not On-site
N - Other	N - Special Categories Of Mining
Y - Processing Waste	Y - Topsoil

COMMENTS

This was a complete inspection of the New Elk Mine, Colorado Division of Reclamation, Mining and Safety (“DRMS” or “Division”) permit number C-1981-012, operated by New Elk Coal Company, LLC. (“NECC”). Amber Gibson, with the Division, conducted the inspection. 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. This inspection was conducted over the course of two days. On the first day, the Jansen Loadout and Golden Eagle Portal areas were inspected. The weather was warm, the sky was clear, and the ground was dry. On the second day, portions of the main operations area at the New Elk Mine was inspected. However, the entrance to the mine was locked, and there was no personell on-site. I was unaccompanied and was able to get through the fence in some areas around the site, but along with the incliment weather, many of the areas within the site were not able to be reached safely. The weather was cool, it was thunderstorming, and the ground was damp.

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 September 30, 2024.

AVAILABILITY OF RECORDS – Rule 5.02.4(1):

- The Division was unable to access the public mine records, as both the entrance to the site and the mine office were locked. The records check list is therefore blank at the end of this report.
 - **The Operator must provide the Division with a key/combination to access the site.**
 - **The Operator must also ensure that the mine records are publicly accessible, and either provide public access to the mine site/office; or move the mine records to a public location.**

Number of Partial Inspection this Fiscal Year: 2

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 June 2024 inspection. As of the date of this September 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 today, September 18, 2024.

EXCESS SPOIL and DEVELOPMENT WASTE – Rule 4.09

Placement; Drainage Control; Surface Stabilization:

- The Division walked along the berm around the south side of DWDA #2 (Photo 1). The berm appeared to be stable and functional at the time of the inspection.



Photo 1: Bank along south side of DWDA #2.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- The sediment basin at the east end of DWDA #2 held water at the time of the inspection (Photo 2). The berm around the basin appeared to be stable. The Operator shall monitor the check dams and clean them of sediment within the next few months. The check dams still appear to be functional at this time.



Photo 2: Sediment basin at southeast side of DWDA #2.

- Ditch D14 leading into the basin from the south side is clear (see Photo 1 above).

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- Culvert C13 was free of obstructions. However, the vegetation in-front of C13 (Photo 3) should be cleared before next spring.



Photo 3: Culvert C13. The area directly in front of the culvert is clear. However, the vegetation surrounding the culvert should be cleared in the near future.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

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:

- Ditch D32 was clear and appears to be functioning adequately (Photo 4).



Photo 4: Looking east down D32

- Containment area #1 was not reachable during this inspection.
- Containment area #2 was not reachable during this inspection.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- Containment area #3 was dry. No signs of erosion were observed (Photo 5).



Photo 5: Containment Area 3

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- Containment area #4 was dry. No signs of erosion were observed (Photo 6).



Photo 6: Containment Area

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- Containment area #5 contains water and is below capacity (Photo 7).



Photo 7: Containment Area 5

- Stream buffer zones were observed throughout the site.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- The check dams located along the north side of the Soil Storage Area are beginning to fill with sediment (Photo 8). The Operator should monitor these check dams to ensure they continue to function adequately.



Photo 8: Check dam along northeast corner of the Soil Storage Area.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- Pond 001A held some water at the time of the inspection, and was not discharging (Photo 9).



Photo 9: Pond 001A

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- Pond 004A contained a small amount of water, presumably being left over water pumped from Ponds 007a, 006a, and 08 (Photo 10). Pond 004A was not discharging. The bank appeared to be stable.



Photo 10: Looking at Pond 004A from the barbed wire fence, south of Highway 12. Water is mostly contained to the south-east corner of the pond.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- Pond 006A contained some water at the time of the inspection (Photo 11). The banks of the pond appeared to be stable at this time.



Photo 11: Looking east at Pond 006A

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- Pond 007A contained a small amount of water but was not discharging. The emergency spillway was free of obstructions and the embankment appeared to be stable. In previous reports, the Division observed what seemed to be new erosion on the north-west side of the northern bank. This appears to have been repaired since the Division's August 2024 inspection (Photo 12).



Photo 12: Repaired bank along the north-west side of Pond 007A.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

- Pond 08 contained some water and was well below its capacity (Photo 13). The spillways appeared clear, and the banks were stable. Pond 08 was not discharging.



