




PERMIT INFORMATION

Permit Number: C-1981-012 Mine Name: New Elk Mine Operator: New Elk Coal Company, LLC Operator Address: 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: March 25, 2025 Inspection Start Time: 14:03 Inspection End Date: March 25, 2025 Inspection End Time: 16:10	Inspection Type: Coal Complete Inspection Inspection Reason: Normal I&E Program Weather: Cloudy
Joint Inspection Agency: None	Joint Inspection Contacts:
Post Inspection Agency: None	Post Inspection Contacts:
Inspector(s): Amber M. Gibson	Inspector's Signature:  Signature Date: April 3, 2025

Inspection Topic Summary

NOTE: Y=Inspected N=Not Inspected R=Comments Noted V=Violation Issued NA=Not Applicable

N - Air Resource Protection

Y - Availability of Records

N - Backfill & Grading

Y - Excess Spoil and Dev. Waste

N - Explosives

N - Fish & Wildlife

Y - Hydrologic Balance

Y - Gen. Compliance With Mine Plan

N - Other

Y - Processing Waste

N - Roads

Y - Reclamation Success

Y - Revegetation

N - Subsidence

Y - Slides and Other Damage

N - Support Facilities On-site

Y - Signs and Markers

Y - Support Facilities Not On-site

N - Special Categories Of Mining

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. During the inspection, I was unaccompanied by an Operator representative for the Permittee -- New Elk Coal Company, LLC (NECC). The weather was warm, the sky was partly cloudy, and the ground was mostly dry. The entrance to the mine was locked, and there was no personell on-site. Upon arriving at the main site, the inspector observed that a new lock was on the gate. Because of this, the Division was unable to access the main facilities.

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 had been extended to January 31, 2025.

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 had been extended to January 31, 2025.

On March 19, 2025, a formal public hearing was held before the Mined Land Reclamation Board (Board) pursuant to C.R.S.-34-33-123(7), C.R.S.-34-33-124(4), and Rule 5.03.3(3) for the purpose of permit suspension or revocation. The Board passed a motion to suspend permit number C-1981-012 at the hearing.

OUTSTANDING MAINTANENCE ITEMS

Listed below are maintenance items in previous inspection reports. Because the permit has been suspended, the corrective actions will not be expected to be addressed until there is a new Permittee/Operator.

- (January 2024 report) **The silt fences along the road in the SAE south of Pond 007 are damaged and need to be repaired.**
- (February 2024) In the Stockpile Storage Area, there is a new pile of soil.

Number of Partial Inspection this Fiscal Year: 6

Number of Complete Inspections this Fiscal Year: 3

- a. The Operator stated that the soil was salvaged during the debris clean-up work conducted during the past year in the Train Yard Area. The Operator believes that the pile contains topsoil quality soil. **If the Operator intends to salvage this material as topsoil, the topsoil pile must be stabilized with a vegetative cover (Rule 4.06.3(2)(a)(i)).**
 - b. **The Operator shall submit a Minor Revision (MR) to update *Map 11-Sheet 3: East Portal Facilities* and pages 37-41 of section 2.05 of the PAP to account for the location, source, and volume of the new topsoil pile pictured in Photo 10.**
- (March 2024 report) **The silt fence on the western border of the S.A.E. on the top of the hill needs to be repaired.**
 - (July 2024 report) The state listed noxious weed, Mullein, was observed along the light use road leading to the southwest corner of Pond 004. **The Operator shall treat and or remove the Mullein from the area around Pond 004.**
 - (October 2024 report) The sediment basin at the east end of DWDA #2 held water at the time of the inspection. 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.**
 - (October 2024 report) 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. **The Operator shall clean the check dams and stabilize the erosion.**
 - (October 2024 report) 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. **The Operator shall clean this ditch and stabilize the road.**
 - (October 2024 report) 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. **The Operator shall provide evidence to the Division that the spill has been cleaned.**
 - (December 2024 report) The water pump/valve cover structure near the water tanks on the south side of the permit has been damaged. **The Operator shall repair, replace, or remove this structure.**
 - (December 2024 report) RDA:
 - a. The northernmost bench, before the leveled area at the top of the RDA, has a small ditch that runs east-west toward the drainages on either side of the RDA. The west side of the bench has a check dam to help slow runoff into the area that leads to culvert C81. The check dam appears functional at the end of the ditch, but erosion has cut around on the slope next to the check dam in some areas, leading to increased sedimentation in the basin leading to C81. **The Operator shall implement additional erosion control structures along the west slope of the RDA to help reduce erosion on the slope, and stabilize the eroded slopes.**

