

**ASMC Use Only:**

Fee: \_\_\_\_\_  
Bond Required: \_\_\_\_\_  
Date Approved: \_\_\_\_\_

APPLICATION FOR PERMIT REVISION

Name of Permittee: Cane Creek, LLC.

License Number: L-793 Permit Number: P-3910-64-13-S

Permit Expiration Date: 12-23-2013 Mine Name: Cane Creek Mine

Revision Number: Revision R-3

Nature of Proposed Revision:

- 1) Add 16.0 acres to Increment No. 5, 14.0 mining acres and 2.0 incidental acres for Basin 010P to create Increment No. 5.
- 2) Transfer 13.0 mining acres from Increment No. 3 to Increment No. 5.
- 3) Transfer 26.0 acres from Increment No. 4 to Increment No. 5, 24.0 mining acres and 2.0 acres for Basin 009P.
- 4) Add 8.0 incidental acres to Increment No. 4 for the remedial reclamation area.
- 5) Update the General Plan and Hydrologic Monitoring Plan for the addition of Basin 010P.
- 6) Update the Operations Plan.
- 7) Extend Topsoil Variance to include the area added by R-3.
- 8) Update surface ownership
- 9) Submit detailed design plans for Basin 010P.
- 10) Request for an exemption of Rule 880-X-10C-.13 for remedial reclamation area added by this revision.

Attach detailed estimate of effect of proposed revision on reclamation costs.

Applicant: Cane Creek, LLC  
Mine Name: Cane Creek Mine  
Permit Number: P-3910 / Revision R-3

## STATE OF ALABAMA SURFACE MINING COMMISSION

- ( X ) Permit Application for a Surface Coal Mine  
( ) Permit Application for an Underground Coal Mine  
( ) Permit Application for a Preparation Facility

### PART I A. IDENTIFICATION

#### 1. PERMIT APPLICANT

Name: Cane Creek, LLC.  
Street Address: 210 2nd Street SE  
City: Cullman State: AL Zip: 35055  
Mailing Address: 210 2nd Street SE  
City: Cullman State: AL Zip: 35055  
Telephone Number: ( 256 ) 775-0067  
Social Security Number (Voluntary): \_\_\_\_\_  
Employer Identification Number: \_\_\_\_\_  
ASMC License#: L-793

#### 2. ENTITY OR PERSON RESPONSIBLE FOR PAYING ABANDONED MINE LAND RECLAMATION FEES

Name: Applicant  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone Number: ( \_\_\_\_\_ ) \_\_\_\_\_  
Social Security Number (Voluntary): \_\_\_\_\_  
Employer Identification Number: \_\_\_\_\_  
ASMC License#: \_\_\_\_\_

#### 3. IDENTIFY THE OPERATOR FOR THIS MINE IF DIFFERENT FROM THE PERMITTEE

Name: Applicant  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone Number: ( \_\_\_\_\_ ) \_\_\_\_\_  
Social Security Number (Voluntary): \_\_\_\_\_  
Employer Identification Number: \_\_\_\_\_  
ASMC License#: \_\_\_\_\_

#### 4. CONTACT PERSON FOR PERMIT REVIEW ISSUES AND CORRESPONDENCE

Name: Leslie G. Stephens c/o PERC Engineering Co., Inc.  
Mailing Address: Post Office Box 1712  
City: Jasper State: AL Zip: 35502-1712  
Telephone Number: ( 205 ) 384-5553

ALSO PLEASE COPY: Randy C. Johnson  
Cane Creek, LLC.  
210 2nd Street SE  
Cullman, AL 35055  
Telephone: (256)775-0067

Applicant: Cane Creek, LLC  
Mine Name: Cane Creek Mine  
Permit Number: P-3910 / Revision R-3

**PART I B. OWNERSHIP AND CONTROL**

**1. PERMIT APPLICANT OWNERSHIP AND CONTROL.**

At the time of filing of this application provide an update of all information contained in the applicant's license file or certify that the information contained in the license is accurate and complete. The updated information shall be submitted on Part IA through Part IF of the License application form. Check one of the following

- +),  
\* \* A license update is included  
. )-  
+),  
\*X\* Information contained in the license file is accurate  
. )- and complete at the time of filing of this application.  
No update is included.

