



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-3

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-3913-01-14-S
M S & R EQUIPMENT CO INC
2361 CUMBERLAND LAKE DRIVE
PINSON AL 35126
(SLOAN MOUNTAIN MINE #2)

License No.: L-634
Pursuant to the permit map: 1 OF 1
Certified by: C W MCGEHEE #17067
Date: 4-19-12

The permit is revised as follows:

1. Transfer 4.0 acres (Primary Road) from Increment #5 to Increment #6.
2. Add 2.0 acres to Increment #6 for Primary Road from P-3811.
3. Add 8.0 acres to Increment #6 for ancillary access to Sediment Basins 002,003,004 and Final Pit Impoundment 005 from P-3811.
4. Delete 3.0 acres (ancillary roads) from Increment #6.
5. Add 100.0 mining acres to Increment #2 from P-3811.
6. Add 20.0 incidental acres to Increment #6 from P-3811.
7. Add 70.0 mining acres to Increment #1 from P-3811.
8. Add 11.0 acres (Sediment Basin 004 and Final Pit Impoundment 005) to Increment #6 from P-3811.
9. Transfer 93.0 acres from Increment #2 to Increment #1.
10. Transfer 79.0 acres from Increment #3 to Increment #1.
11. Transfer 36.0 acres from Increment #4 to Increment #1.
12. Transfer 2.0 acres (Sediment Basins 009 and 010) from Increment #3 to Increment #1.
13. Post bond on Sediment Basins 001, 001A, 002, 003 and access. (All in Increment #6).
14. Modify the General Plan.
15. Modify the Hydrologic Monitoring Plan.
16. Modify the Operation Plan.

CONDITION R-3-1: 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-3-2: 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.

FINDING R-3-1: 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 Alabama Historical Commission concurred with the proposed project by letter dated May 20, 2000 after review of the site survey performed by Dr. Harry O. Holstein, dated April 2000 since the survey found no sites or structures eligible for listing on the National Register of Historic Places exist on the permit area or will be impacted by the mining operation. An additional survey was performed by the University of Alabama Office of Archaeological Research dated November 2004. This survey identified several historic sites referenced as sites 5, 6 & 7 and two archaeological sites 1Je780 and 1Je781 that were potentially eligible for listing on the National Register of Historic Places. The SHPO reviewed this study and concurred with the project by letter dated January 10, 2005, provided these sites are avoided. These sites are excluded from the permit area and will not be impacted by this operation. 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-3-2: The US Fish and wildlife Service (FWS) and the Alabama Department of Conservation and Natural Resources (ADCNR) reviewed the original permit and, by letters dated 11/5/1999 and 9/30/1999 outlined general concerns over wetlands, water quality, aquatic biota, stream channel impacts, protected species and state lands and endangered and threatened species. Both recommended site studies to determine presence of sensitive species and wetlands. The US Army Corps of Engineers (CORPS) inspected the site and issued Jurisdictional Determination ALJ99-04432-K dated 1/20/2000 finding that no permit is required under section 404. Dr. Charles Lydeard, University of Alabama, Department of Biological Sciences, conducted a field survey of the Locust Fork at two locations near the proposed mine on 2/5/2000. That survey found two federally listed species, Cahaba Shiner and Plicate Rocksnail. The FWS conducted two subsequent visits

and by letter dated June 2, 2000 expressed concerns regarding mining impacts on these two species. The FWS noted that the Locust Fork is listed as an impaired water on the most recent 303d listing for Alabama. The concerns were: siltation, Fe, Mn, pH, conductivity and potential for floodwaters to inundate the mine area.

The FWS consulted the NRCS concerning the applicant's plan for drainage control for the mine area. The NRCS indicated that the reclamation and pollution control plans for the permit were sufficient to protect fish and wildlife in the Locust Fork.

As a result of the FWS concerns the ASMC conducted a review of available data from other mining operations and reviewed the 303d listing for the Locust Fork. The Locust Fork is listed as impaired due to siltation on the November 12, 1999 303d list for Alabama issued by the EPA. The ASMC reviewed 20 years of water quality data collected by Drummond Company for its Beltona and Knob Mines located near the proposed permit and upstream and downstream water monitoring data collected from the Locust Fork. These data indicate that there was no change in pH, Fe, Mn, TSS, and conductivity from pre-mining, during mining or postmining conditions between upstream and downstream sites. These data indicate that there is no reason to expect problems from the mine area assuming that treatment facilities are properly installed and maintained.

The FWS concerns regarding potential for flooding of the mine area were evaluated. One portion of the mine and several sediment control basins are located within the 100-year flood plain of the Locust Fork but outside the 100-foot stream buffer zone. There are no prohibitions for mining activities within the 100-year flood zone of a stream. The ASMC believes that a 100-year flood on the mined area would cause little environmental harm since the open pit will advance toward the river. Any floodwaters would inundate the pit, which would then act as a large sediment control reservoir. While this would cause serious delays and expense to the mining operation, little if any impact would be caused to the environment. Dewatering of the flooded pit would have to occur by pumping and all pump discharge would be routed through the sediment control facilities before discharge to the river.

Acres added by this revision were included in the original survey and requests for concurrence and no further consultation was deemed warranted.

The ASMC finds that the proposed operation will not jeopardize the continued existence of endangered or threatened species or critical habitat thereof.

The US Army Corps of Engineers (CORPS) evaluated this revision and issued Nationwide permit SAM-2008-451-HWL dated June 13, 2008 authorizing this revision.

FINDING R-3-3: 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.

ACREAGE SUMMARY:

*	Increment #1 increases to -----	448 acres
*	Increment #2 increases to -----	100 acres
*	Increment #6 increases to -----	<u>61 acres</u>
	Total -----	609 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: June 14, 2012



Randall C. Johnson, Director

/ns
cc: I & E, Permit File