



**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-3930-01-16-S  
W B MINING LLC  
120 KINGSLEY ROAD  
ALABASTER AL 35507  
(FISH TRAP MINE NO. 2)

License No.: L-760  
Pursuant to the permit map: 1 OF 1  
Certified by: LESLIE G STEPHENS #14117  
Date: 3/24/14

The permit is revised as follows:

1. Add 68 mining acres to Increment #1.
2. Add 69 mining acres to Increment #2.
3. Transfer 50 mining acres from Increment #2 to Increment #1.
4. Transfer 38 mining acres from Increment #3 to Increment #1.
5. Transfer 4 acres from Increment #6 to Increment #1 for mining acres.
6. Transfer 39 mining acres from Increment #3 to Increment #2.
7. Transfer 37 mining acres from Increment #4 to Increment #2.
8. Transfer 23 mining acres from Increment #5 to Increment #2.
9. Transfer 31 mining acres to Increment #3.
10. Transfer 75 mining acres from Increment #4 to Increment #3.
11. Transfer 22 mining acres from Increment #5 to Increment #3.
12. Transfer 29 acres from Increment #5 to Increment #4, 28 mining acres and 1 incidental acre for Basin 011P.
13. Transfer 4 mining acres from Increment #1 to Increment #6 for Basin 009BP.
14. Update the General Plan by the Modification of Basin 009BP, the Re-valuation of Basins 009E and 009AE and the modification of Basin 006E.
15. Submit the Re-evaluation/Modification Detailed Design Plans for Basin 006E.
16. Submit the Re-evaluation Detailed Design Plans for Basins 009E and 009AE along with the Detailed Design Plans for Basin 009BP Phase I and Phase II.
17. Extend Topsoil Variance to include the area added by Revision R-3.
18. Update Operations Plan with regard to Cut Alignment.
19. Update the Reclamation Plan.
20. Update Hydrologic Monitoring Plan.

**Condition R3-1:** 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 R3-2:** 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 R3-3:** An USACE approved mitigation plan for wetlands and waters of the US for all acres included in Increments #2 and #3 as shown Post R-3 must be submitted to ASMC prior to bonding and conducting mining activities in Increments #2 and #3.

**FINDING R3-1:** 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. TerraXplorations conducted a phase I cultural resource survey from March 25-30, 2013 for an approximate 380 acres. In a letter dated April 19, 2013 TerraX found four new archaeological sites (1Je910, 1Je911, 1Je912, and 1Je913) as well as two isolated finds (Isolated Finds 1-2). All sites and isolated finds are considered ineligible for the National Register of Historic Places (NRHP). TerraX's opinion that the project will not adversely impact any significant cultural resources and no further archaeological investigations are recommended. The State Historical Preservation Officer concurred with TerraX, that the proposed project would have no adverse effect on cultural resources eligible for or listed on the (NRHP) in a letter dated May 13, 2013. 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 R3-2:** McGehee Engineering Corp. conducted a biological habitat assessment for Threatened and Endangered Species on April 26 and June 14, 2013 for the area to be added by R-3. Possible habitat for Mohr's Barbara's button and Georgia Aster was found and explored. Neither species were present. No habitat was found for other T & E species and no presence of the species in the project area. The US Fish and wildlife Service (FWS) provided comments that no federally listed species/critical habitats occur in the project area by a letter dated June 28, 2013. In a letter dated June 15, 2013 the Alabama Department of Conservation and Natural Resources (ADCNR) notes the closest recorded sensitive species is approximately 5.1 miles from the subject site. By a letter dated June 5, 2013 the US Army Corps of Engineers (USACE), file number: SAM-2013-00514-CMS, issued a jurisdictional determination. This determination showed no wetlands or waters of the U.S. occur in the 68 acres to be added to Increment 01 by R-3. There are however, wetlands and waters of the U.S. in the 69 and 31 acres to be added to Increments 2 and 3 respectively. There has not been an approved mitigation plan submitted to ASMC for the 100 acres added in Increments 2 and 3. The ASMC finds that the proposed operation will not jeopardize the continued existence of endangered or threatened species or critical habitat thereof.

**FINDING R3-3:** 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 #2 increases to -----	244 acres
*	Increment #2 increases to -----	168 acres
	Increment #3 increases to -----	143 acres
	Increment #4 decreases to -----	29 acres
	Increment #5 decreases to -----	-0- acres
*	Increment #6 remains at -----	<u>13 acres</u>
	<b>Total -----</b>	<b>597 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: April 2, 2014

  
\_\_\_\_\_  
Randall C. Johnson, Director

/ns  
cc: I & E, Permit File