Following notification that the permit appears eligible for issuance, the applicant must certify that all information in this application and the license file pertaining to ownership and control, surface mining history and violation history is still valid or the applicant must submit the appropriate update information.

**2. OPERATOR OWNERSHIP AND CONTROL.**

If someone other than the permittee has been identified as the operator under this permit, an update of the ownership and control information contained in the operator's license file must be provided or certify that the information contained in the license file is accurate and complete. The updated information shall be submitted on Part I A through Part I F of the License application form. Check one of the following: **NOT APPLICABLE**

- +),  
\* \* A license update is included  
. )-  
+),  
\* \* Information contained in the license file is accurate  
. )- and complete at the time of filing of this application.  
No update is included.

Following notification that the permit appears eligible for issuance, the applicant must certify that all information in this application and the license file pertaining to ownership and control, surface mining history and violation history is still valid or the applicant must submit the appropriate update information.

**3. CONTROL OF MINING OPERATION THROUGH CONTROL OF COAL TO BE MINED.**

Provide the information below for any person or entity who owns or controls the coal to be mined under this permit and who, by lease, sublease, or other contract:

- A. has the right to receive the coal after mining, or,  
B. has the authority to determine the manner in which the operator or permittee conducts surface coal mining operations.

(USE ADDITIONAL SHEETS IN THE FORMAT BELOW IF NECESSARY)

Name: Applicant  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_\_-\_\_\_\_\_  
Social Security Number (Voluntary): \_\_\_\_\_-\_\_\_\_\_  
Employer Identification Number: \_\_\_\_\_  
ASMC License Number: \_\_\_\_\_

Applicant: <u>Cane Creek, LLC</u> Mine Name: <u>Cane Creek Mine</u> Permit Number: <u>P-3910 / Revision R-3</u>
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**PART I C. PROPERTY OWNERSHIP, INTERESTS AND RIGHTS**

**1. OWNERSHIP OF PROPERTY TO BE MINED AND RIGHT OF ENTRY.**

INSTRUCTIONS: Show the property ownership boundaries of each parcel of land in the permit area on the permit map or an overlay of the same scale as the permit map. If the surface estate is severed from the mineral estate, show and describe the ownership of each estate separately. In the spaces below, identify:

1. Every current legal or equitable owner(s) of record (as found in a standard search of title) of the property;
2. The holders of record of any leasehold interest in the property; and,
3. Any purchaser of record under a real estate contract of the property.

Describe the basis of the applicant's legal right to enter and mine on all properties contained in the permit application. If the mineral estate has been severed from the surface estate, describe the basis of the legal right to enter and mine both the surface and mineral separately. Give the nature of such right (i.e. lease, deed, contract, etc.), where recorded, describe from whom, to whom, and the date executed, and whether that right is the subject of pending litigation.

**USE ADDITIONAL SHEETS IN THE FORMAT BELOW AS NECESSARY**

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 Page 1 of 3  
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Legal description of property or permit map symbol: Drummond (M)

Surface/Mineral/or Fee Simple (both): Mineral

Legal owner(s) of record: Drummond Coal Company

Address: PO Box 1549 City: Jasper State: AL Zip: 35202

Holders of leasehold interest: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Purchasers under a real estate contract: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Description of right to enter or mine: \_\_\_\_\_

Describe the type of document or conveyance which grants the right of entry, disturbance or mining. Indicate from whom the right was acquired and to whom the right was granted. If the grantor of the right is not the owner(s) of property, identify all grantors and grantees of the right beginning with the owner(s) and ending with the permit applicant.

