



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: September 11, 2025 Inspection Start Time: 10:00 Inspection End Date: September 11, 2025 Inspection End Time: 11:27	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: September 18, 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

N - Reclamation Success

Y - Revegetation

N - Subsidence

Y - Slides and Other Damage

Y - Support Facilities On-site

N - Signs and Markers

Y - Support Facilities Not On-site

N - Special Categories Of Mining

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 -- NECC. The weather was warm and the sky was partly cloudy.

Outstanding maintenance items (OMI) are in **bold red text** throughout this report. There are several outstanding maintenance items cited in previous inspection reports. If outstanding maintenance items were not specifically inspected during this partial inspection, they are greyed out and are in *italic font*. Because the permit has been suspended, the corrective actions will not be expected to be addressed until there is a new Permittee/Operator. Any **new maintenance items** will be written in green bold text. Inspection photos corresponding with topics discussed in this report are enclosed.

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 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.

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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 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.
- 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 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:

DWDA #1

- **OMI:** (October 2024 report) Areas along 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.**

DWDA #2

- **OMI:** (October 2024 report) The check dams along the north side of the sediment basin at DWDA #2 have filled with sediment. **The Operator shall clean the check dams of sediment and ensure that the sediment control structures are functioning appropriately.**

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- **OMI:** (July 2025 report) Ditch 12 on the north side of DWDA #2 has filled with sediment. **The Operator shall remove this sediment and stabilize the ditch and road to ensure that the sediment control structures are functioning appropriately.**

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:

Ponds

- Pond 006A - contained some water at the time of the inspection. The banks of the pond appeared to be stable.
- Pond 007A - the water was high at the time of the inspection but had plenty of capacity before reaching the blue marker on the white PVC pipe. The water level is below the top few holes of the principal spillway. The pond was not discharging. The banks appeared stable and the emergency spillway was clear.
- 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 1: Looking west at Pond 006a.

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Photo 2: Looking west at Pond 007a.



Photo 3: Looking east at the south bank of Pond 08. The arrow points to the principal spillway.

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Containment Areas

- Containment Area #5 contained water at the time of the inspection. Once maintenance can resume onsite, the sediment accumulated in this containment area should be removed to help increase capacity.



Photo 4: Looking south at Containment Area #5.

S.A.E.s

- **OMI:** (January 2024 report) **The silt fences along the road in the S.A.E south of Pond 007 are damaged and need to be repaired.**
- **OMI:** (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.*

Miscellaneous Culverts and Ditches

- **OMI:** (August 2025 report) Culvert C64, within Ditch D32, is blocked by vegetative debris. As a result, water has cut around the ditch and has deposited sediment within the raw coal storage area. No water appears to have overflowed on the north side, which leads to the river. **The Operator shall clear the debris from C64 and repair D32 to ensure that water from this ditch flows directly to Pond 007a as designed.**
- Culverts C65, C64 (outlet), C19, C12A, C13 (outlet), C74 (outlet), C17B (outlet), and C17A were clear of debris and sediment.
- Culvert C22 was mostly clear but had some sediment accumulation at the outlet.
- **Culverts C17B (inlet) and C17 (inlet), in addition to the inlet for C64, need to be cleaned of sediment and debris accumulation.**

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- **OMI:** (October 2024 report) The check dams located along the north side of the Soil Storage Area (in the unnamed ditch around the 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.**



Photo 5: C32 inlet

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Photo 6: C22 outlet



Photo 7: C22 inlet

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1



Photo 8: C65 outlet (C65 inlet also clear - not pictured)



Photo 9: C64 outlet. South side of ditch D32A alongside showed minor signs of cutting, but the ditch appeared to be stable and no signs of erosion on the river side were observed.

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Photo 10: C19 inlet



Photo 11: C12a outlet

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Photo 12: Ditch D32, looking west