Number of Partial Inspection this Fiscal Year: 6

Number of Complete Inspections this Fiscal Year: 3

- b. The unnamed ditch east of D55, running along the west side of the RDA contains a few check dams to control run off and reduce erosion along the RDA. The southernmost check dam is damaged and is no longer functioning appropriately. It appears that water has undercut the check dam and has allowed for excess sediment to accumulate at the end of the ditch. **The Operator shall repair the check dam in the unnamed ditch leading to C81.**
 - c. There is a culvert (C81) at the end of ditch D55 and the unnamed ditch that allows runoff to flow under the road and out to the ditch leading to Pond 08. The inlet side of C81 (located on the north side) appears to be clear of obstructions at this time. **However, the Operator shall remove some of the sediment that has accumulated in the basin to the north of C81 to help minimize the sediment load deposited into Pond 08.**
 - d. The outlet side of C81 (located on the south side) has been partially filled with sediment. **The Operator shall clean sediment out of C81 and from the area around the culvert.**
- (December 2024 report) 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 the September 2024 inspection, the vegetation cover seemed to be recovering. As of this December 2024 inspection, the vegetation seems to have stabilized, 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.**
- (December 2024 report) The Portable Explosives and Chemical Storage area was overall stable. However, the Division observed an empty tank in the ditch to the east of the storage area. **The Operator shall remove the tank from the ditch.**
- (December 2024 report) Jansen Loadout:
 - a. The mine sign is no longer posted at the Jansen Loadout. Therefore, **the Operators shall post a new sign at the Jansen Loadout to comply with the requirements of Rule 4.02.**
 - b. **Once an Operator for the New Elk permits is restored, they will need to clarify to the Division through a revision, the operational status of the Jansen Loadout in regard to the mining operation.**

CURRENT INSPECTION OBSERVATIONS

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 June 2024 inspection. As of the date of this March 2025 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-2024-002 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.
- 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 March 2025 inspection report, the Division has not received any justification documentation from the Operator or otherwise.
- As of January 15, 2025, the Pond and Refuse Pile Compliance Inspections are **past due**.
- On February 13, 2025 the inspector called the number posted on the gate at the New Elk Mine. The numbers have been disconnected. The Division was unable to check the mine records, as is required by Rule 5.02.4. **This issue will need to be remedied immediately when there is a new Operator for the site.**
- As of February 15, 2025, the 2024 Annual Reclamation Report compliance requirement is **past due**.
- As of February 28, 2025, the 2024 Annual Hydrology Report compliance requirement is **past due**.
- On March 19, 2025, a formal public hearing was held before the Mined Land Reclamation Board (Board) for permit suspension or revocation. The Board passed a motion to suspend permit number C-1996-084 at the hearing.
- As of March 28, 2025 the Discharge Monitoring Reports for December 2024, January 2025, and February 2025 are **past due**.

EXCESS SPOIL and DEVELOPMENT WASTE – Rule 4.09

Placement; Drainage Control; Surface Stabilization:

- The sediment basin at the east end of DWDA #2 held water at the time of the inspection.
- No signs of erosion were observed along the slopes of DWDA #1. The slopes appear to be well vegetated and stable (Photo 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:

- Containment area #3 was dry.
- Containment area #4 was dry.
- Containment area #5 contained some water and was below capacity (Photo 2).
- Pond 001A held some water at the time of the inspection (Photo 3).
- Pond 004A contained a small amount of water located within the southeast corner (Photo 4).

Number of Partial Inspection this Fiscal Year: 6

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- Pond 006A contained some water at the time of the inspection (Photo 5). The banks of the pond appeared to be stable.
- Pond 007A contained some water at the time of the inspection (Photo 6).
- Pond 08 contained some water at the time of the inspection and was below its capacity (Photo 7). The spillways appeared clear, and the banks were stable. The Division walked along the south facing side of the south bank and it appeared stable (Photos 8-9). Pond 08 was not discharging.

