



STATE OF  
COLORADO

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

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## November 2024 New Elk Mine C-1981-012 Inspection Report

1 message

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

Thu, Nov 21, 2024 at 2:36 PM

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

Cc: JimB@newelkcoal.com

Good afternoon,

Attached for your records is a copy of the Division's inspection report for the partial inspection conducted at the New Elk Mine on November 6, 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](mailto: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/>



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**InspRprt\_Partial\_NewElkMine\_C1981012\_November2024\_AMG.pdf**  
5255K



## COLORADO


Division of Reclamation,  
Mining and Safety

Department of Natural Resources

### PERMIT INFORMATION

<b>Permit Number:</b> C-1981-012 <b>Mine Name:</b> New Elk Mine <b>Operator:</b> New Elk Coal Company, LLC <b>Operator Address:</b> Mr. John Terry 12250 Highway 12 Weston, CO 81091	<b>County:</b> Las Animas <b>Operation Type:</b> Underground <b>Permit Status:</b> Active <b>Ownership:</b> Private
	<b>Operator Representative Present:</b>  None
<b>Operator Representative Signature: (Field Issuance Only)</b>	

### INSPECTION INFORMATION

<b>Inspection Start Date:</b> November 6, 2024 <b>Inspection Start Time:</b> 09:31 <b>Inspection End Date:</b> November 6, 2024 <b>Inspection End Time:</b> 10:13	<b>Inspection Type:</b> Coal Partial Inspection <b>Inspection Reason:</b> Normal I&E Program <b>Weather:</b> Snowing
<b>Joint Inspection Agency:</b>  None	<b>Joint Inspection Contacts:</b>
<b>Post Inspection Agency:</b>  None	<b>Post Inspection Contacts:</b>
<b>Inspector(s):</b>  Amber M. Gibson	<b>Inspector's Signature:</b>  <b>Signature Date:</b>  11/21/2024

**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	N - Support Facilities Not On-site
N - Other	N - Special Categories Of Mining
N - Processing Waste	N - 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 cold, it was snowing, 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 30, 2024.

**EXCESS SPOIL and DEVELOPMENT WASTE – Rule 4.09**

Placement; Drainage Control; Surface Stabilization:

- The ditch along the west side of DWDA #1 (D3) was clear of obstructions (Photo 1) and the berm appeared to be stable and functional. No apparent structural issues were observed.
- The ditch along the south side of DWDA #1 (D14) was clear of obstructions (Photo 2) and the berm appeared to be stable and functional. No apparent structural issues were observed.
- The ditch along the east side of DWDA #1 (D2) was clear of obstructions (Photo 3) and the berm appeared to be stable and functional. No apparent structural issues were observed.
- The DWDA #1 appeared to be well vegetated and stable at the time of the inspection (Photo 3).

Number of Partial Inspection this Fiscal Year: 4

Number of Complete Inspections this Fiscal Year: 1



*Photo 1: Looking along the west side of DWDA #1 at D3.*



*Photo 2: Looking west across the south side of DWDA #1. Arrow indicates inlet for Culvert C7.*

Number of Partial Inspection this Fiscal Year: 4

Number of Complete Inspections this Fiscal Year: 1





*Photo 3: Looking north along the east side of DWDA #1 at D2.*

#### 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:

- The inlet for Culvert C7 (in the bottom left side of Photo 2) was free of obstructions.
- The inlet for Culvert C22 (Photo 4) was free of obstructions.
- Ditch D32B along the west side of Pond 006a was clear of obstructions (Photo 4).
- Ditch D23 was clear of sediment and obstructions.
- The outlet for Culvert C13 (Photo 5) was free of obstructions.

Number of Partial Inspection this Fiscal Year: 4

Number of Complete Inspections this Fiscal Year: 1





*Photo 4: Ditch D32B and the inlet for Culvert C22.*



*Photo 5: Looking northeast at the outlet for C13.*

Number of Partial Inspection this Fiscal Year: 4

Number of Complete Inspections this Fiscal Year: 1



- Ditch D32 was clear of obstructions (Photo 6).



*Photo 6: Looking east along Ditch D32.*

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Number of Complete Inspections this Fiscal Year: 1

- Containment area #5 appeared to contain less water than at the time of the Division's October 2024 inspection (Photo 7).



*Photo 7: Looking south at Containment #5 and at the discharge point for Pond 08.*

- Ditch D2, located to the north of DWDA #1, contained snow at the time of the inspection (Photo 8). During the October 2024 inspection, it was noted that areas along D2 had begun to fill with sediment and that some erosion along the road leading to Pond 004A was also observed. **The Operator shall monitor this area after the snow clears, clean this ditch, and stabilize the road.**

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Number of Complete Inspections this Fiscal Year: 1





*Photo 8: Looking east along D2.*

- Pond 001A held some water at the time of the inspection and was not discharging (Photo 9).
- Pond 004A contained a small amount of water (Photo 10). The bank appeared to be stable.
- Pond 006A contained some water at the time of the inspection (Photo 11). The banks of the pond appeared to be stable.
- Pond 007A contained water at the time of the inspection. The water level was up to the lower portions of the primary spillway (Photo 12), but the pond was not discharging (Photo 13). The emergency spillway was free of obstructions and the embankment appeared to be stable.
- The silt fences along the road leading to Pond 007a, within the S.A.E., are full of tumbleweeds and appear to be damaged (Photos 14-15). **The Operator shall clear the silt fences of vegetation/debris and repair the fences.**
- Pond 08 contained water at the time of the inspection and was below its capacity (Photo 16). The spillways appeared clear, and the banks were stable. Pond 08 was not discharging.

Number of Partial Inspection this Fiscal Year: 4

Number of Complete Inspections this Fiscal Year: 1



*Photo 9: Pond 001a*



*Photo 10: Pond 004a*

Number of Partial Inspection this Fiscal Year: 4

Number of Complete Inspections this Fiscal Year: 1





*Photo 11: Pond 006a*



*Photo 12: Pond 007a. Arrow points to principal spillway.*

Number of Partial Inspection this Fiscal Year: 4

Number of Complete Inspections this Fiscal Year: 1





*Photo 13: Discharge point for Pond 007a.*



*Photo 14: Looking east at the silt fences in the S.A.E, located on the north side of the road leading to Pond 007a.*

Number of Partial Inspection this Fiscal Year: 4

Number of Complete Inspections this Fiscal Year: 1





*Photo 15: Looking east at the silt fences in the S.A.E, located on the south side of the road leading to Pond 007a.*



*Photo 16: Pond 08*

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SIGNS AND MARKERS – Rule 4.02:

- Mine signs were posted in compliance with Rule 4.02 (Photos 17-18). 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.



*Photo 17: Mine sign posted near the access entrance for the southside of Pond 08.*

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Number of Complete Inspections this Fiscal Year: 1





*Photo 18: The Division was able to access the site with the gate code provided to the inspector.*

## DOCUMENTS RECEIVED

## OTHER (SPECIFY)

Number of Partial Inspection this Fiscal Year: 4

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: 4Number 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: 4Number of Complete Inspections this Fiscal Year: 1