Photo 13: Pond 008

- The Division was unable to access the silt fence on the western border of the S.A.E. on the top of the hill, to assess whether it still needs to be repaired. **(May still be a maintenance item, but no determination could be made at the time of the inspection)*

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

Drainage Control; Surface Stabilization; Placement:

- The mine was idle at the time of the inspection. Therefore, the wash plant was not processing coal at the time of the inspection. The RDA appears to exhibit positive drainage at this time (Photo 14). The underdrains in the northeast and northwest corners appear to be clear of obstructions, and appear to be functioning as intended.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1



Photo 14: Positive drainage on the RDA.

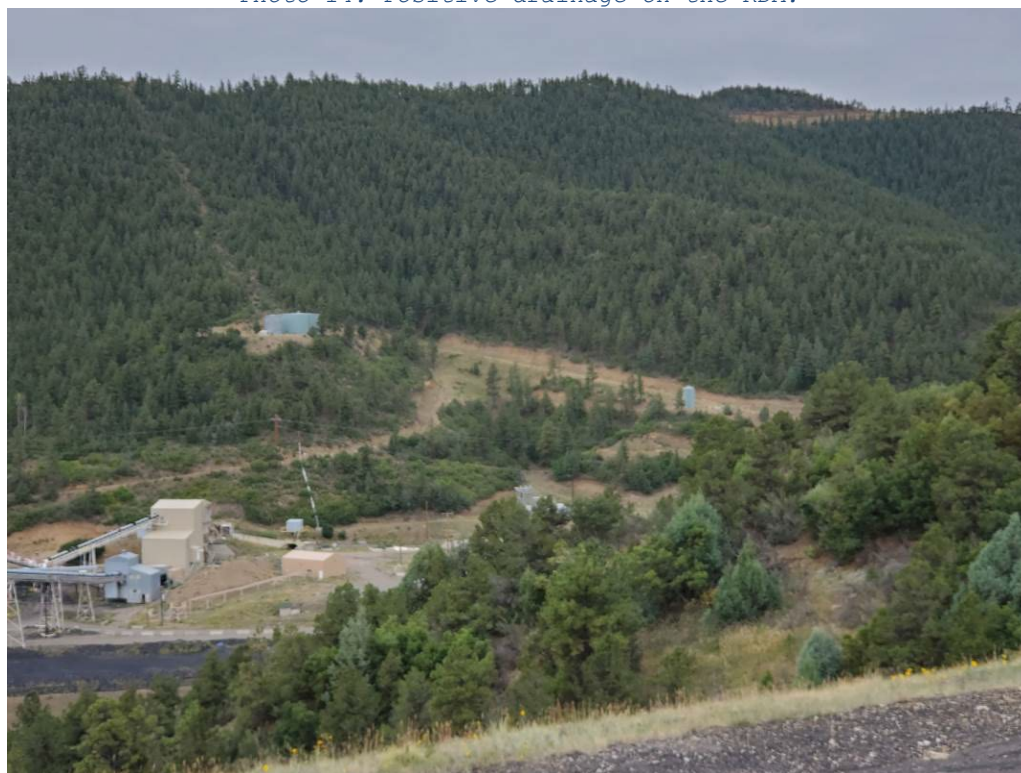


Photo 15: View of the unreachable portion of the south side of the permit, from the RDA.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

RECLAMATION SUCCESS - Rule 4.15, Rule 3:

- During the Division's June 2024 inspection, it was noted that a lot more vegetation had established since the Division observed the area in November 2023, however there were still a few bare spots. During this September 2024 inspection, the vegetation cover seems to be recovering (Photo 16), but the Operator may want to assess the area to determine species diversity. The Operator is advised to monitor this area and consider re-seeding if necessary.



Photo 16: Establishment of some grasses in the Golden Eagle ventilation shaft area.

SLIDES and DAMAGE - Rule 4.12:

- The Portable Explosives and Chemical Storage area was overall stable. However, the Division observed what seemed to be an empty tank in the ditch to the east of the storage area (Photo 17). **The Operator shall remove this tank and place it within the storage area.** The broken empty/mostly empty storage containers noted in the Division's recent inspection reports appear to be grouped together in the north-west corner of the storage area (Photo 18). **The Operator shall either replace or remove any broken tanks.**

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1



Photo 17: Tank blown into nearby ditch.



