



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE
CORPS OF ENGINEERS
BIRMINGHAM FIELD OFFICE
218 SUMMIT PARKWAY, SUITE 222
HOMEWOOD, ALABAMA 35209

August 26, 2011

Inland Section North
Regulatory Division

SUBJECT: SAM-2010-00705-CHE; Cane Creek Mine

Gunner-Reilly, Corp.
Post Office Box 1253
Alabaster, Alabama 35007

Ladies and Gentlemen:

We have reviewed your application to impact 5.1 acres of ponds, 1,880 linear feet of intermittent streams, 2,040 linear feet of ephemeral streams, and 0.17 acres of wetlands in association with the your proposal to conduct surface coal re-mining activities near Cordova, Walker County, Alabama (33.760882,-87.203035 and 33.772798,-87.222433). Department of the Army permit authorization is necessary because your project would involve the placement of dredged and/or fill material into waters of the U.S., including wetlands under our regulatory jurisdiction.

Based on the information you provided to us, Nationwide Permit (NWP) 49, Coal Remining Activities (Federal Register, March 12, 2007 Vol. 72, No. 47), authorizes your proposal as depicted on the enclosed drawings dated March 2010. In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the General Conditions of Nationwide Permit 49, which can be viewed at our website at www.sam.usace.army.mil/RD/reg, and the following special condition:

a. The permittee shall obtain 6,888 stream mitigation credits and 0.23 wetland mitigation credits from the Big Sandy Mitigation Bank in compliance with the provisions of the bank's mitigation banking instrument. The permittee shall submit to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division documentation on the completed mitigation bank transaction prior to performing work authorized by this permit. All submittals must prominently display the reference number SAM-2010-00705-CHE.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon the applicant to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued.

Furthermore, if the applicant commences or is under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, he will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

The District Engineer shall be notified promptly in writing at the commencement and within 60 days upon completion of the work. The enclosed form letter(s) may be used for that purpose.

If the scope of work or project locations changes, you are urged to contact this office for a verification of this determination. This letter of authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required.

Nothing in this letter shall be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations which may affect this work.

Please contact me at (205) 290-9096 or Casey.H.Ehorn@usace.army.mil if you have any questions. For additional information about our Regulatory Program, visit our web site at www.sam.usace.army.mil/RD/reg, and please take a moment to complete our customer satisfaction survey while you are there. Your responses are appreciated and will allow us to improve our services.

Sincerely,

8-28-11



Casey Ehorn
Regulatory Division

Enclosures

aw 8/28/11
ehorn/KJ
CM/RD-EN CM-P 8/28/11
file.

Enclosure 1



US Army Corps of Engineers
Mobile District

NOTIFICATION OF COMMENCEMENT OF WORK

Permit Number: SAM-2010-00705-CHE

Name of Permittee: Gunner-Reilly, Corp. (Cane Creek Mine)

Date of Permit Issuance: August 26, 2011

Upon commencement of the authorized work and any mitigation required by the permit, you must complete and return this notification to the following address:

**U.S. Army Corps of Engineers, Mobile District
Regulatory Division (RD-I-N)
218 Summit Pkwy, Suite 222
Homewood, AL 35209**

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

IT SHALL NOT BE LAWFUL TO DEVIATE FROM SUCH PLANS EITHER BEFORE OR AFTER COMPLETION OF THE WORK, unless modification of said plans has previously been submitted to and received the approval of the Department of the Army. If for any reason it becomes necessary to make a material change in location or plans for this work, revised plans should be submitted promptly to the District Engineer in order that the revised plans may receive the approval required by law before work is begun.

PERMITTEE TO COMPLETE THE FOLLOWING:

Date Work Commenced: _____

Signature of Permittee

Date

Enclosure 2



**US Army Corps of Engineers
Mobile District**

Permit Number: SAM-2010-00705-CHE

Name of Permittee: Gunner-Reilly, Corp. (Cane Creek Mine)

Date of Permit Issuance: August 26, 2011

Upon completion of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Mobile District
Regulatory Division
Inland Branch
Post Office Box 2288
Mobile, Alabama 36628-0001

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit, and the required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date