

Applicant: D & E Mining, LLC
Mine Name: Flat Rock Mine No. 2
Permit Number: P-3935 / Revision R-2

ASMC Use Only:

Fee: _____
Bond Required: _____
Date Approved: _____

APPLICATION FOR PERMIT REVISION

Name of Permittee: D & E Mining, LLC
License Number: L-745 Permit Number: P-3935-39-15-S
Permit Expiration Date: 5/16/2015 Mine Name: Flat Rock Mine No. 2
Revision Number: Revision R-2

Nature of Proposed Revision:

- 1) Submit detailed design plans for the Modification and Relocation of Basin 011P.
- 2) Request for an exemption of Rule 880-X-10C.13(3) for the area disturbed during the attempt to construct the Embankment for Basin 011P at its original approved location.

Attach Detailed estimate of effect of proposed revision on reclamation costs.

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STATE OF ALABAMA SURFACE MINING COMMISSION

- (X) Permit Application for a Surface Coal Mine
() Permit Application for an Underground Coal Mine
() Permit Application for a Preparation Facility

PART I A. IDENTIFICATION

1. PERMIT APPLICANT

Name: D & E Mining, LLC
Street Address: 3579 AL Hwy 117
City: Flat Rock State: AL Zip: 35966
Mailing Address: 3579 Al Hwy 117
City: Flat Rock State: AL Zip: 35966
Telephone Number: (256) 632-1166
Social Security Number (Voluntary): _____
Employer Identification Number: _____
ASMC License#: L-745

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) 384-5553

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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 IA through Part IF 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: Applicant
Street Address: _____
City: _____ State: _____ Zip: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Telephone: (____) _____ - _____
Social Security Number (Voluntary): _____ - _____ - _____
Employer Identification Number: _____
ASMC License Number: _____

Applicant: <u>D & E Mining, LLC</u>
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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

Page 1 of 2

Legal description of property or permit map symbol: J W & Betty Jo Mason
Life Estate(S)

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

Legal owner(s) of record: J W & Betty Jo Mason Life Estate C/O Benjie Mason

Address: 1104 Sanders Avenue N.E. City: Fort Payne State: AL Zip: 35967

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	J W & Betty Jo Mason Life Estate	D & E Mining, LLC	February 26, 2007	No

Applicant: D & E Mining, LLC
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PART I C 1. (CONTINUED)

Page 2 of 2

Legal description of property or permit map symbol: David Sherwin Anderson, Sr. & Barbara S. Anderson (S)

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

Legal owner(s) of record: David Sherwin Anderson Sr. & Barbara S. Anderson

Address: 935 Ravine Road City: Signal Mountain State: TN Zip: 37377

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	David Sherwin Anderson & Barbara S. Anderson	D & E Mining, LLC	April 17, 2008	No

Legal description of property or permit map symbol: North Alabama Mineral Development Company (M)

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

Legal owner(s) of record: North Alabama Mineral Development Company C/O Mike Patterson

Address: 401 Franklin Street City: Huntsville State: AL Zip: 35800

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	North Alabama Mineral Development Company	D & E Mining, LLC	January 4, 2008	No

Applicant: D & E Mining, LLC
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PART I C. (CONTINUED)

**3. INTERESTS OR PENDING INTERESTS IN LANDS CONTIGUOUS TO THE PERMIT AREA
INSTRUCTIONS:**

Give the legal description of all lands contiguous to the permit area for which the permit applicant:

1. Holds an interest,
2. Holds an option, or
3. Has made a bid for ownership, lease or other interest.

USE ADDITIONAL SHEETS AS NECESSARY IN THE FORMAT BELOW

=====

PAGE ___ OF ___ Not Applicable

=====

Legal description: _____

Describe the nature of the interest: _____

=====

Legal description: _____

Describe the nature of the interest: _____

=====

Legal description: _____

Describe the nature of the interest: _____

=====

Legal description: _____

Describe the nature of the interest: _____

=====

Legal description: _____

Describe the nature of the interest: _____

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Legal description: _____

Describe the nature of the interest: _____

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Applicant: <u>D & E Mining, LLC</u>
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PART I D. PERMIT AREA INFORMATION

1. Give the requested term of this permit: 5 years.
2. Give the legal description of the land upon which the applicant proposes to conduct surface coal mining operations. List each quarter-quarter section, section, township, range, and county.
SE 1/4 of SE 1/4, SW 1/4 of SE 1/4 of Section 7; NE 1/4 of NE 1/4 and NW 1/4 of NE 1/4, of Section 18, Township 3 South, Range 9 East, Jackson County, Alabama.

