STATE OF ALABAMA
SURFACE MINING COMMISSION

Permit Number:P- 3937 -63-15-S

License Number:L- 698

PERMIT TO ENGAGE IN SURFACE COAL MINING OPERATIONS

Pursuant to **The Alabama Surface Mining Control and Reclamation Act of 1981**, as amended, **ALA. Code** Section 9-16-70 et. seq. (1975) a permit to engage in Surface Coal Mining Operations in the State of Alabama is hereby granted to:

BLACK WARRIOR MINERALS INC
PO BOX 1190
SUMITON AL 35148
(SEABOARD MINE)

Such operations are restricted to 277 * acres as defined on the permit map and located in: (See Condition #3)

TUSCALOOSA COUNTY, TOWNSHIP 20 SOUTH, RANGE 8 WEST, SECTION 32, SE/SE, SECTION 33, SW/SW, TOWNSHIP 21 SOUTH, RANGE 8 WEST, SECTION 3, NW/NE, NE/NE, SE/NW, SW/NE, SE/NE, NW/SW, NE/SW, SW/SW, SE/SW, NW/SE, SW/SE, SECTION 4, NW/NW, NE/NW, SW/SW, SECTION 8, NW/NW

This permit is subject to suspension or revocation upon violation of any of the following conditions:

1. The permittee shall conduct Surface Coal Mining and Reclamation Operations in accordance with the plans, provisions and schedules in the permit application.

2. The permittee shall conduct operations in a manner to prevent damage or harm to the environment and public health and safety and shall notify ASMC and the public in accordance with ASMC Rule 880-X-8K-.16 of any condition which threatens the environment or public health and safety.

CONDITIONS TO BE PLACED ON PERMIT P-3937-63-15-S

3. Surface coal mining operations are restricted to those areas for which sufficient bond has been posted with ASMC. On the date of issuance of this permit, bond was posted only for increment #1 and #6 consisting of 73 acres as defined on the permit map.

4. No mining disturbance is to occur on any part of the permit on which legal "right of entry" has not been obtained. When such rights are "pending" the applicant shall submit acceptable evidence, to the Director, that such rights have been obtained according to ASMC Regulation 880-X-8D-.07.

5. No disturbance is to occur on any properties on which land use comments from legal owners of record are "pending" prior to the applicant providing acceptable comments.

6. No disturbance is to occur in the 300' setback area to any occupied dwelling prior to the applicant providing acceptable evidence to ASMC of its having secured a waiver of each subject area signed by the owner of the dwelling.

7. No mining disturbance shall occur within the 100' setback of any public road or the relocation of any public road prior to the applicant providing acceptable evidence, to the Director, of its having secured approval for a waiver from the appropriate jurisdictional authority and specific written waiver from ASMC.

8. The permittee shall notify the ASMC and seek consultation with the US 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.

9. 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 or human remains 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.

EFFECTIVE DATE: January 13, 2010
DATE ISSUED: January 13, 2010
EXPIRATION DATE: January 12, 2015

Randall C. Johnson, Director

/ns

cc: I & E, Permit File

FINDINGS

PERMIT NO.: P-3937-63-15-S

The ASMC, acting by and through its Director, hereby finds, on the basis of information set forth in the application or from information otherwise available, that --

1. The permit application is complete and accurate and the applicant has complied with all requirements of the Act and the regulatory program.

2. The applicant has demonstrated that reclamation as required by the Act and the regulatory program can be accomplished under the reclamation plan contained in the permit application.

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; or

4. For mining operations where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the Regulatory Authority the documentation required under Section 880-X-8D.07 and Section 880-X-8G-.07 of this chapter.

5. The Regulatory Authority has made an assessment of the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area and has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

6. The applicant has demonstrated that any existing structure will comply with Section 880-X-2B-.01, and the applicable performance standards of Chapter 3 or 10.

7. The applicant has paid all reclamation fees from previous and existing operations as required by 30 C.F.R., Subchapter R.

8. The applicant has satisfied the applicable requirements of Subchapter 880-X-8J.

9. The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural, postmining land use, in accordance with the requirements of 880-X-l0C-.58(4) and 880-X-10D-.52(4).

10. The operation will not affect the continued existence of endangered or threatened species, or result in destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

11. 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. 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.

12. For a proposed remining operation where the applicant intends to reclaim in accordance with the requirements of Section 880-X-l0C-.56 or 880-X-10D.-49, the site of the operation is a previously mined area as defined in Section 880-X-2A-.06.

13. Surface coal mining and reclamation operations will not adversely affect a cemetery.

14. After application approval but prior to issue of permit, ASMC reconsidered its approval, based on the compliance review required by Section 880-X-8K-.10(2)(a) in light of any new information submitted under 880-X-8D-.05(8).

15. The applicant has submitted the performance bond or other equivalent guarantee required under Chapter 880-X-9 of the ASMC Rules prior to the issuance of the permit.

16. For mining operations where a waiver is granted from the 100' setback from a public road according to 880-X-7B-.07, the interests of the public and affected landowners have been protected.

17. 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 P.E. Lamoreaux & Associates dated September 11, 2008 found no sites potentially eligible for listing on the National Register of Historic Places located on the mine site. The State Historic Preservation Officer (SHPO) concurred with this finding by letter dated October 8, 2008. 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.

18. The US Fish and Wildlife Service (FWS) provided comments dated October 1, 2008 and April 27, 2009. The FWS found that no federally listed species or critical habitat as defined by the Endangered Species Act occur on the proposed permit area. The Alabama Department of Conservation and Natural Resources provided comments dated September 3 and September 8, 2008 indicating that no sensitive species were known to occur within 2.4 miles of the proposed permit area. The US Army Corps of Engineers issued authorization under Nationwide Permit 21 SAM-2009-01271-CHE dated September 14, 2009 for activities under this permit, which will impact 9980 linear feet of jurisdictional stream and 0.6 acres of wetland. A mitigation plan approved by the Corps was reviewed by ASMC and found to be consistent with the provisions of this permit. The ASMC finds that the proposed operation will not jeopardize the continued existence of endangered or threatened species or critical habitat thereof.

19. 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.

BASED ON THESE FINDINGS, I RECOMMEND THAT THIS PERMIT BE ISSUED.

DATE: January 13, 2010
/ns

Mark Woodley
Mark Woodley, Permit Manager

cc: I & E, Permit File