



STATE OF ALABAMA SURFACE MINING COMMISSION

Page 1 of 2

Permit Number:P- 3953 -01-17-S

License Number:L- 789

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:

WARRIOR 282 LLC
5269 DEANS FERRY ROAD
TRAFFORD AL 35172
(WARRIOR MINE No.1)

Such operations are restricted to 167* acres as defined on the permit map and located in: (See Condition #3)

SW/NW, NW/SW, AND SW/SW OF SECTION 13; SE/NW, SW/NE, SE/NE, NE/SW, SE/SW, NW/SE, NE/SE, SW/SE and SE/SE OF SECTION 14; NE/NW, NE/NE and NW/NE OF SECTION 23; NW/NW OF SECTION 24, ALL WITHIN TOWNSHIP 14 SOUTH, RANGE 3 WEST, JEFFERSON COUNTY, ALABAMA

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-3953-01-17-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 #6 consisting of 5 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 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.
10. The permittee shall purchase 7,266 stream credits or approved mitigation rate of the bank from an approved mitigation bank prior to bonding and mining in a mining increment that contains USACE jurisdictional areas.

DATE ISSUED: NOVEMBER 8, 2012
EFFECTIVE DATE: NOVEMBER 8, 2012
EXPIRATION DATE: NOVEMBER 7, 2017


Randall C. Johnson, Director

/ns
cc: I & E, Permit File

FINDINGS

PERMIT NO.: P-3953-01-17-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 --

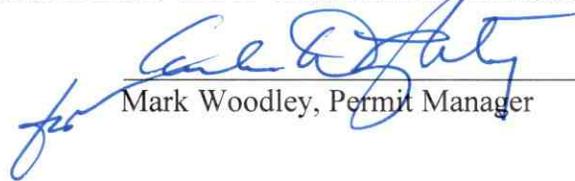
1. The permit application is complete and accurate and the applicant has complied with all requirements of the Act and the regulatory program.
2. The applicant has demonstrated that reclamation as required by the Act and the regulatory program can be accomplished under the reclamation plan contained 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-10C-.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-10C-.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. P.E. LaMoreaux & Associates (PELA) conducted a Phase I Cultural Survey on February 3 and 4, 2009 for approximately 180 acres not previously surveyed or disturbed. In a letter dated February 5, 2009 PELA states the proposed project will not impact any cultural resources eligible or potentially eligible for the National Register of Historic Places (NRHP). By a letter dated March 4, 20209 the State Historic Preservation Officer (SHPO) determined that the project would have no adverse effect on cultural resources that are eligible or listed on the (NRHP), based on the study performed by PELA, and therefore concur with the project. 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. Yokley Environmental Consulting Service conducted two environmental assessments for habitat and the possible presence of federally listed threatened and endangered species on November 15, 2008 and February 13, 2009 for approximately 340 total acres. In letters dated November 15, 2008 and February 15, 2009 Yokley stated that habitat for critical species does not exist within the project area and no evidence was found for listed species on or adjacent to the site. In a letter dated October 7, 2008 the Alabama Department of Conservation and Natural Resources (ADCNR) determined that the closest sensitive species occurs approximately 0.9 miles from the project site. The ADCNR also defers to the US Army Corps of Engineers (USACE) for wetland mitigation and the use of Best Management Practices to prevent degradation/loss of aquatic habitat. The US Fish and Wildlife Service (FWS) issued comments dated December 19, 2008 that no federally listed species/critical habitat occur within the project area. Comments dated February 25, 2009 for 4 additional acres concur with the original determination. As described, the project will have no significant impact on fish and wildlife resources. The US Army Corps of Engineers authorized the proposed activities under Nationwide Permit 21: SAM-2008-1874-CHE in a letter dated January 14, 2009. The proposed project will impact 1,730 linear feet (lf) of streams. To mitigate for the wetland losses, the permittee must purchase credits from a USACE approved mitigation bank at the rate of 7,266 stream credits or the approved mitigation rate of the bank. 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: NOVEMBER 8, 2012


Mark Woodley, Permit Manager

/ns

cc: I & E, Permit File