



STATE OF
COLORADO

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

Lorencito Canyon Mine C-1996-084, December 2024 Inspection Report

1 message

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

Mon, Dec 23, 2024 at 1:47 PM

To: 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 partial inspection conducted at the Lorencito Canyon Mine on Wednesday December 18, 2024.

Please, 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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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: December 18, 2024 Inspection Start Time: 09:14 Inspection End Date: December 18, 2024 Inspection End Time: 10:57	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: December 23, 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
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, partly cloudy, and the ground was mostly dry. 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. Inspection photos corresponding with topics discussed in this report are enclosed.

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 December 30, 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 the corrective action date for item 4. A corrective action date of December 31, 2024 had 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

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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.**

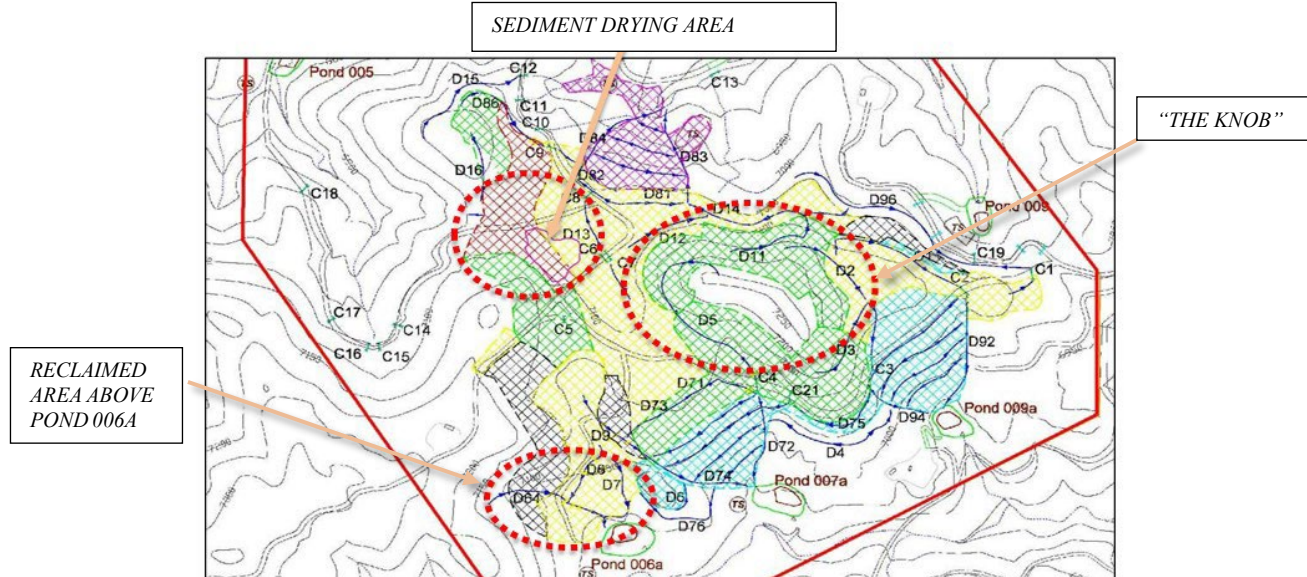


FIGURE 1. AREAS WHERE RILLS, GULLIES AND SPARSE VEGETATION HAS BEEN FOUND TO BE A PERSISTENT PROBLEM AT THE SITE ARE WITHIN THE DOTTED CIRCLE AREAS. BACKGROUND IMAGE IS THE 2020 ANNUAL REPORT MAP.

AVAILABILITY OF RECORDS – Rule 5.02.4(1):

- The 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 December 2024 inspection report's issuance, the Operator has not yet provided any abatement documentation. The deadline for the abatement of violation

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number CV-2024-001 had been extended to the full 90 days allowable by Rule 5.03.2(2)(b) -- to August 28, 2024.

- On August 29, 2024, the Division issued a Cessation Order (CO-2024-001) for the Permittee's failure to abate violation no. CV-2024-001.
- On September 23, 2024 the Division held an Informal Public Hearing where the decision to uphold the Cessation Order was issued on October 10, 2024.
- On September 30, 2024, the Division issued a Show Cause Order. The Operator and any interested parties had until October 30, 2024 to show cause as to why the permit should not be suspended or revoked. As of the date of this December 2024 inspection report, the Division has not received any justification documentation from the Operator or otherwise.

