



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: 12250 Highway 12 Weston, CO 81091	County: Las Animas Operation Type: Underground Permit Status: Suspended Ownership: Private
	Operator Representative Present: None
Operator Representative Signature: (Field Issuance Only) 	

INSPECTION INFORMATION

Inspection Start Date: April 24, 2025 Inspection Start Time: 12:20 Inspection End Date: April 24, 2025 Inspection End Time: 13:27	Inspection Type: Coal Partial 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: May 7, 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	Y - Reclamation Success
N - Backfill & Grading	Y - Revegetation
Y - 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
Y - Gen. Compliance With Mine Plan	Y - Support Facilities Not On-site
N - Other	N - Special Categories Of Mining
Y - 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). The weather was warm, the sky was partly cloudy, and the ground was mostly dry. Jim Begano and Bill Massarotti have been employed to perform periodic security checks. Upon arriving at the main site, the inspector was provided a key to the new lock on the entrance gate by Mr. Begano and Mr. Massarotti. The Division was thence able 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.

Photos included below are observations made during the current April 2025 inspection that correspond with the ongoing maintenance items listed in this section.

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1. (September 2023 – December 2024 reports)

During the September 2023 inspection, it was noted that the embankment slope on the northwest side of the Soil Storage Area was eroding and sluffing into the ditch that discharges to ditch D6. NECC was instructed to repair and stabilize the area. The ditch embankment separating the affected land drainage from the adjacent clear water ditch (D7) is very thin in areas. Failure of this embankment may overwhelm the ditch and cause sediment to discharge into the clean water ditch D7 that discharges to the river. During the October 2023 inspection, the Operator stated that they had hydro-mulched the northwest side of the Soil Storage Area in an attempt to stabilize the slope. They also stated that they are unable to safely get equipment in the area to mechanically stabilize the slope and berm separating the treated water run-off from the clean water ditch. NECC had been monitoring this area. As of this December 2024 inspection, it appears that the hydro-mulching and seeding of the bench has failed, as no vegetation appears to have been established. **The Operator shall determine how to re-stabilize this bench and do so as soon as possible.**

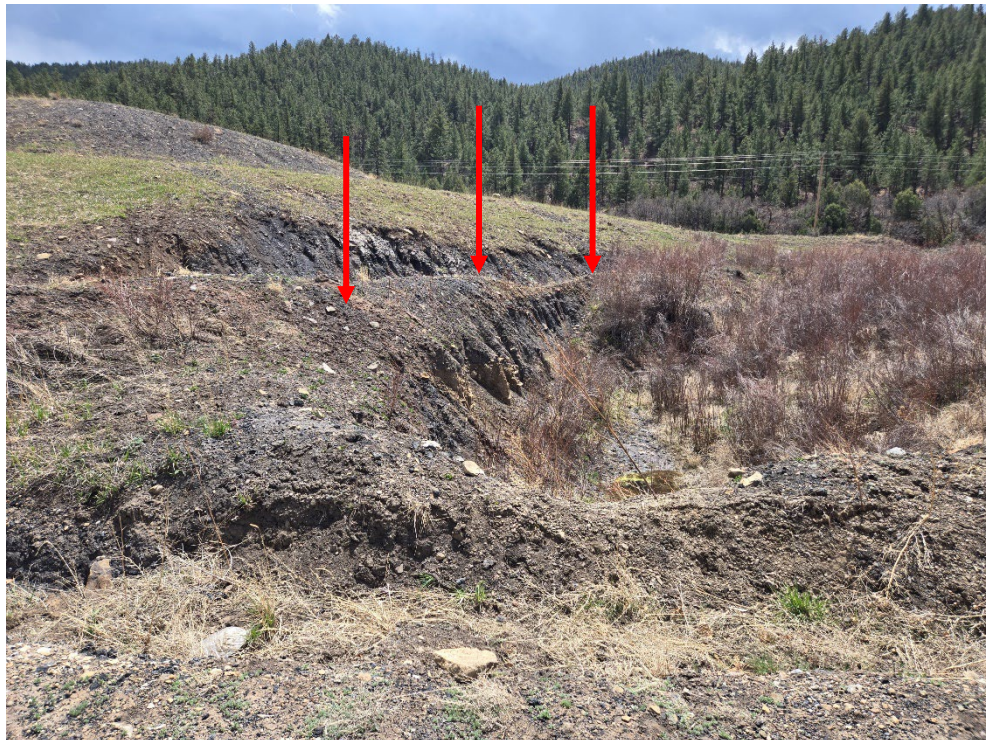


Photo 1: The arrow points to the embankment separating D6 from D7 that needs to be stabilized

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2. (January 2024 report) **The silt fences along the road in the SAE south of Pond 007 are damaged and need to be repaired.**



Photo 2: Silt fences within the S.A.E area south of Pond 007a.

3. (February 2024) In the Stockpile Storage Area, there is a new pile of soil.
 - 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)).**

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Photo 3: New topsoil pile

- 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.**
4. (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.**
5. (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.**
6. (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.**
7. (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.**

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8. (October 2024 report) Areas along Ditch D2, located to the north of DWDA #1 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.**
9. (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.**
10. (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.**
11. (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.**
 - 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.**
12. (December 2024 report) During the Division's June 2024 inspection, it was noted that a lot more vegetation had established in the Golden Eagle ventilation shaft area 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.**

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13. (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.**



Photo 4: Empty tank located in the ditch east of the Chemical Storage yard.

14. (December 2024 report) Jansen Loadout:
- 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.**
 - 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 regarding the mining operation.**

ADDITIONAL 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**.
- On April 22, 2025, the Board Order suspending permit number C-1996-084 was issued.

EXCESS SPOIL and DEVELOPMENT WASTE – Rule 4.09

Placement; Drainage Control; Surface Stabilization:

- The sediment basin at the east end of DWDA #2 was not holding water at the time of the inspection.

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Photo 5: Sediment basin on east side of DWDA #2.

- No signs of erosion were observed along the slopes of DWDA #1. The slopes appear to be well vegetated and stable.

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.

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Photo 6: Looking south at Containment Area #5.

- Pond 001A held some water at the time of the inspection. No tears were observed in the lining.



Photo 7: Pond 001A

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- Pond 004A contained a small amount of water located within the southeast corner.



Photo 8: Looking south at Pond 004A

- Pond 006A contained some water at the time of the inspection. The banks of the pond appeared to be stable.

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Photo 9: Pond 006A

- Pond 007A contained some water at the time of the inspection. The primary and emergency spillways were clear and the banks appeared to be stable.



Photo 10: Pond 007A

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



Photo 11: Pond 08

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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.



Photo 12: Mine sign posted near Pond 08

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. 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 Stockpile Storage Area north-west of Topsoil Stockpile #1- see outstanding maintenance problem #3 above).

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Photo 13: Topsoil Pile no. 1



Photo 14: Topsoil Pile (unnumbered)

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Photo 15: Topsoil pile no. 2

DOCUMENTS RECEIVED

OTHER (SPECIFY)

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Number of Complete Inspections this Fiscal Year: 3

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.

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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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