

Applicant: Kennedy Brothers Construction, LLC  
Mine Name: Skelton Creek Operation  
Permit Number: P-3934-01-16-S

# STATE OF ALABAMA SURFACE MINING COMMISSION

- (XX) Transfer Application for a Surface Coal Mine  
( ) Transfer Application for an Underground Coal Mine  
( ) Transfer Application for a Preparation Facility

**NAME OF CURRENT PERMITTEE:** CClay, Inc.

**ADDRESS:** PO Box 314 **Phone** (205)385-2848  
Dora, AL 35062

## **PART I A. IDENTIFICATION**

### **1. PERMIT APPLICANT**

Name: Kennedy Brothers Construction, LLC  
Street Address: 17160 Lock 17 Road  
City: Brookwood State: AL Zip: 35444  
Mailing Address: 17160 Lock 17 Road  
City: Brookwood State: AL Zip: 35444  
Telephone Number: (205) 491-2585  
Social Security Number(Voluntary): \_\_\_\_\_  
Employer Identification Number: 20-5680871  
ASMC License#: L-817

### **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: Stephen Miles c/o PERC Engineering Co., Inc.  
Mailing Address: Post Office Box 1712  
City: Jasper State: AL Zip: 35502-1712  
Telephone Number: (205)384-1100

Also please copy: Phillip Kennedy  
Kennedy Brothers Construction, LLC  
17160 Lock 17 Road  
Brookwood, AL 35444

Applicant: Kennedy Brothers Construction, LLC  
Mine Name: Skelton Creek Operation  
Permit Number: P-3934-01-16-S

**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 I A through Part I F of the License application form. Check one of the following:

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.

**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: Not Applicable

Street Address: \_\_\_\_\_

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

Mailing Address: \_\_\_\_\_

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

Telephone Number: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Social Security Number (Voluntary): \_\_\_\_ - \_\_ - \_\_\_\_

Employer Identification Number: \_\_\_\_\_

ASMC License#: \_\_\_\_\_

Applicant: Kennedy Brothers Construction, LLC  
 Mine Name: Skelton Creek Operation  
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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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Legal description of property or permit map symbol: JER Properties, LLC (S)

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

Legal owner(s) of record: Pauline Reachard

Address: 828 Runyan Drive City: Chattanooga State: TN Zip: 37405

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	JER Properties, LLC	Kennedy Brothers, LLC	7/13/2012	No
Right-of-Entry	Kennedy Brothers, LLC	Cclay, Inc.	9/28/2012	

Applicant: Kennedy Brothers Construction, LLC  
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**PART I C 1. (CONTINUED)**

Legal description of property or permit map symbol: Frank McCarty (S)

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

Legal owner(s) of record: Frank McCarty

Address: 2911 McCarty Town Road City: Quinton State: AL Zip: 35130

Holder(s) 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	Frank McCarty	R & S Resource Recovery, Inc.	9/10/2008	No
Transfer	R & S Resource Recovery, Inc.	CClay, Inc.	8/22/2011	
	CClay, Inc.	Kennedy Brothers Construction, LLC	6/27/2013	

Applicant: <u>Kennedy Brothers Construction, LLC</u> Mine Name: <u>Skelton Creek Operation</u> Permit Number: <u>P-3934-01-16-S</u>
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**PART I C 1. (CONTINUED)**

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Legal description of property or permit map symbol: Alawest - AL, LLC (Fee)

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

Legal owner(s) of record: Alawest - AL, LLC

Address: P. O. Box 412 City: Northport State: AL Zip: 35476

Holder(s) 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	Alawest - AL, LLC	R & S Resource Recovery, Inc.	12/22/2008	No
Transfer	R & S Resource Recovery, Inc.	CCLay, Inc.	8/22/2011	
	CCLay, Inc.	Kennedy Brothers Construction, LLC	6/27/2013	

Applicant: Kennedy Brothers Construction, LLC  
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**PART I C 1. (CONTINUED)**

Legal description of property or permit map symbol: Drummond Coal Co. (M)

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

Legal owner(s) of record: Drummond Coal Co.

Address: P.O. Box 1549 City: Jasper State: AL Zip: 35501

Holder(s) of leasehold interest: \_\_\_\_\_

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

Purchaser(s) 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.
N/A	Drummond Coal Co.	Kennedy Brothers Constructi on, LLC		No

Applicant: Kennedy Brothers Construction, LLC  
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PART I C. (CONTINUED)

2. OWNERSHIP OF SURFACE AND MINERAL LANDS CONTIGUOUS TO THE AREA TO BE MINED  
INSTRUCTIONS:

Provide the information below for the owners of record of all surface and mineral properties contiguous to any part of the proposed permit area.

