



## 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> January 22, 2025 <b>Inspection Start Time:</b> 12:55 <b>Inspection End Date:</b> January 22, 2025 <b>Inspection End Time:</b> 13:50	<b>Inspection Type:</b> Coal Partial Inspection <b>Inspection Reason:</b> Normal I&E Program <b>Weather:</b> Cloudy
<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>  January 28, 2025

**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	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	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 cold and windy and the ground had a few inches of snow cover. 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 **January 31, 2025**.

**AVAILABILITY OF RECORDS – Rule 5.02.4(1):**

- As of January 16, 2025, the Pond and Refuse Pile Compliance Inspections are **past due**. Additionally, the Discharge Monitoring Reports are due tomorrow, **January 29, 2025**. The Operator shall submit the compliance documents as soon as possible to avoid enforcement actions.
- 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 January 2025 inspection report’s issuance, the Operator has not yet provided any abatement documentation. The deadline for the abatement of violation number CV-2024-002 had been extended to the full 90 days allowable by Rule 5.03.2(2)(b) -- to September 18, 2024.
- On September 19, 2024, the Division issued a Cessation Order (CO-2024-002) for the Permittee’s failure to abate violation no. CV-2024-002.
- On October 14, 2024 the Division held an Informal Public Hearing where the decision to uphold the Cessation Order was issued on October 14, 2024.

Number of Partial Inspection this Fiscal Year: 5

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- 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 January 2025 inspection report, the Division has not received any justification documentation from the Operator or otherwise

#### 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 (D4) was clear of obstructions (Photo 2) and the berm appeared to be stable and functional. No apparent structural issues were observed.
- The sediment basin at the east end of DWDA #2 held water at the time of the inspection (Photo 3). The berm around the basin appeared to be stable. The check dams along the north side of the sediment basin have filled with sediment. **The Operator shall clean the check dams of sediment and ensure that the sediment control structures are functioning appropriately.**
- Culvert C13 was free of obstructions (Photo 4). However, the vegetation in-front of C13 should be cleared before next spring.
- Ditch D14 on the south side of DWDA #2 appeared to be stable (Photo 5). No signs of seepage or erosion on the south side of the bank was observed.

#### 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 some frozen water and was below capacity (Photo 6).
- Pond 001A held some frozen water at the time of the inspection and was not discharging. No tears were observed in the lining at the time of the inspection (Photo 7).
- Pond 004A contained a small amount of frozen water located within the southeast corner (Photo 8). The banks appeared to be stable at the time of the inspection.
- Pond 006A contained some frozen water at the time of the inspection (Photo 9). The banks of the pond appeared to be stable.
- Pond 007A contained some frozen water at the time of the inspection. The water level was up to the lower portions of the primary spillway (Photo 10), but the pond was not discharging. 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 are damaged (Photo 11). **The Operator shall clear the silt fences of vegetation/debris and repair and/or replace the fences.**
- Ditch D23 was clear of obstructions, and the berm alongside the road appeared to be stable (Photo 12).

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- Pond 08 contained some frozen 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.

SIGNS AND MARKERS – Rule 4.02:

- Mine signs were observed at the main entrance to the New Elk mine site and around the permit boundary.

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 were observed throughout the site (Photo 14). Each pile was out of the way of on-going mining operations, had a sign to identify the stockpiles as topsoil, and had been stabilized with vegetative cover (except for the newest one located in the soil Stockpile Storage Area north-west of Topsoil Stockpile #1).
- **The new topsoil pile shall be seeded with the approved seed mix and stabilized as soon as possible** (Photo 15).
- The berm along the north side of the soil stockpile storage area, on the south side of the check dams, is intact along the western sides (Photo 16). Towards the entrance to the area, the berm will need to be restabilized as the check dams are cleaned.

**DOCUMENTS RECEIVED**

**OTHER (SPECIFY)**

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Number of Complete Inspections this Fiscal Year: 2

**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: 5Number of Complete Inspections this Fiscal Year: 2

**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.

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## **PHOTOGRAPHS**



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



*Photo 2: Looking east along D4 on the south side of DWDA #1.*

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*Photo 3: Looking northwest at the east side of DWDA #1. The sediment basin contained some frozen water at the time of the inspection.*



*Photo 4: Looking at the inlet for C13.*

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*Photo 5: Looking west along the D14 on the south side of DWDA #2.*



*Photo 6: Looking south at Containment Area #5.*

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*Photo 7: Looking east at Pond 001A.*



*Photo 8: Looking south at Pond 004A.*

Number of Partial Inspection this Fiscal Year: 5

Number of Complete Inspections this Fiscal Year: 2





*Photo 9: Looking west at Pond 006A.*



*Photo 10: Looking east at Pond 007A.*

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*Photo 11: Looking east along the road on the south side of Pond 007A. The silt fences within this S.A.E. need to be repaired and/or replaced.*



*Photo 12: Looking west along D23.*

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*Photo 13: Looking northeast at Pond 08.*



*Photo 14: Looking southeast at Topsoil Stockpile #1. Circled is the sign.*

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*Photo 15: Looking south at the new topsoil stockpile.*



*Photo 16: Looking east along the berm located on the south side of the soil stockpile storage area.*

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