



STATE OF ALABAMA SURFACE MINING COMMISSION

Page 1 of 4

Permit Number:P- 3968 -64-18-S

License Number:L- 775

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:

CEDAR LAKE MINING INC
2361 CUMBERLAND LAKE DRIVE
PINSON AL 35126
(LITTLE SPRING CREEK EAST)

Such operations are restricted to 565* acres as defined on the permit map and located in: (See Condition #3)

SE/NE, SW/NE, NE/SE, NW/SE, NE/SW, SE/SE, SW/SE, SE/SW, SE/NW, SECTION 34, T12S, R7W; NW/SW, SW/SW, SECTION 35, T12S, R7W; NW/NW, SE/NW, SW/NW, SECTION 2, T13S, R7W; NE/NE, NW/NE, NE/NW, SE/NE, SW/NE, SE/NW, NE/SE, NW/SE, SE/SE, SECTION 3, T13S, R7W; Walker County, Alabama

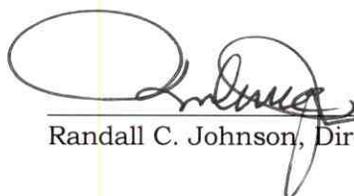
This permit is subject to suspension or revocation upon violation of any of the following conditions:

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 890-X-OK-16~~ of any condition which threatens the environment or public health and safety.

CONDITIONS TO BE PLACED ON PERMIT P-3968-64-18-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 #5 consisting of 2 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 provide proof of performance bond or similar instrument in the amount of \$57,459.60 prior to conducting mining activities in Increment #1.
11. The permittee shall provide USACE concurrence for other increments of this permit prior to conducting mining activities in any mining increment other than Increment #1.

EFFECTIVE DATE: DECEMBER 10, 2013
ISSUANCE DATE: DECEMBER 10, 2013
EXPIRATION DATE: DECEMBER 09, 2018



Randall C. Johnson, Director

/ns
cc: I & E, Permit File

FINDINGS

PERMIT NO.: P-3968-64-18-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. The University of Alabama-Office of Archaeological Research (OAR) conducted a Phase I Cultural Resource Survey for 1,100 acres from March 29 to April 7, 2010, OAR Project Number: 10-138. One archeological site was located, recorded and added to the Alabama State Site File (ASSF), site 1Wa276. However the site does not meet the criteria for eligibility into the National Register of Historic Places (NRHP). In a letter dated October 21, 2010 OAR recommends a finding of no properties for the entire survey area. Based on the cultural resource assessment conducted by the OAR, the State Historical Preservation Office determined that project activities will have no adverse effect on cultural resources eligible for or listed on the NRHP and therefore, concurs with the proposed project activities in a letter dated July 29, 2010. 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. Dan Spaulding Environmental Consultant conducted a habitat assessment for the Indiana bat (*Myotis sodalis*) on approximately 1173 acres for the proposed coal mining operation on May 26-28, 2012. Spaulding found the site was poor for summer roosting and no caves or rock shelters were observed and determined no additional studies are required to be in compliance with state and federal endangered species laws associated with project impacts to Threatened & Endangered species. The US Fish and Wildlife Service (FWS), in comments dated March 16, 2010, stated that no federally listed species/habitats are known to occur within the project area. In a letter February 25, 2010 the Alabama Department of Conservation and Natural Resources (ADCNR) determined that the closest sensitive species occurs approximately 3.5 miles from the subject site. In a letter dated May 14, 2012 the US Army Corps of Engineers (USACE) authorized the activities by Permit Number: SAM-2011-00880-CHE, transferred from Haley Brothers Coal to Cedar Lake Mining, Inc. The project will impact 9,320 linear feet (LF) of ephemeral streams, 2,930 LF of intermittent stream, 2.32 acres of wetlands. To compensate for the impacts to streams and wetlands, the permittee will implement the Revised Mitigation Plan dated February 13, 2012, with subsequent revisions submitted on May 3, 2012. This will involve buffer enhancement and restoration along 2,440 LF of Wolf Creek and the enhancement of 12.49 acres of wetlands. A filed copy of the Mobile District's approved Restrictive Covenant for the mitigation areas shall be submitted to the Mobile District,

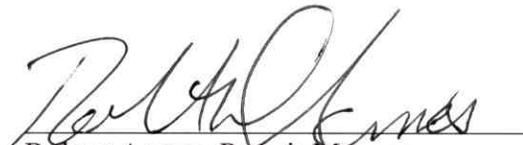
Birmingham Field Office prior to commencement of work in the waters of the U.S. The USACE must review and approve the performance bond or similar instrument, in the amount of \$57,459.60, prior to commencement of construction authorized by the USACE permit. **The USACE approval for this permit is only for ASMC Increment 1.** 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: DECEMBER 10, 2013


Robert Armes, Permit Manager

/ns
cc: I & E, Permit File