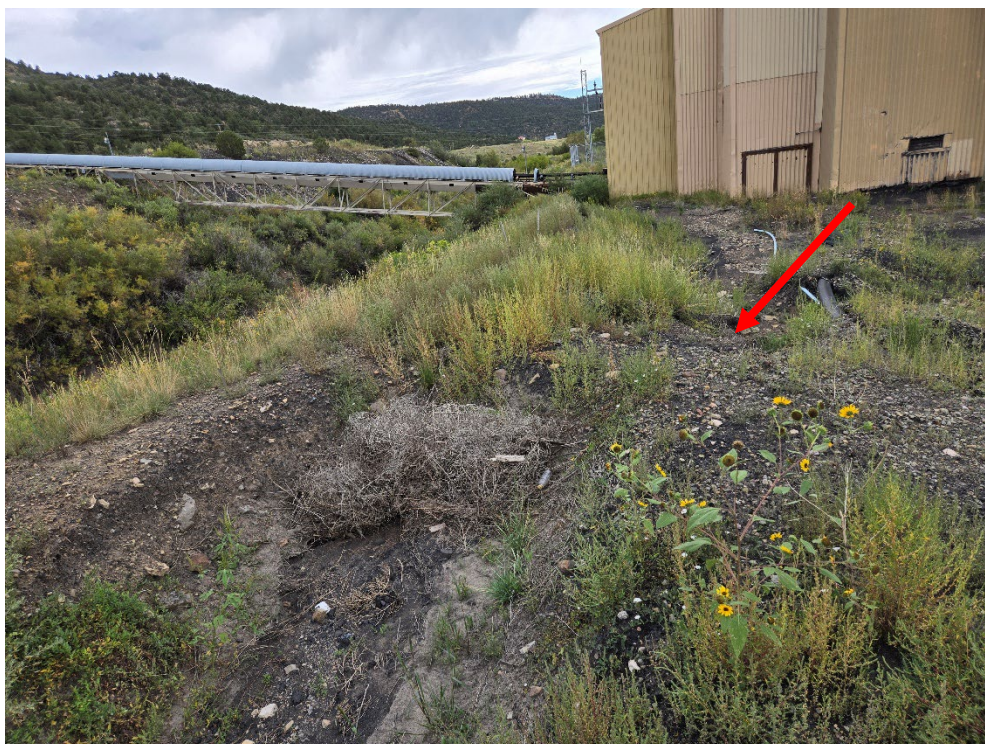


Photo 13: Looking east in D32 at the inlet for C64. The arrow points to where water had overtopped.

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Photo 14: Looking west within D32 where D32 turns into D15.



Photo 15: C13 outlet

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Photo 16: C74 outlet



Photo 17: C17B inlet

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Number of Complete Inspections this Fiscal Year: 1



Photo 18: C17B outlet



Photo 19: C17A inlet

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Number of Complete Inspections this Fiscal Year: 1



Photo 20: C17A outlet



Photo 21: C17 inlet

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Number of Complete Inspections this Fiscal Year: 1

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

Drainage Control; Surface Stabilization; Placement:

Refuse Disposal Area (RDA)

- The top of the RDA is still exhibiting positive drainage to the back and side ditches.
- **OMI:** (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. **As of the August 2025 inspection, the inlet side of C81 has begun to fill with sediment.**
 - 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. **As of the August 2025 inspection, the outlet side of C81 has been completely covered by sediment.**

Number of Partial Inspection this Fiscal Year: 2

Number of Complete Inspections this Fiscal Year: 1

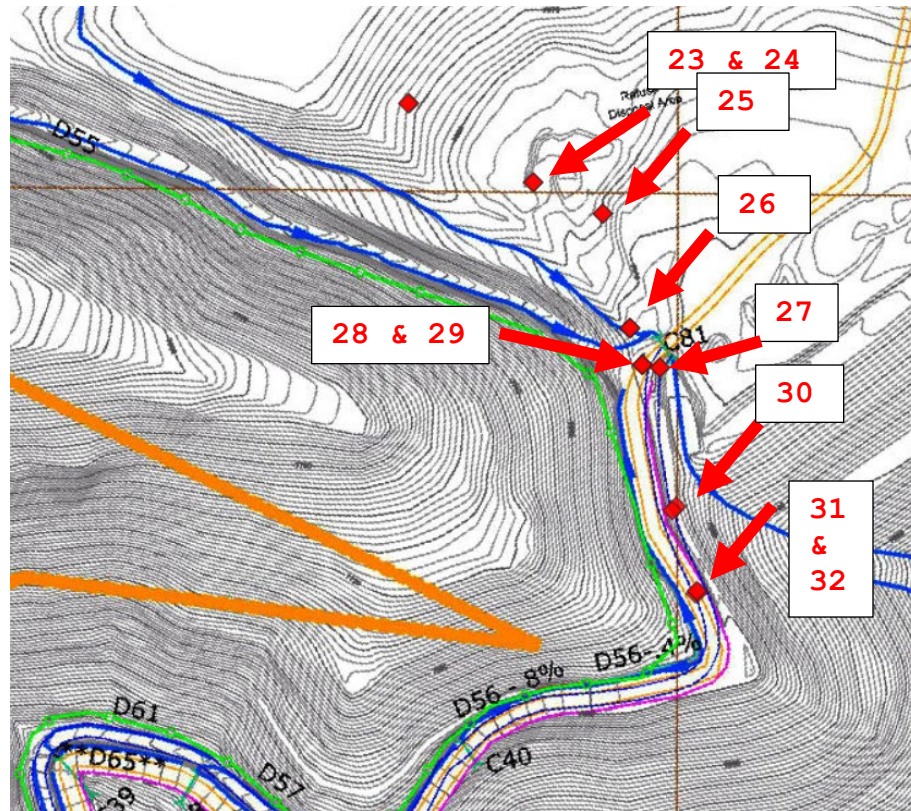


Photo 22: The arrows and numbers correspond with the locations where the photos with the same numbers below were taken.