Photo 18: Broken and empty/mostly empty storage tanks in northwest corner of storage area.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

SUPPORT FACILITIES - Rule 4.04:

- Within the raw coal storage area, a few barrels were observed along the west side of the wash plant building (Photo 19). The Division believes the barrels may contain rusty storm water, but the substance is unknown. One of the barrels had fallen over, and its liquid contents have spilled onto the ground next to the wash plant building. **The Operator shall clean the spill and explain, to the Division, what material has been spilt.**



Photo 19: Tipped over barrel containing unknown substance within the raw coal processing area, west of the wash plant building.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

SIGNS AND MARKERS – Rule 4.02:

- A mine sign was posted at the main entrance to the New Elk mine site, the Golden Eagle ventilation shaft area, and at the Jansen Loadout in compliance with Rule 4.02 (Photo 20).



Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1



Photo 20: From top to bottom - Sign at entrance gate to site, sign at Jansen Loadout, sign at Golden Eagle Entrance.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

OFFSITE SUPPORT FACILITIES - Rule 4.04, 4.28:

- The facilities at the Jansen Loadout were observed. All equipment on-site appears to be stable at the time of the inspection. However, the state listed noxious weed Mullein was observed along both north and south sides of the conveyor system and the rails (Photo 21). Pursuant to 4.15.1(5), **the Operator shall employ weed control methods to eradicate the weeds within the affected area and prevent further spread of weeds to nearby area**



Photo 21: Mullein along the north side of the conveyor.

TOPSOIL – Rule 4.06

Removal 4.06.2; Substitute Materials 4.06.4(4); Storage and Protection 4.06.3; Redistribution 4.06.4:

Topsoil piles #1, #2, and the new pile located north-west of #1 were observed throughout the site. Each pile had been stabilized with vegetative cover (except for the newest one located in the Stockpile Storage Area north-west

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

of Topsoil Stockpile #1), and was out of the way of on-going mining operations. Topsoil identification signs were observed on each pile (Photo 22).



Photo 22: Topsoil sign observed on topsoil pile #2.

DOCUMENTS RECEIVED

OTHER (SPECIFY)

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

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: 9/18/2024

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: 1

AVAILABILITY OF RECORDS**PERMIT RECORDS**

DRMS Permit	_____
Permit Application w/Revisions	_____
Findings Document	_____
Insurance Certificate	_____
Bond Document	_____
Phased Bond Release	_____
Documents/Findings	_____
Air Emission Permits	_____
County Special Use Permits	_____
UG Mining Landowner Notification	_____
Subsidence Monitoring Reports	_____
Subsidence Monitoring Data	_____
Rill & Gully Survey	_____
Vegetation Monitoring Data	_____
Specific Variance Approvals	_____
Annual Reclamation Reports	_____
Midterm Review Documents	_____
DRMS/OSM Inspection	_____
Reports/Enforcement Actions (3 Years)	_____
Transfers/Succession of Operator	_____
Temporary Cessation Notification	_____
Reclamation Cost Estimate	_____
CERTIFICATIONS	
Pond Certifications	_____
Annual Certifications for Impoundments	_____
Fill Certifications for Excess Spoil or Underground Development Waste	_____
• Quarterly Inspections	_____
• Compaction Testing	_____
• Final Certification	_____
Coal Processing Waste Banks	_____
Haul Road Certifications	_____
Access Road Certifications	_____

HYDROLOGIC RECORDS

NPDES Permit	_____
NPDES Records	_____
Stormwater Management Plan	_____
SPCC Plan	_____
MSHA Pond Inspections	_____
State Engineer's Pond Inspection	_____
Quarterly Pond Inspections	_____
Annual Hydrology Reports	_____
• Ground Water Monitoring	_____
• Surface Water Monitoring	_____
• Spring & Seep Monitoring	_____
• Mine Water Discharge Monitoring	_____
• Mine Inflow Study	_____
• Water Consumption Records	_____
Well Permits	_____

BLASTING RECORDS

Blasting Publication	_____
Blasting Records (3 years)	_____
ATFE Explosives Permit	_____
Blasting Variances	_____
Pre-Blast Surveys	_____

ADDITIONAL RECORDS (specify)

_____	_____
_____	_____
_____	_____
_____	_____

COMMENTS: The Division was unable to access the permit file public records during the inspection. The gate to the premises was locked, as well as the mine office. Please see the Division's June 2024 inspection for the most recent records-check completed at this site.

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1