3. Give the acreage of the permit, each increment and the type of bonding.

a. Total permit acreage: 108 acres

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>23</u>	<u>Certificate of Deposit</u>
2.	<u>19</u>	<u>Certificate of Deposit</u>
3.	<u>20</u>	<u>Certificate of Deposit</u>
4.	<u>18</u>	<u>Certificate of Deposit</u>
5.	<u>20</u>	<u>Certificate of Deposit</u>
6.	<u>8</u>	<u>Certificate of Deposit</u>

c. Identify the increment(s) on which mining will initially begin upon issuance of this permit: Increment 1 and Increment 6.

4. Has any acreage in the proposed permit area been previously disturbed by mining? ()YES (XX)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>
_____	_____	_____

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).

Not Applicable.

5. Is disturbance to be conducted within 300 feet, measured horizontally from an occupied dwelling? ()YES (XX)NO.

If YES, attach a signed waiver from the owner of the dwelling indicating the minimum distance disturbance will be allowed by the owner.

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PART I D. (CONTINUED)

6. Is disturbance proposed within 100 feet of a public road right-of-way or will a public road be closed or relocated? ()YES (XX)NO.

If YES, enclose a copy of the approval granted by the government entity which has jurisdiction over the road. The approval must state the minimum distance disturbance will be allowed to the road or road right-of-way.

7. 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 of issuance
<u>MSHA ID</u>	<u>01-03301</u>	<u>MSHA</u>	<u>*</u>	<u>Issued 9-30-04</u> <u>Modified 6-25-09</u>
<u>NPDES</u>	<u>AL0076571</u>	<u>ADEM</u>	<u>**</u>	<u>Issued 7-23-04</u>

* 135 Gemini Circle, Suite 213 Birmingham, AL 35209

** 1400 Coliseum Blvd., Montgomery, AL 36130

8. Is the property in the permit covered by zoning or other land use restrictions?

()YES (X)NO.

If yes, indicate the jurisdictional authority and zoning or land use area. If more than one zoning classification exists for the permit area, identify the boundaries of each the permit map.

Jurisdictional Authority	Zoning Classification	Allows mining? Yes or No
_____	_____	_____

9. Describe access to the proposed mine from a known point on the nearest public highway: The mine site is located west of Alabama Highway 117 at its intersection with Jackson County Road 81 near Flat Rock, Alabama.

10. Did the applicant receive assistance from the Small Operator Assistance Program in preparing this application?

()YES (XXX)NO

If YES, list SOAP I.D. Number: _____

11. Submit a certificate of proof of Liability Insurance with this application. See ASMC Master 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 Daily Sentinel

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Attachment I-E-13

PUBLIC NOTICE OF FILING OF PERMIT APPLICATION

In accordance with the provisions of Act No.81-435 of the State of Alabama and the regulations promulgated under this act, D & E Mining, LLC, 3579 Alabama Highway 117, Flat Rock, AL 35966, hereby gives notice that it has filed an application with the Alabama Surface Mining Commission to revise Permit P-3935-39-15-S for its Flat Rock Mine No. 2 located in the SE/SE and SW/SE of Section 7, NE/NE and NW/NE, of Section 18, Township 3 South, Range 9 East, Jackson County, Alabama.

Revision R-2 consists of the following: 1)Modify operations plan to add a preparation plant and onsite disposal of washer refuse in the spoil area, 2)Submit detailed design plans for Slurry Impoundment 001, 3)Re-Evaluate Basins 009 & 009A.

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

The Daily Sentinel
701 Veterans Drive
Scottsboro, AL 35768
256-259-1020 FAX 256-259-2709

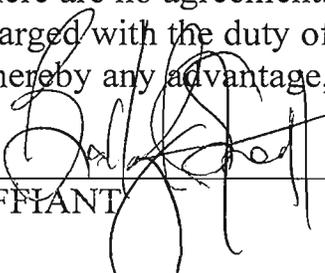
PUBLICATION AFFIDAVIT OF LEGAL NOTICE

State of Alabama

County of Jackson

Before me, the undersigned authority in and for said County in said State, this day personally appeared Brad Shurett, who, being by me first duly sworn, deposes and says that he is Publisher of The Daily Sentinel, a newspaper of general circulation published in Jackson County, Alabama, and that the attached notice was published in said newspaper once a week for 4 successive week(s), said notice having appeared in the issues of said paper October 2, 9, 16 and 23, 2012.

There are no agreements between the Newspaper and the officer or attorney charged with the duty of placing the attached legal advertisement notices whereby any advantage, gain or profit accrued to said officer or attorney.



AFFIANT

Sworn to and subscribed before me October 24, 2012.



Notary

Commission Expires: _____ MY COMMISSION EXPIRES 6-16-2015

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Publish: October 4, 9, 16 and 23, 2012.