



REPLY TO
ATTENTION OF:

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

May 17, 2012

Inland Section North
Regulatory Division

SUBJECT: Nationwide Permit Authorization - Permit Number SAM-2012-00040-CMS,
National Coal of Alabama, Inc., Weller Mine

National Coal of Alabama, Inc.
Attention: Scott Deppe
1810 Birmingham Avenue, Suite 101
Jasper, Alabama 35501

Dear Mr. Deppe:

This letter is in response to your March 8, 2012 application and subsequent revision dated April 26, 2012 for a Department of the Army (DA) permit to impact jurisdictional waters of the United States in association with the Weller Mine. The project is located in Sections 33 and 34, Township 19 South, Range 6 West and Section 3,4,5,8 and 9, Township 20 South, Range 6 West in Jefferson County and into Tuscaloosa County, Alabama (N 33.33583, W 87.16307).

DA authorization is necessary because your project will involve the placement of fill material into jurisdictional waters of the United States, regulated under Section 404 of the Clean Water Act. The project is for a surface coal mine, which will include impacts to 4,401 linear feet of ephemeral streams (0.15 acre), 2,630 linear feet (0.19 acre) of intermittent streams, 4.22 acres of wetlands, and 2.38 acres of open water impoundments.

Based on the pre-construction notification (PCN) and subsequent submittals, your proposal is authorized by Nationwide Permit (NWP) 49 Coal Remining Activities (Federal Register, February 21, 2012 Vol. 77, No. 34). 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 conditions:

a. A series of status reports must be submitted to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, during various stages of the mining process including: 1. At completion of coal removal; 2. After any sediment pond removals; 3. When ASMC required reclamation is complete; 4. When mitigation construction begins, including final design plans. 5. Upon completion of stream or wetland construction (initial mitigation report), which shall include as-built drawings. These reports must be submitted for each mining increment.

b. The applicant shall purchase 0.21 wetland credits (0.15 credits x 1.11 proximity factor) from Big Sandy Mitigation Bank for the ephemeral stream mitigation. Proof of credit purchase must be received by this office prior to commencing work in waters of the United States.

c. To mitigate for the intermittent stream impacts, the applicant shall implement the mitigation plan as submitted in the PCN dated April 26, 2012. The applicant shall generate no less than 9,757.6 stream credits. To mitigate for the wetland impacts, the applicant will create 3.5 acres of wetlands onsite in accordance with the mitigation plan.

d. Mitigation monitoring reports for each mining increment will be due annually for 5 years from the date of the initial mitigation monitoring report. All reports must be submitted to the U.S. Army Corps of Engineers, Mobile District Birmingham Field Office, Regulatory Division and must prominently display the reference number SAM-2012-00040-CMS.

e. The on-site mitigation areas (streams and wetland) shall be preserved using the Mobile District's restrictive covenant. A copy of the filed restrictive covenant shall be provided with the initial mitigation report for that mining increment.

f. The permittee shall prepare a performance bond or similar instrument before commencing mining activities on each increment. Each financial assurance document shall be submitted to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division for approval prior to being executed. The bond for the first increment shall be posted before construction authorized by this permit begins. The bonding will be based on the attached Bond/Mitigation Cost by Increment Table and Mining Increment Maps.

g. Your responsibility to complete the required compensatory mitigation will not be considered fulfilled until you have demonstrated compensatory mitigation project success, and have received written verification of that success from the U.S. Army Corps of Engineers.

h. You shall comply with all the terms and conditions of the Alabama Department of Environmental Management Section 401 Water Quality Certifications for the Nationwide Permits. This document can be viewed at our website: www.sam.usace.army.mil/rd/reg/nwp/htm for you review and compliance, or at your request a paper copy will be provided to you.

Our verification of this NWP authorization is valid for 2 years from the date of this letter unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date, please contact us to discuss the status of your authorization. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act.

This letter of authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. Further, please note General Condition 30 requires that you submit a signed certification to us once any work has commenced and when the work and required mitigation are completed. Please complete and submit the attached Notification of Commencement of Work when work has begun and the attached Compliance Certification form to this office within 60 days of completion of the authorized work.

A copy of this authorization is being provided to the Alabama Department of Environmental Management, Attention: Mr. Richard Hulcher, Field Operations Division, 1400 Coliseum Boulevard, Montgomery, Alabama 36110 and Stephen Blankenship, McGehee Engineering, Post Office Box 3431, Jasper, Alabama 35502.

Please contact me at 205-290-9096 if you have any questions and refer to File Number SAM-2012-00040-CMS. 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,



Courtney Shea
Project Manager
Regulatory Division
Birmingham Field Office

Enclosures