



STATE OF ALABAMA
SURFACE MINING COMMISSION

P.O. BOX 2390 - JASPER, ALABAMA 35502-2390
(205) 221-4130 • FAX: (205) 221-5077

Permit Revision Number: R-34

REVISION TO PERMIT FOR
UNDERGROUND COAL MINING OPERATIONS

Pursuant to the Alabama Surface Mining Control and Reclamation Act, Act No. 8I-435, and duly promulgated rules of the Commission, revision is hereby approved for permit:

P-3247-63-18-U
Jim Walter Resources, Inc.
Post Office Box 133
Brookwood, AL 35444
(Mine No. 7)

License No.: L-613

Pursuant to the
permit map: 1, 2, & 3 of 3

Certified by: Robert W. Usher, P.E. # 15917

Date: June 2, 2015

The permit is revised as follows:

1. Add 2 acres to Increment No. 1 for proposed ventilation shaft 7-20 in Section 34-19S-6W. (Sheet 3 of 3)
2. Add 3 acres to Increment No. 1 for proposed ventilation shaft 7-20A in Section 38-19S-6W. (Sheet 3 of 3)
3. Add 0.3 acres to Increment No. 1 for power borehole in Section 33-19S-6W. (Sheet 3 of 3).
4. Add 12 acres to Increment No. 1 for ancillary roads to shafts 7-20, 7-20A and power borehole. (Sheet 3 of 3)
5. Add 5 acres to Increment No. 1 for substation and power lines to shaft 7-20 and 7-20A.
6. Add Sheet 3 of 3 for additional permit map.
7. Add Freshwater pipeline to previously permitted Increment No. 1 in Section 2-20S-7W and request a waiver to disturb within 100 feet Hannah Creek Road for installation of pipeline. (No Acreage Change)
8. Add 6 acres from Increment No. 1 for proposed access and freshwater pipeline route in Sections 34 & 35-19S-7W along existing coal bed methane company road and request a waiver to cross Clark Branch along an existing bridge.
9. Add 7 acres to Increment No. 1 for proposed Freshwater Impoundment No. 3, borrow area and access all in Section 26-19S-7W.
10. Add 1 acre to Increment No. 1 for water borehole site and access in Section 26-19S-7W.
11. Add 6 acres to Increment No. 1 for deep well pump site, access road and pipeline. (Sheet 1 of 3)
12. Request an exemption of 800-X-10D-.13 for all proposed boreholes and shafts.

- 13. Update ownership previously shown as USX to SWF Birmingham, LLC.
- 14. Update ownership in Section 10, Township 20 South, Range 7 West from Belcher to Cahaba Resources, LLC.

ACREAGE SUMMARY:

* Increment 01 increases to..... 1,628 Acres
TOTAL ACRES INCREASES TO: 1,628 Acres

*** Bonded to date**

All other terms and conditions remain in effect as well as all Findings in the original permit and any Findings appropriate for this revision.