Describe Right of Entry (If deed indicate where recorded):	Granted From:	Granted To:	Date Granted:	Litigation Pending? (Yes or No) If yes, explain.
Lease	Drummond Coal Company	Cane Creek, LLC	4/14/2008	No

Applicant: <u>Cane Creek, LLC</u> Mine Name: <u>Cane Creek Mine</u> Permit Number: <u>P-3910 / Revision R-3</u>
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**PART I C 1. (CONTINUED)**

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 Page 2 of 2  
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Legal description of property or permit map symbol: Annie Ruth Burton (S)  
c/o Edward D. Burton

Surface/Mineral/or Fee Simple (both): Surface

Legal owner(s) of record: Annie Ruth Burton c/o Edward D. Burton

Address: P.O. Box 105 City: Parrish State: AL Zip: 35580

Holders of leasehold interest: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Purchasers under a real estate contract: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Description of right to enter or mine:  
 Describe the type of document or conveyance which grants the right of entry, disturbance or mining. Indicate from whom the right was acquired and to whom the right was granted. If the grantor of the right is not the owner(s) of property, identify all grantors and grantees of the right beginning with the owner(s) and ending with the permit applicant.

Describe Right of Entry (If deed indicate where recorded):	Granted From:	Granted To:	Date Granted:	Litigation Pending? (Yes or No) If yes, explain.
Lease	Annie Ruth Burton	Cane Creek, LLC.	Pending	No

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 Legal description of property or permit map symbol: Jenella Burton (S)  
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Surface/Mineral/or Fee Simple (both): Surface

Legal owner(s) of record: Jenella Burton

Address: 3602 Third Avenue City: Jasper State: AL Zip: 35501

Holders of leasehold interest: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Purchasers under a real estate contract: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Description of right to enter or mine:  
 Describe the type of document or conveyance which grants the right of entry, disturbance or mining. Indicate from whom the right was acquired and to whom the right was granted. If the grantor of the right is not the owner(s) of property, identify all grantors and grantees of the right beginning with the owner(s) and ending with the permit applicant.

Describe Right of Entry (If deed indicate where recorded):	Granted From:	Granted To:	Date Granted:	Litigation Pending? (Yes or No) If yes, explain.
Lease	Jenella Burton	Cane Creek, LLC.	9/26/08	No





Applicant: <u>Cane Creek, LLC</u> Mine Name: <u>Cane Creek Mine</u> Permit Number: <u>P-3910 / Revision R-3</u>
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**PART I D. PERMIT AREA INFORMATION**

1. Give the requested term of this permit: 5 years.
2. The SW/SW, SE/SW, NW/SW & NE/SW of Section 27; SE/SE, NE/SE, NW/SE, SW/SE of Section 28; NE/NE, NW/NE of Section 33; NW/NE, SW/NE, SE/NW, NE/NW, SW/NW, NW/NW 1/4 of Section 34; all lying in Township 14 South, Range 7 West, Walker County, Alabama

3. Give the acreage of the permit, each increment and the type of bonding.
  - a. Total revision acreage: 24 acres
  - b. Give the acreage and type of bond for each mining increment:

<u>Increment</u>	<u>Acres</u>	<u>Type Bond Proposed</u>
1.	<u>53</u>	<u>Letter of Credit</u>
2.	<u>49</u>	<u>Letter of Credit</u>
3.	<u>29</u>	<u>Letter of Credit</u>
4.	<u>72</u>	<u>Letter of Credit</u>
5.	<u>55</u>	<u>Letter of Credit</u>
6.	<u>9</u>	<u>Letter of Credit</u>

- c. Identify the increment(s) on which mining will initially begin upon issuance of this permit: Increment 4.
4. Has any acreage in the proposed permit area been previously disturbed by mining? ( )YES ( XX )NO

If yes, supply the following for any and all previously disturbed areas:

- a. Show the boundaries of the previously disturbed area(s) on the permit map and identify with an appropriate symbol.
- b. List, for each area, the permit number under which it was disturbed and the number of acres. Indicate the status of each permit as Unreleased, Grading released, or 100% released. (If no permit, indicate as such.)

<u>Permit</u>	<u>Acres</u>	<u>Status</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

- c. For each area which has not been reclaimed or received a 100% release, indicate whether you intend to assume responsibility for reclamation of the area under this permit and its performance bond(s).
5. Is disturbance to be conducted within 300 feet, measured horizontally from an occupied dwelling? ( )YES (XX)NO.

If YES, attach a signed waiver from the owner of the dwelling indicating the minimum distance disturbance will be allowed by the owner. All setbacks will be observed until waivers are obtained.

