



STATE OF ALABAMA

SURFACE MINING COMMISSION

P.O. BOX 2390 - JASPER, ALABAMA 35502-2390
(205) 221-4130 • FAX: (205) 221-5077

Permit Revision Number: R-7

REVISION TO PERMIT FOR SURFACE COAL MINING OPERATIONS

Pursuant to the Alabama Surface Mining Control and Reclamation Act, Act No. 81-435, and duly promulgated rules of the Commission, revision is hereby approved for permit:

P- 3957-64-29-S
Highland Energy, Inc.
7802 Highway 78
Cordova, AL 35550
(Mine No. 5)

License No.: L-863
Pursuant to the
Permit map: 1 of 1
Certified by: Jared P. Johnsey PE#33239
Date: 08-28-24

The permit is revised as follows:

1. Transfer 37 mining acres from Increment No. 2 to Increment No. 1.
2. Transfer 5 incidental acres from Increment No. 6 to Increment No. 1.
3. Add 20 mining acres to Increment No. 1.
4. Add 2 incidental acres (Sediment Basin 013) to Increment No. 1.
5. Delete 2 mining acres from Increment No. 1 as undisturbed.
6. Modify the Operation Plan.
7. Modify the General Plan.
8. Update the Hydrologic Monitoring Plan.
9. Address the topsoil variance to include the area added by R-7.

R-7 Findings 1: Comments dated February 16, 2024, the U.S. Fish & Wildlife Service concurred the project is not likely to adversely affect the Indiana Bat and/or the Northern Long-Eared Bat if tree removal only occurs from October 15 through March 31.

R-7 Findings 2: Comments dated February 16, 2024, by the U.S. Fish & Wildlife Service: Therefore, due to the presence of known records of listed species, number of project actions, high level of public interest on this reach of the Mulberry Fork adjacent to the project area and listed species sensitivity to any decline in water quality, we recommend a protected species survey for the Black Warrior Waterdog and Flattened Musk Turtle be performed by a contractor possessing the appropriate state and federal permits on the adjacent reach of the Mulberry Fork of the Black Warrior River in addition to project BMP's and protective habitat measures to ensure water quality parameters are being met.

R-7 Findings 3: Comments dated February 16, 2024, by the U.S. Fish & Wildlife Service: We recommend that all recommended measures be taken to avoid adverse impacts to aquatic species, including stringent sediment and erosion control measures and minimized use of herbicides. To minimize potential impacts to listed species, we recommend using the following BMP's to minimize the potential for sedimentation and erosion in the project area:

- Develop erosion control plan(s) tailored for tree removal, mining establishment, and mining construction spoil dumping site (if any). Erosion and sedimentation controls should be installed and maintained between any soil disturbance and nearby, down-gradient surface waters. All erosion controls should be inspected routinely, especially during and immediately following significant rain events, to ensure no impacts nearby surface waters and aquatic habitat. Immediate corrective action should be taken if erosion or sedimentation is observed.

- Develop and maintain a strict water quality monitoring and reporting plan with an established baseline at regular intervals at existing water quality monitoring sites. We recommend testing for the following parameters, including, but not limited to: pH, temperature, specific conductance (SC), total suspended solids (TSS), dissolved oxygen (Mg/L), turbidity (NTU's), sulfates, metals (Ag, Al, Sb, As, Be, Cd, Cr, Cu, Fe, Hg, Mn, Ni, Se, Tl, Zn), including stream conductivity.
- Consider increasing the minimum buffer distances from perennial streams while maintaining natural, vegetated buffers on all streams and creeks adjacent to the project site. Immediately revegetate any disturbed areas with native species or an annual grass. Consider establishing vegetative cover on the site that is beneficial to wildlife such as native warm season grasses. Based on the seed mix chosen for the vegetative cover, maintenance such as mowing may be needed. We suggest a maintenance schedule that occurs outside of nesting wildlife season and avoids maintenance between April 1 and October 1.
- Pesticides, fertilizers, and other chemicals should not be used in wetland areas or near streams. If pesticides or chemicals will be used for site maintenance, then stormwater runoff from the site should be directed to bio-retention areas prior to discharge to streams or wetlands to provide additional protection for water quality and aquatic and terrestrial wildlife habitats.
- To the extent feasible, complete any work that results in exposed earth during periods when significant rainfall is not predicted.