USE ADDITIONAL SHEETS AS NECESSARY IN THE FORMAT BELOW

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Name: JER Properties, LLC  
Address: 828 Runyan Drive  
City: Chattanooga State: TN Zip: 37405-1204  
Interest owned (Surface, Coal or Fee Simple): Surface  
Type of Interest(Owner, Lease , or Other): Owner

Name: Frank McCarty  
Address: 2911 McCarty Town Road  
City: Quinton State: TN Zip: 35130  
Interest owned (Surface, Coal or Fee Simple): Surface  
Type of Interest(Owner, Lease , or Other): Owner

Name: Alawest - AL, LLC  
Address: P. O. Box 412  
City: Northport State: AL Zip: 35476  
Interest owned (Surface, Coal or Fee Simple): Fee Simple  
Type of Interest(Owner, Lease , or Other): Owner

Name: Drummond Coal Co.  
Address: P.O. Box 1549  
City: Jasper State: AL Zip: 35502  
Interest owned (Surface, Coal or Fee Simple) Mineral  
Type of Interest(Owner, Lease , or Other): Owner



Applicant: <u>Kennedy Brothers Construction, LLC</u>
Mine Name: <u>Skelton Creek Operation</u>
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**PART I D. PERMIT AREA INFORMATION**

1. Give the requested term of this permit: 5 years.
2. Give the acreage of the permit, each increment and the type of bonding.
  - a. Total permit acreage: 48 acres. \*\*Post Revision R-1 Issuance.
  - 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>25</u>	<u>Certificate of Deposit</u>
2.	<u>2</u>	<u>Certificate of Deposit</u>
3.	<u>3</u>	<u>Certificate of Deposit</u>
4.	<u>6</u>	<u>Certificate of Deposit</u>
5.	<u>7</u>	<u>Certificate of Deposit</u>
6.	<u>5</u>	<u>Certificate of Deposit</u>

c. Identify the increment(s) on which mining will initially begin upon issuance of this permit: Increments No. 1

1. Has any acreage in the proposed permit area been previously disturbed by mining? (XX)YES ( )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>
<u>P-3601</u>	<u>20.0</u>	<u>Forfeited</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).

Kennedy Brothers Construction, LLC will be responsible for reclaiming any disturbance by mining under permit P-3934.

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**PART I D. (CONTINUED)**

4. 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 date of issuance
<u>MSHA ID</u>	<u>01-03432</u>	<u>MSHA</u>	<u>*</u>	<u>Issued 11-8-2010</u>
<u>NPDES</u>	<u>AL0077194</u>	<u>ADEM</u>	<u>**</u>	<u>Issued 4-20-2011</u>

\* 135 Gemini Circle, Suite 213, Birmingham, AL 35209-5842

\*\* 1400 Coliseum Blvd., Montgomery, AL 36110-2059

5. Did the applicant receive assistance from the Small Operator Assistance Program in preparing this application? ( ) YES (XX) NO  
If YES, list SOAP I.D. Number: \_\_\_\_\_

6. Submit a certificate of proof of Liability Insurance with this application.

See ASMC Master Insurance 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 Birmingham News  
See Attachment I.E.13

**PART VI: VERIFICATION OF APPLICATION**

- (a) One copy must be original

Applicant: <u>Kennedy Brothers Construction, LLC</u>
Mine Name: <u>Skelton Creek Operation</u>
Permit Number: <u>P-3934-01-16-S</u>

Attachment I.E.13.

NOTICE OF APPLICATION TO TRANSFER  
A SURFACE COAL MINING PERMIT

Kennedy Brothers Construction, LLC, 17160 Lock 17 Road, Brookwood, AL 35444, hereby gives notice that it has filed application to succeed by transfer to the rights granted under Alabama Surface Mining Commission Permit P-3934-01-16-S currently held by CClay, Inc., PO Box 314, Dora, AL 35062. This operation is known as the Skelton Creek Operation and is located in Jefferson County, Alabama. The permit lies within the NW/NW and SW/NW of Section 1 and NE/NE, SE/NE, SW/NE and NW/NE of Section 2, SW/SW and NW/SW of Section 36 all within Township 17 South, Range 6 West, Jefferson County, Alabama.

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

AGREEMENT

This agreement is entered into this date by CClay, Inc. and Kennedy Brothers Construction, LLC., in order to effect a transfer of Alabama Surface Mining Commission, ASMC, Permit No. P-3934-01-16-S and the responsibility, bond coverage, and liability thereunder from CClay, Inc. and Kennedy Brothers Construction, LLC.

On the date such transfer becomes effective, Kennedy Brothers Construction, LLC. agrees to assume the responsibility, bond coverage, and liability of ASMC Permit No. P-3934-01-16-S and CClay, Inc. agrees to relinquish all rights which it may have under said permit.

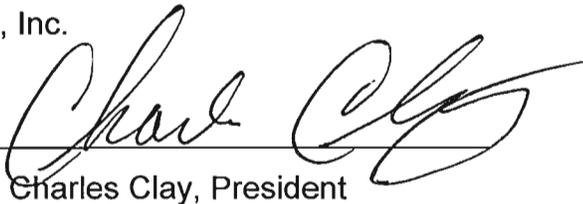
This agreement is entered into by parties this 28<sup>th</sup> day of September, 2012. Said transfer is to become effective on the effective date that ASMC approves this transfer.



Witness

CClay, Inc.

BY:

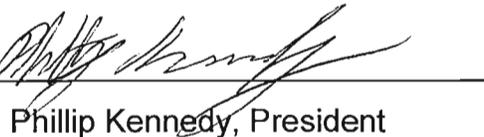
  
Charles Clay, President



Witness

Kennedy Brothers Construction, LLC

BY:

  
Phillip Kennedy, President