Photo 23: Looking at a check dam along the backside of the unreclaimed bench face, leading to the sediment basin.

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Photo 24: Looking down from the top of the RDA at the erosion gullies leading to the sediment basin by the road.



Photo 25: Looking up at the erosion gullies seen in Photo 24.

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Photo 26: Looking south at the inlet side of C81.



Photo 27: Looking east at the outlet side of C81 (buried).

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- **OMI:** (March 2025 report)
 - a. 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. **The Operator will need to clean the sediment from these ditches and repair the check dams.**
 - b. *The check dams on the east side of the un-reclaimed slopes, leading to the conveyor belt, have filled with sediment and the area near the conveyor belt has deep erosion rills. **The Operator shall clean the sediment from this ditch, stabilize the area near the conveyor belt, and repair the ruts caused by the erosion.***
 - c. The ditch at the toe of the oldest un-reclaimed slope, above the most recently reclaimed slope, has filled with fine sediment. Deep erosion gullies have formed on the slope above the ditch. A small amount of sediment has run off onto the top of the reclaimed slope. **The Operator shall clean the sediment from the ditch and ensure the slope is stabilized.**



Photo 28: Looking east at the damaged check dams contributing to the sediment accumulation on both sides of the road near C81.

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Photo 29: Looking east at the sediment deposited into the sediment basin on the north side of the road, by the ditches running along the north side of the road.

- Because the sediment basin leading to C81 has filled with an increased amount of sediment, the ditch on the west side of the haul road has begun to fill with sediment and water. During this inspection, recently deposited fine-grained-grey sediment was observed on the haul road. It appears to have overtopped the ditch where the road bends, and has spread towards the armored channel that leads to Pond 08. **The Operator shall remove excess sediment from this ditch to ensure areas offsite do not become impacted by sediment generated from stormwater or snowmelt run-off.**

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Photo 30: Looking north at the fine-grained grey material deposited on the road from ditch D56.



Photo 31: Looking southwest at the end of where sediment has accumulated within D56, near the bend in the haul road.

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Photo 32: Looking at where water carrying the grey sediment had recently flown onto the haul road, depositing the grey material.

REVEGETATION – Rule 4.15

Vegetative Cover; Timing:

- **OMI:** (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.**
- **OMI:** (August 2025 report) Mullein was observed near the underdrain area in the northwest corner of the RDA. **The Operator shall treat and or remove the Mullein from the area around the underdrains.**

SLIDES and DAMAGE - Rule 4.12:

- **OMI:** (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 runoff from the clean water ditch. NECC had been monitoring this area. As of the December 2024 inspection, it appears that the hydro-mulching and seeding of the bench has failed, as no vegetation appears to have

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been established. As of *the July 2025 inspection, the only vegetation that appears to be establishing is the C-listed noxious weed 'bindweed'. **The Operator shall determine how to re-stabilize this bench and do so as soon as possible. (July 2025) The Operator shall also treat and remove the bindweed in this area.**

- **OMI:** (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.**

SUPPORT FACILITIES - Rule 4.04:

- **OMI:** (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.**
- **OMI:** (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.**

SIGNS AND MARKERS – Rule 4.02:

- **OMI:** (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.**

TOPSOIL – Rule 4.06

Removal 4.06.2; Substitute Materials 4.06.4(4); Storage and Protection 4.06.3; Redistribution 4.06.4:

- **OMI:** (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)).**
 - 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.**

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OFFSITE SUPPORT FACILITIES – Rule 4.04, 4.28:

- The facilities at the Jansen Loadout were observed from the Trinidad Lake dam, on the way to the New Elk Mine site. The loadout appeared to be in use by a separate entity. The right of entry issues at this loadout will be addressed when there is a new Permittee in place.



Photo 33: Jansen Loadout being utilized by a separate entity on the day of the inspection.

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.

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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.

Number of Partial Inspection this Fiscal Year: 2Number of Complete Inspections this Fiscal Year: 1