



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-4

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-3923-64-14-S  
XINERGY OF ALABAMA INC  
2361 CUMBERLAND LAKE DRIVE  
PINSON AL 35126  
(COAL VALLEY MINE)

License No.: L-795  
Pursuant to the permit map: 1 OF 1  
Certified by: ROBERT W USHER  
Date: 8-10-12

The permit is revised as follows:

1. Add 5.0 incidental acres to Increment #1 for Equipment Storage.
2. Add 4.0 acres to Increment #1 for Ancillary Access to Sediment Basins 028E, 060P, 068P, and 072P.
3. Add 16.0 mining acres to Increment #1.
4. Add 1.0 acre to Increment #1 for Primary Roads No. 5 & 6.
5. Modify the Operation Plan.
6. Modify the General Plan.
7. Modify the Hydrologic Monitoring Plan.
8. Extension of the approved Topsoil Variance to include the area added by Revision R-4.

**CONDITION R-4-1:** 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-4-2:** 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.

**CONDITION R-4-3:** Sedimentation Pond 071 shall be modified in accordance with the approved plans and be certified as such to the Alabama Surface Mining Commission no later than 30 days after issuance of this revision.

**FINDING R-4-1:** 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 State Historical Preservation Office determined that the proposed project would have no adverse effect on cultural resources eligible for or listed on the National Register of Historic Places (NRHP). And therefore, concurs with the proposed project activities in a letter dated June 3, 2010. 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-4-2:** McGehee Engineering Corp (MEC) performed environmental assessments for approximately 27 acres on June 11 and August 15, 2012. In letters dated June 15 and August 16, 2012 MEC states that no threatened or endangered species/critical habitat was found or observed at this site. The US Fish and wildlife Service (FWS) agree with the findings by MEC that no federally listed species/critical habitat occur in the project area and therefore concurs with the project activities by comments dated July 16, 2012. In a letter dated August 7, 2009 the Alabama Department of Conservation and Natural Resources (ADCNR) determined that the closest sensitive species occurs approximately 4.1 miles from the project site. The US Army Corps of Engineers (USACE) authorized the proposed activities by Permit Number SAM-2012-01046-TMB in a letter dated September 7, 2012. The proposed project will impact approximately 40 linear feet of intermittent stream for placement of a culvert. Mitigation will not be required for this project due to minimal impacts. The ASMC finds that the proposed operation will not jeopardize the continued existence of endangered or threatened species or critical habitat thereof.

**FINDING R-4-3:** 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 -----	669 acres
	Increment #4 remains at -----	317 acres
*	Increment #5 remains at -----	214 acres
	Increment #6 remains at -----	3 acres
	Total -----	1,203 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: December 11, 2012



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Randall C. Johnson, Director

/ns  
cc: I & E, Permit File