Applicant: <u>Cane Creek, LLC</u>
Mine Name: <u>Cane Creek Mine</u>
Permit Number: <u>P-3910 / Revision R-3</u>

**PART I D. (CONTINUED)**

6. Is disturbance proposed within 100 feet of a public road right-of-way or will a public road be closed or relocated? ( )YES (XX)NO.

If YES, enclose a copy of the approval granted by the government entity which has jurisdiction over the road. The approval must state the minimum distance disturbance will be allowed to the road or road right-of-way.

7. List all other licenses and permits required to conduct mining operations including, but not limited to, MSHA I.D. and NPDES. Give the identification or permit number, the name and address of the issuing authority, and the status or date of approval or issuance of each:

Permit	ID or Permit Number	Issuing Authority	Address	Status or of issuance
<u>MSHA ID</u>	<u>01-03372</u>	<u>MSHA</u>	<u>*</u>	<u>11/26/08</u>
<u>NPDES</u>	<u>AL0078832</u>	<u>ADEM</u>	<u>**</u>	<u>05/31/08</u>

\* 228 West Valley Avenue, Birmingham, AL 35209

\*\* 1400 Coliseum Blvd., Montgomery, AL 36130

8. Is the property in the permit covered by zoning or other land use restrictions? ( )YES (XXX)NO.

If yes, indicate the jurisdictional authority and zoning or landuse area. If more than one zoning classification exists for the permit area, identify the boundaries of each the permit map.

Jurisdictional Authority	Zoning Classification	Allows mining? Yes or No
<u>N/A</u>	<u></u>	<u></u>

9. Describe access to the proposed mine from a known point on the nearest public highway: From the intersection of State Route 269 and Corridor X South of Jasper, Alabama travel south for approximately 0.7 miles, turn left into the proposed permit area.

10. Did the applicant receive assistance from the Small Operator Assistance Program in preparing this application? ( )YES (XXX)NO

If YES, list SOAP I.D. Number: \_\_\_\_\_

11. Submit a certificate of proof of Liability Insurance with this application. See ASMC Master File

**PART I E. PUBLIC NOTICE AND AVAILABILITY FOR INSPECTION**

12. Give the name of the approved public office in which a copy of this application will be filed for public inspection following notification of completeness: ASMC website <http://surface-mining.alabama.gov>

13. Enclose a copy of the notice of filing of this application which will appear in a newspaper of general circulation in the vicinity of the mine and identify the name of the newspaper: The Daily Mountain Eagle  
See Attachment I.E. 13

Applicant: <u>Cane Creek, LLC</u>
Mine Name: <u>Cane Creek Mine</u>
Permit Number: <u>P-3910 / Revision R-3</u>

Attachment I-E-13

PUBLIC NOTICE OF FILING OF PERMIT APPLICATION

In accordance with the provisions of Act No.81-435 of the State of Alabama and the regulations promulgated under this act, Cane Creek, LLC, 210 2<sup>nd</sup> Street SE, Cullman, Alabama 35055, hereby gives notice that it has filed an application with the Alabama Surface Mining Commission to revise permit P-3910-01-13-S for its Cane Creek Mine located within the SW/SW, SE/SW, NW/SW & NE/SW of Section 27; SE/SE, NE/SE, NW/SE, SW/SE of Section 28; NE/NE, NW/NE of Section 33; NW/NE, SW/NE, SE/NW, NE/NW, SW/NW, NW/NW of Section 34; all lying in Township 14 South, Range 7 West, Walker County, Alabama.

Revision R-3 includes: 1) Add 20.0 acres to Increment No. 5, 18.0 mining acres and 2.0 incidental acres for Basin 010P to create Increment No. 5. 2) Transfer 13.0 mining acres from Increment No. 3 to Increment No. 5. 3) Transfer 26.0 acres from Increment No. 4 to Increment No. 5, 24.0 mining acres and 2.0 acres for Basin 009P. 4) Add 0.0 incidental acres to Increment No. 6 for Primary Road 4P (Less than 1.0 Acre). 5) Add 8.0 incidental acres to Increment No. 4 for the remedial reclamation area. 6) Update the General Plan and Hydrologic Monitoring Plan for the addition of Basin 010P. 7) Update the Operations Plan. 8) Extend Topsoil Variance to include the area added by R-3. 9) Update surface ownership 10) Submit detailed design plans for Basin 010P. 11) Submit detailed design plans for Primary Roads 4P. 12) Request for an exemption of Rule 880-X-10C-.13 for remedial reclamation area added by this revision.

