



STATE OF ALABAMA SURFACE MINING COMMISSION

Page 1 of 2

Permit Number:P- 3959 -01-17-S

License Number:L- 813

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:

SHANNON LLC
PO BOX 621
JASPER AL 35502
(SHANNON MINE NO.4)

Such operations are restricted to 2,039 acres as defined on the permit map and located in: (See Condition #3)

SEE ATTACHED LEGAL DESCRIPTION

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.

LEGAL DESCRIPTION

The NW 1/4 of NE 1/4, NE 1/4 of NE 1/4 of Section 9, SE 1/4 of SE 1/4 of Section 4, NW 1/4 of NW 1/4, NE 1/4 of NW 1/4, NW 1/4 of NE 1/4, NE 1/4 of NE 1/4, SW 1/4 of NW 1/4, SE 1/4 of NW 1/4, SW 1/4 of NE 1/4, SE 1/4 of NE 1/4 of Section 10, NW 1/4 of NE 1/4, NE 1/4 of NE 1/4, SE 1/4 of NW 1/4, SW 1/4 of NE 1/4, SE 1/4 of NE 1/4, NW 1/4 of SW 1/4, NE 1/4 of SW 1/4, NW 1/4 of SE 1/4, NE 1/4 of SE 1/4, SW 1/4 of SW 1/4, SE 1/4 of SW 1/4, SW 1/4 of SE 1/4, SE 1/4 of SE 1/4 of Section 3, NW 1/4 of NW 1/4, NE 1/4 of NW 1/4, NW 1/4 of NE 1/4, NE 1/4 of NE 1/4, SW 1/4 of NW 1/4, SE 1/4 of NW 1/4, SW 1/4 of NE 1/4, SE 1/4 of NE 1/4, NW 1/4 of SW 1/4, NE 1/4 of SW 1/4, NW 1/4 of SE 1/4, NE 1/4 of SE 1/4, SW 1/4 of SW 1/4, SE 1/4 of SW 1/4, SW 1/4 of SE 1/4, SE 1/4 of SE 1/4 of Section 2, NW 1/4 of NW 1/4, NE 1/4 of NW 1/4, NW 1/4 of NE 1/4, NE 1/4 of NE 1/4, SW 1/4 of NW 1/4 of SE 1/4 of NW 1/4, Section 11, NW 1/4 of NW 1/4, NE 1/4 of NW 1/4, NW 1/4 of NE 1/4, NE 1/4 of NE 1/4, SW 1/4 of NW 1/4, SE 1/4 of NW 1/4, SW 1/4 of NE 1/4, NW 1/4 of SW 1/4, NE 1/4 of SW 1/4, SW 1/4 of SW 1/4 of Section 1, all within Township 20 South, Range 6 West, SE 1/4 of SE 1/4 of Section 34, SW 1/4 of NE 1/4, SE 1/4 of NE 1/4, NE 1/4 of SW, NW 1/4 of SE 1/4, NE 1/4 of SE 1/4, SW 1/4 of SW 1/4, SE 1/4 of SW 1/4, SW 1/4 of SE 1/4, SE 1/4 of SE 1/4, Section 35, NW 1/4 of NW 1/4, NE 1/4 of NW 1/4, SW 1/4 of NW 1/4, SE 1/4 of NW 1/4, NW 1/4 of SW 1/4, NE 1/4 of SW 1/4, NW 1/4 of SE 1/4, SW 1/4 of SW 1/4, SE 1/4 of SW 1/4, SW 1/4 of SE 1/4 SE 1/4 of SE 1/4, of Section 36, all within Township 19 South Range 6 West, Jefferson and Tuscaloosa Counties, Alabama.

CONDITIONS TO BE PLACED ON PERMIT P-3959-01-17-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 #1 consisting of 478 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. A letter from the County Commission waiving the 100' row setback of Blue Creek Road shall be submitted to the ASMC prior to conducting mining activities on Increments #2, #3 or #4.
11. The permittee shall submit to the ASMC proof of receipt of payment by March 24, 2012 for outstanding AML Fees totaling \$7,251.41 for Yeshic LLC.

EFFECTIVE DATE: 03-20-2012

DATE ISSUED: 03-20-2012

EXPIRATION DATE: 03-19-2017

/ns

cc: I & E, Permit File


Randall C. Johnson, Director

FINDINGS

PERMIT NO.: P-3959-01-17-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 as taken into account the effect of the proposed permitting action on properties listed or eligible for listing on the National Register of Historic Places. The University of Alabama-Office of Archaeological Research (OAR) conducted a Phase I cultural resource survey on May 17-24, 2011 for 2,280 total acres with 560 acres not having been previously surveyed. In a letter dated June 3, 2011 OAR recommends that the survey area be cleared from a cultural resources perspective and the project will have no impact on any significant cultural resources. The State Historical Preservation Office concurred with OAR's cultural resources assessment, the project activities would have no adverse effect on cultural resources eligible for or listed on the National Register of Historical Places (NRHP) in a letter dated June 22, 2011. 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) determined that no federally listed species or critical habitat would be impacted by the proposed project by comments dated May 31, 2011. In letters dated May 3 and June 8, 2011 the Alabama Department of Conservation and Natural Resources (ADCNR) based on review of the project proposal has no objection provided Best Management Practices are followed to prevent stream and wetlands degradation/loss. The nearest sensitive species occurs 6.6 miles from the subject site. The US Army Corps of Engineers (USACE) stated in a letter dated November 2, 2011 that the proposed project is authorized by Nationwide Permit 49 for Coal Remining Activities, permit number: SAM-2011-01072-CMS. Sixty percent of the project areas has been previously disturbed by mining activities. The project impacts include 6,397 linear feet (LF) of ephemeral stream and 3,283 LF of intermittent stream. To mitigate for intermittent stream impacts the permittee will construct 3,283 LF of intermittent stream and stream buffer restoration, which shall generate at least 13,460.3 credits. To mitigate for the ephemeral stream impacts, the permittee shall purchase 0.15 wetland credits from the Big Sandy Mitigation 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.