EFFECTIVE DATE: September 24, 2015



Randall C. Johnson, Director


/ml

cc: I & E, Permit File

- CONDITION R-34-1: The permittee shall conduct Surface Coal Mining and Reclamation Operations in accordance with the plans, provisions and schedules in the permit revision application.
- CONDITION R-34-2: The permittee shall conduct operations in a manner to prevent damage or harm to the environment and public health and safety and shall notify ASMC and the public of any condition which threatens the environment or public health and safety.
- CONDITION R-34-3: Surface coal mining operations are restricted to those areas for which sufficient bond has been posted with ASMC. On the date of issuance of this permit revision, bond was posted only for increment(s) 1 consisting of 1,628 acres as defined on the permit map.
- CONDITION R-34-4: No mining disturbance is to occur on any part of the permit on which legal "right of entry" has not been obtained. When such rights are "pending" the applicant shall submit acceptable evidence, to the Director, that such rights have been obtained according to ASMC Regulation 880-X-8D-.07.
- CONDITION R-34-5: No disturbance is to occur on any properties on which land use comments from legal owners of record are "pending" prior to the applicant providing acceptable comments.
- CONDITION R-34-6: No disturbance is to occur in the 300' setback area to any occupied dwelling prior to the applicant providing acceptable evidence to ASMC of its having secured a waiver of each subject area signed by the owner of the dwelling.
- CONDITION R-34-7: No mining disturbance shall occur within the 100' setback of any public road or the relocation of any public road prior to the applicant providing acceptable evidence, to the Director, of its having secured approval for a waiver from the appropriate jurisdictional authority and specific written waiver from ASMC.
- CONDITION R-34-8: No disturbance is to occur on any area that conforms to the U.S. Army Corps of Engineers (Corps) definition of wetlands until acceptable evidence is submitted, to the Director, of Corps approval.
- CONDITION R-34-9: This permit revision in no way authorizes the operator to cause material damage to or otherwise impair any lands, facilities, or improvements located on the surface above or adjacent to the mineral being mined in violation of the property rights of any owner of surface lands or facilities.
- CONDITION R-34-10: Any water supply impacted by subsidence or other causes associated with underground mining will be replaced or restored by the permittee.
- CONDITION R-34-11: This permit in no way authorizes the operator to cause material damage to or otherwise impair any lands, facilities, or improvements located on the surface above or adjacent to the mineral being mined in violation of the property rights of any owner of surface lands or facilities.
- CONDITION R-34-12: Any water supply impacted by subsidence or other causes associated with underground mining will be replaced or restored by the permittee.

CONDITION R-34-13: Permittee can only conduct tree removal activities for the P-3247 Revision 34 "AREA F" or NOR item 9 area between the dates of OCTOBER 15 and MARCH 31.

The ASMC, acting by and through its Director, hereby finds, on the basis of information set forth in the revision application or from information otherwise available, that --

FINDING R-34-1: The permit revision application is complete and accurate and the applicant has complied with all requirements of the Act and the regulatory program.

FINDING R-34-2: The applicant has demonstrated that reclamation as required by the Act and the regulatory program can be accomplished under the reclamation plan contained in the permit revision application.

FINDING R-34-3: The proposed permit area is:

- (a) Not within an area under study or administrative proceedings under a petition, filed pursuant to Chapter 880-X-7 to have an area designated as unsuitable for surface coal mining operations;
- (b) Not within an area designated as unsuitable for mining pursuant to Chapter 880-X-7 or subject to the prohibitions or limitations of Section 880-X-7B-.06 and Section 880-X-7B-.07 of this chapter; or
- (c) Is within an area under study or designated as unsuitable for mining but the applicant has demonstrated valid existing rights.

FINDING R-34-4: For mining operations where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the Regulatory Authority the documentation required under Section 880-X-8D.07 and Section 880-X-8G-.07 of this chapter.

FINDING R-34-5: The Regulatory Authority has made an assessment of the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area and has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

FINDING R-34-6: The applicant has demonstrated that any existing structure will comply with Section 880-X-2B-.01, and the applicable performance standards of Chapter 3 or 10.

FINDING R-34-7: The applicant has paid all reclamation fees from previous and existing operations as required by 30 C.F.R., Subchapter R.

FINDING R-34-8: The applicant has satisfied the applicable requirements of Subchapter 0-X-8J.

FINDING R-34-9: The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural, postmining land use, in accordance with the requirements of 880-X-10C-.58(4) and 880-X-10D-.52(4).