A copy of the permit application is available for public inspection at the Alabama Surface Mining Commission website <http://surface-mining.alabama.gov>. Written comments, objections, or requests for informal conferences should be submitted to the Alabama Surface Mining Commission, P.O. Box 2390, Jasper, Alabama 35502-2390, within 30 days from the last publication of this notice.

Affidavit of Publication of Legal Notice

State of Alabama  
Walker County

Before me, a notary public in and for the county and state above listed, personally appeared Jack McNeely, who, by me duly sworn, deposes and says that: "My name is Jack McNeely". I am the Publisher of the *Daily Mountain Eagle*. The Newspaper is printed in the English language, has a general circulation and its principal editorial office in the county above listed and has been mailed under a publication class mailing privilege of the United States Postal Service from the post office where it is published at least 51 weeks a year.

The Newspaper published the attached legal notice in the issue(s) of: 4/23, 4/30, 5/7, 5/14/13 (date(s) of publication). If the post office address of the person to whom the notice is directed can be ascertained, a copy should be mailed by the person or official placing the advertisement to the person to whom the notice was directed.

The sum charged for these publication(s) was \$ 440.<sup>16</sup>. The sum charged by the Newspaper for said publication(s) does not exceed the actual lowest classified rate paid by commercial customers for an advertisement of similar size and frequency in the same newspaper(s) in which the public notice appeared.

There are no agreements between the Newspaper and the officer or attorney charged with the duty of placing the attached legal advertising notices whereby any advantage, gain or profit accrued to said officer or attorney.

Jack McNeely  
AFFIANT

Sworn and subscribed this 14 day of May, 2013.

Barbara Haynes  
Notary Public  
My Commission Expires 08/02/2016

**PUBLIC NOTICE OF FILING OF PERMIT APPLICATION**

In accordance with the provisions of Act No. 81-435 of the State of Alabama and the regulations promulgated under this act, Cane Creek, LLC, 210 2nd Street SE, Cullman, Alabama 35055, hereby gives notice that it has filed an application with the Alabama Surface Mining Commission to revise permit P-3910-01-13-S for its Cane Creek Mine located within the SW/SW, SE/SW, NW/SW & NE/SW of Section 27; SE/SE, NE/SE, NW/SE, SW/SE of Section 28; NE/NE, NW/NE of Section 33; NW/NE, SW/NE, SE/NW, NE/NW, SW/NW, NW/NW of Section 34; all lying in Township 14 South, Range 7 West, Walker County, Alabama. Revision R-3 includes: 1) Add 20.0 acres to Increment No. 5, 18.0 mining acres and 2.0 incidental acres for Basin 010P to create Increment No. 5. 2) Transfer 13.0 mining acres from Increment No. 3 to Increment No. 5. 3) Transfer 26.0 acres from Increment No. 4 to Increment No. 5, 24.0 mining acres and 2.0 acres for Basin 009P. 4) Add 0.0 incidental acres to Increment No. 6 for Primary Road 4P (Less than 1.0 Acre). 5) Add 8.0 incidental acres to Increment No. 4 for the remedial reclamation area. 6) Update the General Plan and Hydrologic Monitoring Plan for the addition of Basin 010P. 7) Update the Operations Plan. 8) Extend Topsoil Variance to include the area added by R-3. 9) Update surface ownership. 10) Submit detailed design plans for Basin 010P. 11) Submit detailed design plans for Primary Roads 4P. 12) Request for an exemption of Rule 880-X-10C-.13 for remedial reclamation area added by this revision. A copy of the permit application is available for public inspection at the Alabama Surface Mining Commission website: <http://surface-mining.alabama.gov>. Written comments, objections, or requests for informal conferences should be submitted to the Alabama Surface Mining Commission, P.O. Box 2390, Jasper, Alabama 35502-2390, within 30 days from the last publication of this notice. \*April 23, 30, May 7, 14, 2013