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.
- **See Ongoing Maintenance Items, item #10 at the beginning of this report. Photos 10-12 correspond with #10a. Photo 13 corresponds with Item #10b. Photo 14 corresponds with Item 10#c. Photo 15 corresponds with Item 10#d.**
- Check dams line the north and south side of the road leading to the top of the RDA. These ditches along the road have filled with sediment, and many of the check dams in the ditch need to be repaired (Photo 16). **The Operator will need to clean the sediment from these ditches and repair the check dams.**
- The check dam on the east side of the unreclaimed slopes, leading to the conveyor belt, have filled with sediment and the area near the conveyor belt has deep erosion rills (Photos 17-18). **The Operator shall clean the sediment from this ditch, stabilize the area near the conveyor belt, and repair the ruts caused by the erosion.**
- The ditch at the toe of the oldest unreclaimed slope, above the most recently reclaimed slope, has filled with fine sediment. Deep erosion gullies have formed on the slope above the ditch (Photo 19). A small amount of sediment has run off onto the top of the reclaimed slope (Photo 20). **The Operator shall stabilize the**
- The reclaimed slopes on the RDA appear to be well vegetated and stable (Photo 21). No signs of erosion on the reclaimed slopes were observed during the inspection.

RECLAMATION SUCCESS – Rule 4.15, Rule 3:

- **See Ongoing Maintenance Items, item #11 at the beginning of this report and Photo 22.**
- The downslope area on the east side of the Golden Eagle ventilation shaft area contains silt fences to help control erosion from runoff onsite. All that remains is the rebar from the silt fences (Photos 23-24). It appears that this area is no longer experiencing erosion control problems, and that the rebar may be able to be removed once the Operator considers releasing the area.

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SIGNS AND MARKERS – Rule 4.02:

- Mine signs were observed at the main entrance to the New Elk mine site, around the permit boundary, and at the Golden Eagle ventilation shaft area.
- As the **Ongoing Maintenance Item** section (item # 13a) states, the mine sign is no longer posted at the Jansen Loadout.

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. A subcontractor for the current tenant was onsite during the inspection and stated that they were working on the conveyor belt system during the Division's December 2024 inspection report. During the March 2025 inspection, it appeared that many portions of the conveyor system have been replaced with new parts (Photo 25).
- Much of the coal in the yard area near the entrance has been removed/covered with what looks like soil and/or gravel (Photo 26). On the east side, near the office trailer, the yard has now also been graveled (Photo 27).
- See **Ongoing Maintenance Item # 13b**.

DOCUMENTS RECEIVED**OTHER (SPECIFY)**

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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: 6Number of Complete Inspections this Fiscal Year: 3

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: 6Number of Complete Inspections this Fiscal Year: 3

PHOTOGRAPHS



Photo 1: Looking southwest at the north side of DWDA #1.



Photo 2: Containment Area no. 5 and the emergency spillway for Pond 08.

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Number of Complete Inspections this Fiscal Year: 3



Photo 3: Pond 001a.



Photo 4: Pond 004a.

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Photo 5: Pond 006a.



Photo 6: Pond 007a.

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Photo 7: Pond 08 and the reclaimed slopes of the RDA.



Photo 8: Looking west along the south-facing side of the southern slope at Pond 08.

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Number of Complete Inspections this Fiscal Year: 3



Photo 9: Looking west along the south-facing side of the southern slope at Pond 08.



Photo 10: Looking at the check dam along the backside of the most recent slope on the RDA.

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Photo 11: Looking at where the top of the RDA is eroding into the unnamed ditch east of ditch D55 leads to C81.



Photo 12: Looking down at the unnamed ditch that leads to culvert C81 below the RDA road.

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Photo 13: Looking north along the unnamed ditch leading to culvert C81.



Photo 14: North side of culvert C81.

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Photo 15: Circled is the southside of C81.



Photo 16: Looking along the ditch on the north side of the RDA road, at the toe of the most recently placed slope where check dams have been undercut.

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Photo 17: Looking at the check dam on the east side of the RDA area, leading to the conveyor belt area.



Photo 18: Looking at the erosion running along the west side of the conveyor belt.

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Photo 19: Erosion rills on the south-facing side of the first unreclaimed slope.



Photo 20: Looking along the ditch above the most recently reclaimed slope.

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Photo 21: Looking across the reclaimed RDA slopes.



Photo 22: Golden Eagle Ventilation shaft area.

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Photo 23: Rebar from silt fences on east side of the ventilation shaft area.



Photo 24: Rebar from silt fences on east side of the ventilation shaft area.

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Photo 25: New conveyor belt part at the Jansen Loadout.



Photo 26: Graveled yard area at the Jansen Loadout.

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Number of Complete Inspections this Fiscal Year: 3



Photo 27: Office building area is now graveled at the Jansen Loadout Area.

Number of Partial Inspection this Fiscal Year: 6

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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 mine records as the phone numbers listed on the gate have been disconnected and because there was a new lock on the gate that the Division does not have a key to.

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