



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-1

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-3930-01-16-S
W B MINING LLC
1748 KING JAMES DRIVE
ALABASTER AL 35007
(FISHTRAP MINE NO. 2)

License No.: L-760
Pursuant to the permit map: 1 OF 1
Certified by: LESLIE G STEPHENS #14117
Date: 9/6/11

The permit is revised as follows:

1. Transfer 2.0 mining acres from Increment #2 to Increment #1.
2. Transfer 4.0 acres from Increment #2 to Increment #6 for access roads.
3. Add 1.0 acre to Increment #6 for access roads.
4. Delete 0.0 incidental acres from Increment #6, no acreage change.
5. Transfer 4.0 mining acres from Increment #6 to Increment #1.
6. Re-evaluate and modify Basins 009E and 009AE Phase I and II.
7. Delete Basin 009BP.
8. Modify the Drainage Control Plan.
9. Transfer 2.0 mining acres from Increment #3 to Increment #1.

CONDITION R-1-1: 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-1-2: 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-1-3: The permittee shall commence activities authorized under this permit within 3 years of issuance or this permit shall be terminated. Extension may be granted in accordance with ASMC Regulation 880-X-8K-.12(5).

CONDITION R-1-4: The permittee shall debit (purchase) 30,316 Stream credits and 0.28 wetland Credits from the Big Sandy Mitigation Bank in compliance with the provisions of US Army Nationwide 21 Permit SAM-2010-00633-CHE as modified March 7, 2011. Proof of debit (purchase) of these credits shall be submitted to ASMC and the US Army Corps of Engineers prior to bonding and disturbance of each mine increment in accordance with the following provisions:

- a. Increments #1 and #6: The permittee shall purchase 10,420 stream credits and 0.09 wetland credits prior to conducting any mining activities in Increments #1,#2 and #6.
- b. Increment 2: The permittee shall purchase 6,517 stream credits and 0.08 wetland credits prior to conducting any mining activities in Increment #2.
- c. Increment #3: The permittee shall purchase 1,743 stream credits and 0.1 wetland credits prior to conducting any mining activities in Increment #3.
- d. Increment #4: The permittee shall purchase 11,636 stream credits and 0.01 wetland credits prior to conducting any mining activities in Increment #4.

FINDING R-1-1: 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. A site survey performed by The University of Alabama Office of Archaeological Research dated September 2011, found no sites potentially eligible for listing on the National Register of Historic Places located on this proposed mine site. The State Historic Preservation Officer concurred with these findings by letter dated October 12, 2011. 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-1-2: This revision adds one acre to the original permit for an access road. This road area is an upland site, which was included in the requests for concurrence/approvals from other agencies in the original permit as outlined below:

The US Fish and wildlife Service (FWS) provided comments dated May 12, 2008 on the proposed operation. The FWS found no likely impacts to federally listed species. The FWS recommended BMPs to control impacts to the Locust Fork River, which are incorporated into this permit. The US Army Corps of Engineers authorized the activities under this permit under Nationwide 21 number SAM-2010-00633-CHE. A modification of the mitigation plan was approved on March 7, 2011. The mitigation plan calls for purchase of Stream and wetland Credits from the Big Sandy Mitigation Bank prior to disturbance of each mining increment. This permit will be conditioned that proof of purchase of these credits be submitted to ASMC and USACE prior to bonding each increment. Concerns and recommendations of the ADCNR have been addressed in the permit. The ADCNR identified the nearest occurrence of a species of concern is 5.6 miles from the mine area. The ASMC finds that the proposed operation will not jeopardize the continued existence of endangered or threatened species or critical habitat thereof.

FINDING R-1-3:

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 -----	67 acres
	Increment #2 decreases to -----	67 acres
	Increment #3 decreases to -----	92 acres
	Increment #4 remains at -----	112 acres
	Increment #5 remains at -----	74 acres
*	Increment #6 increases to -----	<u>14 acres</u>
	Total -----	<u>426 Acres</u>

* 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: October 21, 2011



 Randall C. Johnson, Director

/ns

cc: I & E, Permit File