- FINDING R-34-10:** The operation will not affect the continued existence of endangered or threatened species, or result in destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).
- FINDING R-34-11:** The Regulatory Authority has taken into account the effect of the proposed permitting action on properties listed or eligible for listing on the National Register of Historic Places. This finding is supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the Regulatory Authority has determined that no additional protection measures are necessary.
- FINDING R-34-12:** For a proposed remaining operation where the applicant intends to reclaim in accordance with the requirements of Section 880-X-10C-.56 or 880-X-10D-.49, the site of the operation is a previously mined area as defined in Section 880-X-2A-.06.
- FINDING R-34-13:** Surface coal mining and reclamation operations will not adversely affect a cemetery.
- FINDING R-34-14:** After application approval but prior to issue of permit revision, ASMC reconsidered its approval, based on the compliance review required by Section 880-X-8K-.10(2)(a) in light of any new information submitted under 880-X-8D-.05(8).
- FINDING R-34-15:** The applicant has submitted the performance bond or other equivalent guarantee required under Chapter 880-X-9 of the ASMC Rules prior to the issuance of the permit revision.
- FINDING R-34-16:** For mining operations where a waiver is granted from the 100' setback from a public road according to 880-X-7B-.07, the interests of the public and affected landowners have been protected.
- FINDING R-34-17:** This permit does not constitute a determination that the operator has the legal right to cause material damage to or impair any surface lands or facilities above or adjacent to the mineral being mined, according to the Energy Policy Act of 1992, SMCRA Section 720(a)(1), 30 U.S. Code Section 1309a. In addition, by accepting this permit revision the applicant agrees that any water supplies impacted by subsidence be replaced according to the Energy Policy Act of 1992, SMCRA Section 720(a)(2) 30 U.S. Code Section 1309a.
- FINDING R-34-18:** This permit does not constitute a determination that the operator has the legal right to cause material damage to or impair any surface lands or facilities above or adjacent to the mineral being mined, according to the Energy Policy Act of 1992, SMCRA Section 720(a)(1), 30 U.S. Code Section 1309a. In addition, by accepting this permit the applicant agrees that any water supplies impacted by subsidence be replaced according to the Energy Policy Act of 1992, SMCRA Section 720(a)(2) 30 U.S. Code Section 1309a.

FINDING R-34-19: The Regulatory Authority has taken into account the effect of the proposed permitting action on properties listed or eligible for listing on the National Register of Historic Places. The State Historic Preservation Officer (SHPO) determined, by letters dated March 1, 2013 and April 30, 2015 that the project activities would have no adverse effect on cultural resources eligible for or listed on the National Register of Historic Places (NRHP). And therefore concur with the project activities. This finding is supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the Regulatory Authority has determined that no additional protection measures are necessary. Concerns for unknown resources, which might be discovered during mining, have been made conditions of the permit.

FINDING R-34-20: McGehee Engineering Corp. (MEC) conducted Biological Habitat for approximately 18 acres from December 2014 - May 2015 in Jefferson and Tuscaloosa Counties, Alabama. MEC concluded that there was no habitat for the listed, threatened or endangered aquatic or terrestrial species. No evidence was found or observed for the presence of possible presence of these listed species. The US Fish and Wildlife Service (FWS) agreed with MEC findings that no federally listed species/critical habitat occur in the project area by comments dated May 15, 2015 and July 31, 2015. By comments dated July 23, 2015 FWS states the suitable spring/summer roosting habitat for the endangered Indiana bat and/or threatened northern long-eared bat occurs within the project area. FWS concurs with the project activities since tree removal will only occur between October 31 and March 31 for the area shown as potential spring/summer roosting habitat. The Alabama Department of Conservation and Natural Resources (ADCNR) reviewed the proposed addition of acreage and indicated that the closest occurrence of a species of concern was approximately 3.1, 3.5 and 4.3 miles from the area by letters dated August 28 and November 8 2012 and November 12, 2014. The US Army Corps of Engineers (USACE) determined that a permit was not required for the project areas by letter dated November, 16, 2012 by number SAM-2012-01882-CMS. The US Army Corps of Engineers (USACE) determined that mitigation is not required for the project areas by letter dated December 27, 2012 by number SAM-2012-01501-CMS due to minimal impacts to waters of the United States. The US Army Corps of Engineers (USACE) determined that a permit was not required for the project areas by letter dated April 14, 2015 by number SAM-2015-00309-CMS. The ASMC finds that the proposed operation will not jeopardize the continued existence of endangered or threatened species or critical habitat thereof.