R-7 Findings 4: Comments dated May 31, 2024, by the U.S. Fish & Wildlife Service: Based on project information provided by Wilbanks Engineering and Environmental Solutions, LLC and in conference with the ASMC, we do not see the need to develop additional erosion control and hydrologic monitoring plans beyond those currently required by existing ASMC Regulations. Furthermore, in our response letter of February 16, 2024, we requested testing for parameters that are included in the existing HMP (Hydrologic Monitoring Plan) with the exception of dissolved oxygen (DO). We are recommending DO be added to the ASMC HMP. Also, we requested protected species studies for the Black Warrior Dog (BWW) and Flattened Musk Turtle (FMT). Since your earliest BWW survey opportunity will not occur until December 2024, you may assume presence of both the BWW and the FMT along with the inclusion of the additional DO parameter we have recommended, since we know the FMT are potentially present near your project area. The Service will assume that protective conservation measures for the FMT will also be protective of the BWW.

R-7 Findings 5: Response dated June 3, 2024, by Wilbanks Engineering and Environmental Solutions, LLC to the U.S. Fish & Wildlife Service: On behalf of Mays Mining, Inc., we will choose to assume the presence of both the BWW and the FMT. Also, an updated HMP (Hydrologic Monitoring Plan) was submitted to ASMC with dissolved oxygen (DO) to be sampled quarterly from stream sample locations within the Mulberry Fork. As of 6/4/2024, ASMC has received and approved the updated HMP.

R-7 Condition 1: The permittee may only conduct tree removal from October 15 through March 31.

R-7 Condition 2: If tree removal from the potential summer roosting habitat is necessary outside October 15 through March 31 timeframe an Indiana Bat and Northern Long-Eared Bat presence/absence survey must be conducted, and the U.S. Fish & Wildlife Service approval must be submitted to ASMC prior to tree removal.

R-7 Permit Findings from the October 3, 2024 Comment Letter from the Birmingham Water Works.

1. **Comment:** Concerns were expressed about surface mining the footprint of the former plywood plant due to the possible presence of phenols and formaldehyde.

Response: The "Special Overburden Handling Plan" submitted in the Revision R-5 application addresses the sampling, testing, and handling of overburden located inside the footprint of the former plywood plant for the possible presence of phenols and formaldehyde. At ASMC's request, this plan was reviewed by ADEM and found consistent with ADEM protocol per requirements of the Alabama Risk Based Corrective Action Guidance Manual (ARBCA) and the Alabama Environmental Investigation and Remediation Guidance document (AEIRG).

2. The comments listed below were reviewed and found to have been adequately addressed in review of the original permit application or subsequent applications for permit revision:
- (i) Concerns mining would impact water quality delivered to consumers from the Birmingham Water Works Board intake located 5.6 miles downstream of the mine site within the Mulberry Fork of the Black Warrior River.
 - (ii) Concerns questioning the design of sedimentation structures to control runoff from the mine site.
 - (iii) Concerns for the validity of the Soil and Groundwater Environmental Assessment Reports.

ACREAGE SUMMARY:

*INCREMENT #1: increases to -----	113 acres
INCREMENT #2: decreases to -----	0 acres
INCREMENT #6: decreases to -----	0 acres

Total Acreage Increases to	113 Acres
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Acres

*Bonded to Date.

All other terms and conditions remain in effect as well as all Findings in the original permit and any Findings appropriate for this revision.

EFFECTIVE DATE: February 27, 2025


 Kathy H. Love, Director

/mw

cc: I & E, Permit File