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 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 frozen water and was not discharging (Photo 2).
- Pond 008:
 - The pond contained water at the time of the inspection (Photo 3).
 - The flume contained frozen water but was not discharging at the time of the inspection (Photo 4).
 - 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-December inspections. **The Operator shall treat/remove Mullein within this area.**
- Ditch D5:
 - Ditch D5 is located on the southside of a previously disturbed area referred to as "The Knob" (Figure 2). The Knob is north of Fill 7 and north of the road. Check dams are located throughout D5, and a small sediment catchment area is located at the base of the ditch that leads to culvert C4 (Photo 5). The check dams are full and need to be cleaned, and a few need to be repaired (Photos 6-8). The catchment basin also has an increased sediment load, however C4 appears to still be clear at this time (Photo 9). Still, the Operator **shall clean the sediment out of the check dams and the catchment basin located within D5, north of C4.**

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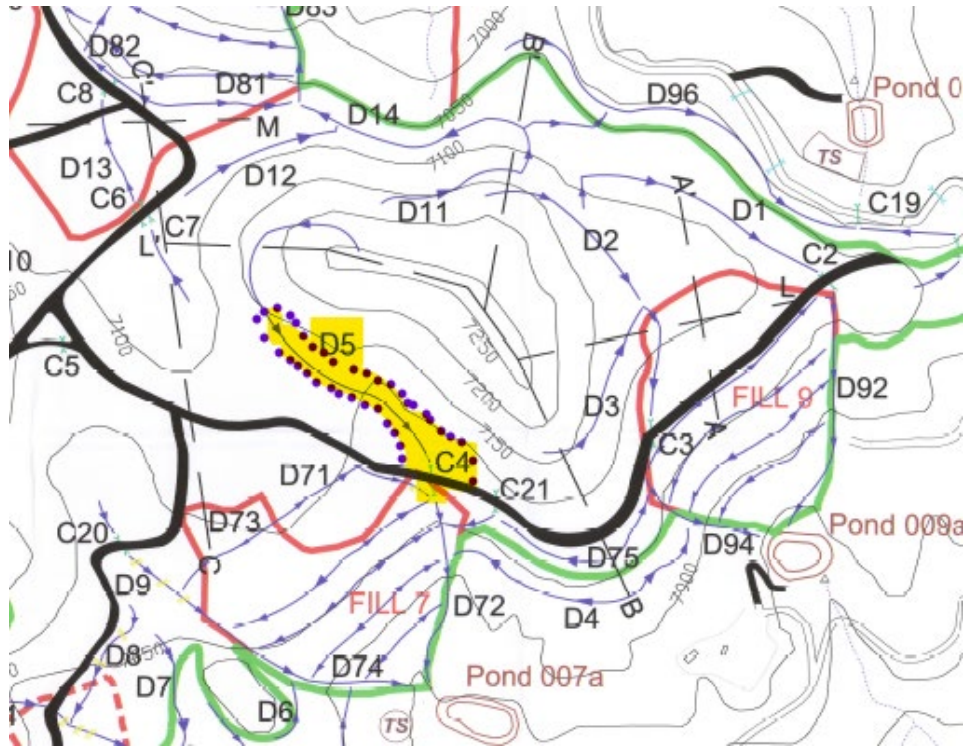


Figure 2: Excerpt from Map 2.05.3-7 Lorencito Canyon Mine Culverts and Ditches. Highlighted and surrounded by purple dots is the approximate area that Photos 5 - 10 were taken.

- Some areas along the south-facing slope of The Knob appear to also be contributing to the increased sediment in D5. Some of these areas appear to have been partially addressed in the past through the use of BMPs such as straw wattles, rip rap, and branches (Photo 10). However, **the Operator shall implement additional sediment control mechanisms on these slopes to control erosion and reduce sediment build up in D5.**
- Culvert C4:
 - The outlet for C4 is located on the south side of the culvert and leads into Ditch D72 along the east side of Fill 7 (Photo 11). Sediment has been deposited at the outlet of C4 and has covered small portion of vegetation at the top of Ditch D72. **The Operator shall monitor this area and ensure that sediment deposition in this area is controlled. To help retain the vegetation established in the area, removing the excess sediment may be warranted in the near future.**
- Ditch D71:
 - D71, located along the southside of the road and north side of Fill 7, empties at the west side of the outlet for C4 (Figure 3 & Photo 12). The check dams within D71 are nearly full of sediment (Photo 13). **The Operator shall clean the sediment from the check dams within D71 and ensure the dams are functioning appropriately.**

