



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-29

**REVISION TO PERMIT FOR  
SURFACE COAL MINING OPERATIONS**

Pursuant to the Alabama Surface Mining Control and Reclamation Act, Act No. 81-435, and duly promulgated rules of the Commission, revision is hereby approved for permit:

P-3666-01-16-U  
Drummond Company Inc.  
Post Office Box 1549  
Jasper, AL 35502  
(Shoal Creek)

License No.: L-018  
Pursuant to the permit map: 3 of 3  
Certified by: L. Wade Keeton, PE# 17019  
Date: May 28, 2015

The permit is revised as follows:

1. Add 405 Incidental acres for New Increment No. 2 (128 acres for Proposed Slurry Impoundment No. 2, 270.0 acres for Borrow Area and Cover Material, 2 acres for Proposed Basin 068, 2 acres for Ancillary roads and 3 acres for Proposed Slurry Pipeline.
2. Update Surface Property Ownership.

**CONDITION R-29-1:** 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-29-2:** 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-29-3:** 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 1,051 acres as defined on the permit map.

CONDITION R-29-4: 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-29-5: 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-29-6: 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-29-7: 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-29-8: 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-29-9: 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--2910: Any water supply impacted by subsidence or other causes associated with underground mining will be replaced or restored by the permittee.

CONDITION R-29-11: The permittee shall notify the ASMC and seek consultation with the U.S. Fish and Wildlife Service if:

- a. The permit is modified in any way that causes an effect on species or Critical Habitat listed under the Endangered Species Act of 1973,
- b. New information reveals the operation may affect Federally protected species or designated Critical Habitat in a manner or extent not previously considered, or
- c. A new species is listed or Critical Habitat is designated under the Endangered Species Act that may be affected by the operation.

CONDITION R-29-12: The permittee shall contact the ASMC and consult with the Alabama Historic Preservation Officer if the permit is modified or if previously unknown archaeological or historic resources are discovered on the permit area. Upon discovery of previously unknown artifacts or archaeological features the permittee shall cease operations until the Alabama Historic Preservation Officer approves resumption of operations.

CONDITION R-29-13: The permittee shall not conduct mining activities within the areas of Slurry Impoundment 2 and Basin 68 until U S Army Corps of Engineers (USACE) concurrence and necessary mitigation requirements are met and submitted to ASMC.

CONDITION R-29-14: Tree removal for the area to be added by R-29 shall only occur between October 15 and March 31.

CONDITION R-29-15: Prior to disturbance within the watersheds of Basin 068 and Slurry Impoundment No. 2 the detailed design plans for each structure must be submitted to and approved by the ASMC prior to construction. Also, proof of MSHA approval of the detailed design plans of each structure will be required prior to ASMC approval.

**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-29-1: 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-29-2: 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-29-3: 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-29-4: 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-29-5: 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-29-6: 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-29-7: The applicant has paid all reclamation fees from previous and existing operations as required by 30 C.F.R., Subchapter R.

FINDING R-29-8: The applicant has satisfied the applicable requirements of Subchapter 880-X-8J.

FINDING R-29-9: 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-29-10: 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-29-11: 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-29-12: 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-29-13: Surface coal mining and reclamation operations will not adversely affect a cemetery.

FINDING R-29-14: 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-29-15: 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-29-16: 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-29-17: 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-29-18: 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 University of Alabama, Office of Archaeological Research (OAR) conducted a cultural resource survey on November 12-15, 2013 for the 405 acres added by revision 29. During the survey no new archaeological sites or historic standing structures were recorded by OAR. It is the opinion of OAR that the proposed undertaking will have no effect on any cultural resources and a finding of no properties is recommended. The State Historical Preservation Officer concurred with OAR, that project activities would have no effect on cultural resources eligible for or listed in the National Register of Historic Places in a letter dated March 24, 2014. 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-29-19:** Dan Spaulding Environmental Consultant conducted a habitat assessment for the Indiana bat (*Myotis sodalis*) and the Northern Long-Ear Bat (*Myotis septentrionalis*) on January 25-26, 2014 for the approximately 403 acre site to be added by R-29. Mr. Spaulding concluded that no suitable habitat for the bats was available and no bats were observed at the site, therefore, no impacts are to be expected from the project. The US Fish and Wildlife Service (FWS) determined that no federally listed species/critical habitat are known to occur in the project area by comments dated November 12, 2013. The FWS by letter dated June 15, 2015 states the site contains spring/summer roosting habitat for the endangered Indiana bat and the threatened Northern Long-Eared bat. However, Drummond stated that tree removal will occur between October 15 and March 31; therefore no impacts to the Indiana or Northern Long-Eared bats anticipated as a result of the project. In a letter dated December 27, 2013 the Alabama Department of Conservation and Natural Resources (ADCNR) had no objection to the proposed mine, as long as BMP are utilized to prevent degradation/loss of aquatic habitat. In a letter dated October 30, 2013 the ADCNR recommends contacting FWS for federally protected species. The ASMC finds that the proposed operation will not jeopardize the continued existence of endangered or threatened species or critical habitat thereof.

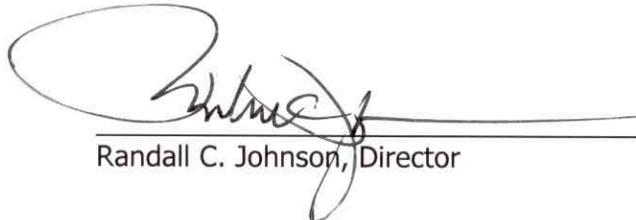
**ACREAGE SUMMARY:**

*Increment 1 Remains at.....	1,051 acres
Increment 2 Increases to.....	<u>405 acres</u>
<b>TOTAL:</b>	<b>1,456 acres</b>

**\* 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: July 1, 2015



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 Randall C. Johnson, Director

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cc: I & E, Permit File