During the comment period for this permit the Alabama Surface Mining Commission (ASMC) received several requests for an informal conference from citizens that were concerned about various aspects of this permit.

On Tuesday, October 18, 2011 an informal conference was held at the ASMC at 9:00 A.M. Many people had comments and concerns about this permit. (Refer to the “sign in list” in the official transcript contained in the permit).

In review of an application for a permit or revision, the ASMC distributes various parts of the permit to the review staff. The review staff includes persons trained in various disciplines such as Biology, Geology, Hydrology, Engineering, Blasting and Subsidence. In addition, input is solicited from external sources including Fish and Wildlife Service, Corps of Engineers, Mine Safety and Health Administration (MSHA), Alabama Historical Society, and the Alabama Department of Environmental Management.

The transcript of the informal conference was distributed to each review team member who then prepared findings on comments that fell within their particular discipline or area of review.

Comments dealing with Administrative and Environmental parts of the permit:

Several commentors questioned the noise associated with the warning horns used at mine sites.

Response: The warning horns are a regulation/requirement of MSHA. Some mines have gotten permission from MSHA to use warning lights in place of the horns during the nighttime hours.

Several commentors questioned the condition of roads and the setback from roads.

Response: County roads fall under the jurisdiction of the County Commission for that particular county. The county will make repairs. Only the County Commission can waive the setback of county roads. Please contact the County Commission about county road repairs.

A commentor questioned the feeble attempt to notify local residents about the permit.

Response: The regulation states that an advertisement must be run in a local newspaper of general circulation once a week for four consecutive weeks. A copy of that advertisement shall be submitted with the permit application to ASMC. A copy of the permit is also posted on the ASMC website prior to and for 45 days following issuance of the permit. Letters are sent to any landowner that is within the permit boundary or contiguous to the permit, as was as any citizen that was party of the informal conference.

The next comments deal with the Hydrology issues:

A commentor questioned abandoned underground mines with sulfuric acid being pumped into Blue Creek.

Response: Any water that is encountered from previous underground operations while mining will be routed to an approved sediment basin. Discharges from sediment basins are sampled and analyzed in accordance with the approved NPDES permit by the Alabama Department of Environmental Management (ADEM). NPDES permit number AL0076597. Effluent parameters and limitations are set by ADEM and monitored by both the mining company, and the ASMC.

Several commentors questioned degradation of well water by both quality and quantity.

Response: A well inventory was conducted for a ½ mile radius of the permit area. All domestic wells were located and sampled if permission was granted.

ASMC Regulations include Rights of Present Water Users. It states:

880-X-10C-. 25 Hydrologic Balance: Water Rights and Replacement

Any person who conducts surface mining activities shall replace the water supply of an owner of interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source, where the water supply has been affected by contamination, diminution, or interruption proximately resulting from the surface mining activities.

The following comments are dealing with Engineering.

Several comments were made concerning dust on the mine site.

Response: Part III-B-5 Transportation Facilities, discusses the use of dust suppression which consists of water, chemical binders and/or other dust suppressants for roads at the mine site.

The following comments are dealing with blasting.

Several commentors questioned blasting on the mine site.

Response: ASMC Regulations require that coal mine blasting operations be conducted within limits set to prevent damage to property and hazards to the public. To that end the ASMC inspects blasting operations, requires seismograph monitoring, and training and certification of blasters. If members of the public believe blasting is causing them damage, the ASMC will investigate and take any action warranted.

Several comments were made concerning dust on the mine site.

Response: Our regulations require dust control on roadways and parking areas, but we have no control over dust from mining activity itself. Jefferson County does have air quality regulations, which may be applicable.

Silicosis was mentioned as a threat to the public; it is, by the way, not the same as black lung. Silicosis is a serious threat to drillers and workers who are exposed to high concentrations of

silica dust on mine sites. The concentrations of silica dust in the surrounding neighborhood should not constitute a silicosis hazard. Any kind or amount of dust may be a hazard to those with breathing difficulty, of course, and ASMC will do all within its power to see that dust is controlled.

Several commentors voiced concern over the stability of dams subjected to blasting vibration.

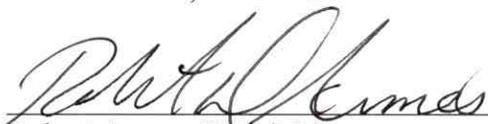
Response: ASMC regulations have no rule on vibrations for dams; however, the vibration limits on residences are well below safety thresholds for dam stability and will also protect the dams. Almost all surface coal mines have dams for sediment control, some are quite large, and I am not aware of any damage from blasting vibration.

A commentor mentioned concern about flyrock.

Response: That is an important issue to the ASMC and every effort is lent to see that flyrock does not occur. There has not been a person injured by flyrock from an Alabama coal mine in over 20 years and we hope and pray to maintain that record. At any rate, the Parrish home is well beyond the record distance for rock thrown in Alabama, so it is safe from that threat.

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

DATE: March 20, 2012


Robert Armes, Permit Manager

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cc: I & E, Permit File