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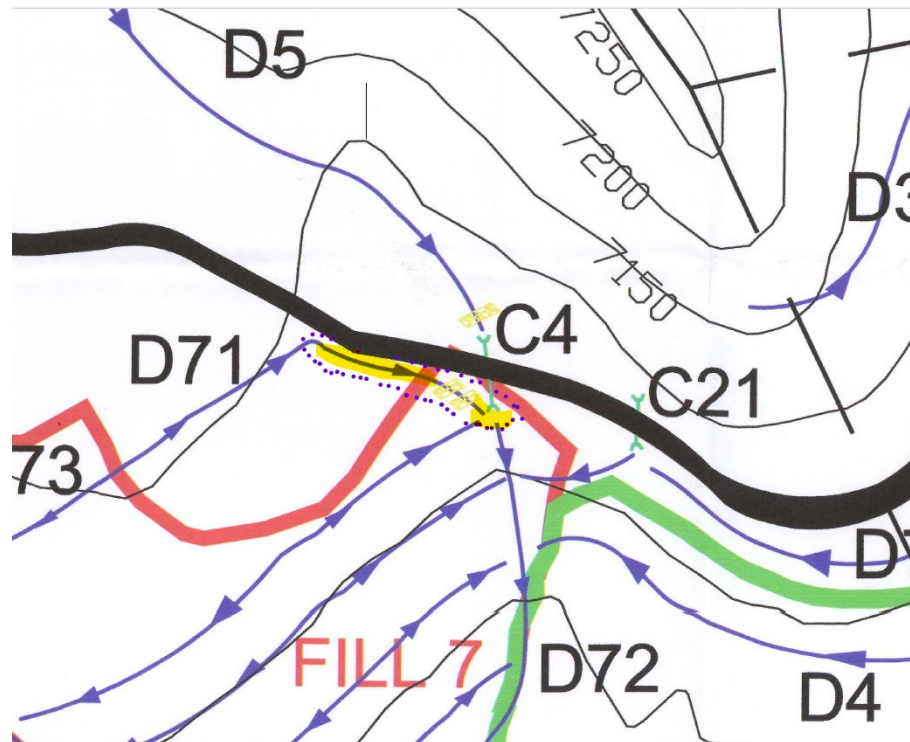


Figure 3: Excerpt from Map 2.05.3-7 Lorencito Canyon Mine Culverts and Ditches. Highlighted and surrounded by purple dots is the approximate area that Photos 11 - 13 were taken.

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

Drainage Control; Surface Stabilization; Placement:

- Fill 7 was observed. Fill 7 was well vegetated and appeared stable (Photo 14).
- Fill 8 was observed. Fill 8 was well vegetated and appeared stable (Photo 15).

RECLAMATION SUCCESS - Rule 4.15, Rule 3:

- The Knob exhibits erosion on the south and west facing slopes. 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 and the observations regarding Ditch D5 mentioned in the Hydrologic Balance section above).

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 leading down into Pond 008 has some ruts that will require repairs. The ruts* and divots in the road to Pond 008 make vehicle access to the pond difficult and not advisable (Photo 16). *These are planned to be addressed at the time the west bank is stabilized.

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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 17).

DOCUMENTS RECEIVED

OTHER (SPECIFY)

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INSPECTION PHOTOGRAPHS



Photo 1: Pond 005



Photo 2: Flume at Pond 005.

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Photo 3: Looking south at Pond 008.



Photo 4: Flume at Pond 008.

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Photo 5: Looking northwest at the catchment basin located south of The Knob and north of C4. The arrows point to Ditch D5 along the southside of The Knob.



Photo 6: Looking west from a check dam located within D5 at the sediment deposition within D5.

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Photo 7: Looking further west along D5 at the check dams. Some of the structures have failed and need to be repaired.



Photo 8: Looking towards the end of D5 (basin area), at the excess amount of sediment deposited within D5.

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Photo 9: Looking south at the inlet for C4, located on the south side of the catchment basin area at the end of D5.



Photo 10: Looking upslope at previous attempts to address erosion on the slopes located above D5. Arrow indicates location of a straw wattle.

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Photo 11: Looking southeast at the outlet for C4 (red arrow). The yellow arrow indicates the termination of Ditch D71. The green arrow indicates the beginning of D72.



Photo 12: Looking northwest at the outlet for C4. The red arrow indicates the location of D5. The yellow arrow indicates the approximate location of the inlet for C4.

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Photo 13: Looking northeast along the check dams in D71, leading to culvert C4.



Photo 14: Looking southwest across Fill 7.

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Photo 15: Looking south at Fill 8.



Photo 16: Looking north, down the access road to Pond 008.

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Photo 17: Mine sign

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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

Date Issued: May 30, 2024

Primary Topic: Availability Of Records

Secondary Topic: Availability Of Records

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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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