



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-4

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-3970-33-17-S
Birmingham Coal & Coke Company, Inc.
912 Edenton Street
Birmingham, AL 35242
(Knight Mine)

License No.: L-378
Pursuant to the permit map: 1 of 1
Certified by: J. Rich Weaver, P.E. # 33285
Date: July 10, 2015

The permit is revised as follows:

1. Add 20 acres to newly created Increment No. 5.
2. Add 1 acre to Increment No. 6 for Basins 027 & 044 and Primary Road #6.
3. Request an Exemption to Rule 880-X-10C-.13(1)(a) in the General Plan.
4. Relocating Primary Road #2 to an existing driveway.

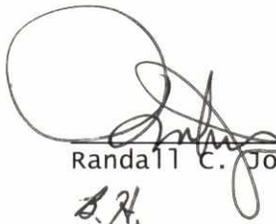
ACREAGE SUMMARY:

*Increment 01 remains at.....	93 Acres
*Increment 02 remains at.....	42 Acres
*Increment 03 remains at.....	18 Acres
*Increment 04 remains at.....	13 Acres
*Increment 05 increases to.....	20 Acres
*Increment 06 increases to.....	14 Acres
TOTAL ACRES:	200 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: November 24, 2015


Randall C. Johnson, Director

/ml

cc: I & E, Permit File

- CONDITION R-4-1: The permittee shall conduct Surface Coal Mining and Reclamation Operations in accordance with the plans, provisions and schedules in the permit revision application.
- CONDITION R-4-2: 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 of any condition which threatens the environment or public health and safety.
- CONDITION R-4-3: 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 revision, bond was posted only for increment(s) 5 and 6 consisting of 21 acres as defined on the permit map.
- CONDITION R-4-4: 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.
- CONDITION R-4-5: 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.
- CONDITION R-4-6: 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.
- CONDITION R-4-7: 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.
- CONDITION R-4-8: No disturbance is to occur on any area that conforms to the U.S. Army Corps of Engineers (Corps) definition of wetlands until acceptable evidence is submitted, to the Director, of Corps approval.
- CONDITION R-4-9: This permit revision in no way authorizes the operator to cause material damage to or otherwise impair any lands, facilities, or improvements located on the surface above or adjacent to the mineral being mined in violation of the property rights of any owner of surface lands or facilities.
- CONDITION R-4-10: Any water supply impacted by subsidence or other causes associated with underground mining will be replaced or restored by the permittee.
- CONDITION R-4-11: The permittee can only preform tree removal activities from October 15 - March 31.

CONDITION R-4-12: The permittee shall purchase 90 stream credits from the Flint River Mitigation Bank in Madison County, Alabama prior to work in waters of the U.S.

CONDITION R-4-13: The permittee shall avoid the perennial stream located approximately 100 feet to the east of the mine boundary and stream reaches depicted as UT 117, UT 118, and UT 120 as well as UT 129, down stream of sediment basin 027.

The ASMC, acting by and through its Director, hereby finds, on the basis of information set forth in the revision application or from information otherwise available, that --

FINDING R-4-1: The permit revision application is complete and accurate and the applicant has complied with all requirements of the Act and the regulatory program.

FINDING R-4-2: 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 revision application.

FINDING R-4-3: 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

(c) Is within an area under study or designated as unsuitable for mining but the applicant has demonstrated valid existing rights.

FINDING R-4-4: 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.

FINDING R-4-5: 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.

FINDING R-4-6: 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.

- FINDING R-4-7: The applicant has paid all reclamation fees from previous and existing operations as required by 30 C.F.R., Subchapter R.
- FINDING R-4-8: The applicant has satisfied the applicable requirements of Subchapter 880-X-8J.
- FINDING R-4-9: 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).
- FINDING R-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.).
- FINDING R-4-11: 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.
- FINDING R-4-12: For a proposed remaining 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.
- FINDING R-4-13: Surface coal mining and reclamation operations will not adversely affect a cemetery.
- FINDING R-4-14: After application approval but prior to issue of permit revision, 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).
- FINDING R-4-15: 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 revision.
- FINDING R-4-16: 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.

FINDING R-4-17:

This permit does not constitute a determination that the operator has the legal right to cause material damage to or impair any surface lands or facilities above or adjacent to the mineral being mined, according to the Energy Policy Act of 1992, SMCRA Section 720(a)(1), 30 U.S. Code Section 1309a. In addition, by accepting this permit revision the applicant agrees that any water supplies impacted by subsidence be replaced according to the Energy Policy Act of 1992, SMCRA Section 720(a)(2) 30 U.S. Code Section 1309a.

FINDING R-4-18:

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 on between January 17 and February 3, 2012, for approximately 236 acres in Franklin and Winston County, Alabama. In a letter dated February 23, 2012, OAR states that one isolated find was located and two archaeological sites were identified and both added to the Alabama State Site File (ASSF). Site 1Fr743 and Site 1Fr744 are both ineligible for listing to the National Register of Historic Places (NRHP) due to low research potential, deep soil disturbances, and sparse artifact recovery. Based on the findings OAR is of the opinion that the propose Knight Mine will not have an adverse effect on any significant historical properties. The State Historical Preservation Office concurred with OAR, that the proposed activities would have no adverse effect on cultural resources listed on or eligible for the NRHP in letters dated March 13 and May 30, 2012. 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.

FINDING R-4-19:

Dan Spaulding Environment Consultant conducted a Threatened and Endangered species habitat survey for approximately 21 acres in Franklin County, Alabama on May 23, 2012. By a letter dated May 26, 2015, Spaulding states there will be no protected species that will be affected by this project. However there is a very poor possibility of a summer roosting habitat for the Indiana Bat and recommends that tree removal activities occur from October 15 - March 31. The US Fish and Wildlife Service (FWS) determined that no federally listed species/critical habitat are known to occur in the project area by comments dated June 19, 2015. In a letter dated May 12, 2015, the Alabama Department of Conservation and Natural Resources (ADCNR) based on review of the project proposal has no objection. The nearest sensitive species occurs 5.0 miles from the subject site. The US Army Corps of Engineers (USACE) issued NWP 21, File No. LRN-2012-00024 by letter dated October 7, 2015, for the additional 21 acres added to Knight

FINDING R-4-19:

Mine in Franklin County, Alabama. The construction of a sediment basin would result in the discharge of dredged and/or fill material into 300 linear feet (lf) of ephemeral stream. To compensate for the impacts to 300 lf of stream, the permittee shall purchase 90 stream credits from the Flint River Mitigation Bank in Madison County, Alabama prior to work in waters of the U. S. The permittee shall remove the sediment basin after SMCRA bond release for Permit P-3970 has been achieved. The permittee shall avoid the perennial stream located approximately 100 feet to the east of the mine boundary and stream reaches depicted as UT 117, UT 118, and UT 120 as well as UT 129, down stream of sediment basin 027. The ASMC finds that the proposed operation will not jeopardize the continued existence of endangered or threatened species or critical habitat thereof.