



STATE OF
COLORADO

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

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

1 message

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

Wed, Oct 30, 2024 at 8:36 AM

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

Good morning,

Attached for your records is a copy of the Division's inspection report for the partial inspection conducted at the New Elk Coal Mine on October 23, 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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InspRprt_Partial_NewElkMine_C1981012_October2024_AMG.pdf
6388K



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: October 23, 2024 Inspection Start Time: 09:28 Inspection End Date: October 23, 2024 Inspection End Time: 13:28	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: October 30, 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	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	Y - Support Facilities Not On-site
N - Other	N - Special Categories Of Mining
N - Processing Waste	Y - Topsoil

COMMENTS

This was a partial 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. During the inspection, I was 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. The weather was cool, the sky was clear, and the ground was damp. The entrance to the mine was locked, and there was no personell on-site. The Operator has provided the Division with the lock combination, thus I was able to access the site.

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 December 31, 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 and along the entirety of Ditch D14 (Photo 1). The berm appeared to be stable and functional, and no apparent structural issues were observed. Also, the D14 was clear of sediment and obstructions.

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 1



Photo 1: Looking west along Ditch D14, on the south side of DWDA #2.

- Where ditches D12 and D14 meet on the west side of DWDA #2, an increased amount of sediment deposition was observed (Photo 2)– likely due to the recent rainfalls. Much of the increased sediment deposition appears to be coming from the pond cleanout-sediment drying area, located on the west side of DWDA #2 (Photo 3). This area where the ditches converge should be monitored and cleaned out within the next year.



Photo 2: Looking south at the northwest corner of DWDA #2, where ditches D12 and D14 join. Circled is where an increased amount of sediment has accumulated.

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Photo 3: Looking west at the pond-cleanings-sediment-drying area, on the west side of DWDA #2.

- The sediment basin at the east end of DWDA #2 held water at the time of the inspection (Photo 4). The berm around the basin appeared to be stable. The check dams along the north side of the sediment basin have filled with sediment (Photo 5). **The Operator shall clean the check dams of sediment and ensure that the sediment control structures are functioning appropriately.**



Photo 4: Looking west at the sediment basin on the east side of DWDA #2.

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Number of Complete Inspections this Fiscal Year: 1



Photo 5: Check dam filled with sediment, north of DWDA #2's sediment basin.

- Culvert C13 was free of obstructions. However, the vegetation in-front of C13 should be cleared before next spring.
- Ditch D3, along the west side of DWDA #1, contained some water at the time of the inspection (Photo 6).



Photo 6: Looking south along ditch D3, on the west side of DWDA #1.

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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:

- Containment area #5 contained water at the time of the inspection. **This containment shall be monitored as the water may need to be pumped out if more accumulates before winter (Photo 7).**



Photo 7: Containment area 5 located north of Highway 12.

- The check dams located along the north side of the Soil Storage Area have filled with sediment in some areas, and the sides of the check dams have begun to erode (Photo 8). **The Operator shall clean the check dams and stabilize the erosion.**

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Number of Complete Inspections this Fiscal Year: 1



Photo 8: Check dams filled with sediment along the north side of the Soil Storage Area.

- Ditch D2, located to the north of DWDA #1, contained water at the time of the inspection. Areas along D2 have begun to fill with sediment. Some erosion along the road leading to Pond 004A was also observed (Photo 9). **The Operator shall clean this ditch and stabilize the road.**



Photo 9: Looking east along D2. Circled are some areas along the road where erosion ruts have formed.

- Pond 001A held some water at the time of the inspection and was not discharging.

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- Pond 004A contained a small amount of water. The bank appeared to be stable. Many treated Mullein weeds were observed along the bank, as well as a few new stalks and florets (Photo 10). **The Operator shall treat the new Mullein stalks and florets to help prevent spreading.**



Photo 10: New Mullein stalks (left) and florets (right) observed around Pond 004.

- 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: Pond 006a

- Pond 007A contained water at the time of the inspection and was not discharging. The emergency spillway was free of obstructions and the embankment appeared to be stable. (Photo 12).

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Photo 12: Pond 007A.

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



Photo 13: Pond 08

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SUPPORT FACILITIES - Rule 4.04:

- During the Division's September 2024 inspection, a few barrels were observed along the west side of the wash plant building, within the raw coal storage area. One of the barrels had fallen over, and its liquid contents have spilled onto the ground next to the wash plant building. The Division believes the spilt material to be rusty stormwater. The Division observed the overturned barrel again during the October inspection and has not yet received confirmation that the spill has been cleaned (Photo 14). **The Operator shall provide evidence to the Division that the spill has been cleaned prior to the Division's next inspection.**



Photo 14: Overturned barrel near the wash plant within the raw coal storage area.

SIGNS AND MARKERS – Rule 4.02:

- A mine sign was posted at the main entrance to the New Elk mine site in compliance with Rule 4.02 (Photo 15). A new contact number has also been provided and posted on the entrance gate to comply with the public access requirements of Rule 5.02.4.

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Photo 15: The Division was able to access the site with the gate code provided to the inspector. Circled is the new contact information sign for outside parties to request access to the site and access to the records.

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

DOCUMENTS RECEIVED

OTHER (SPECIFY)

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 1

ENFORCEMENT ACTIONS/COMPLIANCE**Infraction Number: CO2024002**

Inspection Date: June 12, 2024

Date Issued: September 19, 2024

Primary Topic:

Secondary Topic:

Tertiary Topic:

Description: On June 20, 2024, the Division issued the following violation:

“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. 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 September 18, 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.

Number of Partial Inspection this Fiscal Year: 3Number of Complete Inspections this Fiscal Year: 1

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: 3Number of Complete Inspections this Fiscal Year: 1