



STATE OF ALABAMA
SURFACE MINING COMMISSION

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

MEMORANDUM

TO: Office of Surface Mining Reclamation and Enforcement

Alabama Department of Environmental Management

Alabama Historic Preservation Officer

The District Engineer
U.S. Army Corps of Engineers

Alabama Department of Labor
Division of Safety & Inspection

BLM - District Office

State of Alabama
Abandoned Mine Land Reclamation

Blount County Commission

U.S. Fish & Wildlife Service

Alabama Department of Conservation & Natural Resources - Fish & Game Division

Alabama Rivers Alliance

FROM: JOHNATHAN E. HALL, DIRECTOR

RE: **PERMANENT PROGRAM PERMIT FOR: TTJ, LLC**
Permit P-3975 (Berry Mountain Fines Recovery Operation)
Blount County

Pursuant to the Alabama Surface Mining Commission Regulation 880-X-8K-.12 (2), we are hereby notifying you of the **DENIAL** of the above permit.

You may access the entire "Denial Document Decision" at our web address of:

<http://surface-mining.alabama.gov/Permitdecision.html>

JEH/mw



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December 18, 2017

Denial Decision: Permit Application- P3975 TTJ, LLC – Berry Mountain Fines Recovery Operation

On April 10, 2013 TTJ, LLC submitted permit application P3975 for the proposed Berry Mountain Fines Recovery Operation to the Alabama Surface Mining Commission (ASMC).

Alabama Administrative Code 880-X-8K-.10 (1) (a) states "The Alabama Surface Mining Commission shall review the application for a permit, revision, or renewal, written comments and objections submitted; and records of any informal conference or hearing held on the application and issue a written decision within sixty (60) days following public notice and opportunity for public hearing as provided in Section 880-X-8K-.05. If an informal conference is held pursuant to Section 880-X-8K-.05, the decision shall be made within sixty (60) days of the close of the conference, unless a later time is necessary to provide an opportunity for a hearing under paragraph (2) (c) of this section." As of the date of this denial, the applicant has not submitted proof of public notice for the Berry Mountain Fines Recovery Operation.

Alabama Administrative Code 880-X-8K-.10 (3) states "...No permit application or application for a significant revision of a permit shall be approved unless the application affirmatively demonstrates and the Alabama Surface Mining Commission finds, in writing, on the basis of information set forth in the application or from information otherwise available that is documented in the approval the following: (a) The application is complete and accurate and the applicant has complied with all requirements of the Act and the regulatory program..."

Alabama Administrative Code 880-X-8K-.10 (3) (d) requires "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 Alabama Surface Mining Commission the documentation required under Section 880-X-8D-.07 and Section 880-X-8G-.07 of this chapter."

Alabama Administrative Code 880-X-8G-.11 requires the applicant to demonstrate that it has obtained all other licenses and permits required by other state and federal laws for the proposed mining operation.

Basis for Determination that the Permit Application is Incomplete and Inaccurate:

The applicant was notified via letter, numerous electronic mail messages and voice communications by ASMC that numerous deficiencies with the permit application need to be addressed.

By letter dated November 6, 2013, Gary J. Heaton, P.E., ASMC Permit Review Staff – Operations and Engineering, notified the applicant of deficiencies in the operation and engineering plan portions of the application.

The permit application does not contain valid surface or mineral leases that are needed to mine the property in the proposed permit application.

The applicant has not provided the required ground water and surface water monitoring data for the Alabama Surface Mining Commission to conduct an assessment of the probable cumulative hydrologic impacts of the proposed mine in accordance with Alabama Administrative Code 880-X-8E-.06.

The applicant has not obtained the required permits or approvals under Section 402 of the Clean Water Act from the Alabama Department of Environmental Management.

By electronic communication dated September 13, 2012 the United States Department of the Interior Fish and Wildlife Service provided comments on an environmental assessment for habitat and the possible presence of protected species conducted by Yokley Environmental Consulting Service for the Berry Mountain Fines Recovery Operation. The environmental assessment was conducted on August 25, 2012 and did not include a survey for all species or critical habitat that are currently on the threatened or endangered species list. The applicant has not provided the Alabama Surface Mining Commission a concurrence from the Fish and Wildlife Service for a protected species habitat assessment for species on the current Endangered Species Act list.

Based on these inadequacies and deficiencies, the ASMC is not able to make the findings required to issue or approve this permit application in accordance with Alabama Administrative Code 880-X-8K-.10.

The ASMC has determined that permit application P3975 for the TTJ, LLC Berry Mountain Fines Recovery Operation is **NOT** complete and accurate and therefore must be **DENIED**.



Johnathan E. Hall
Director

NOTICE: This determination of permit denial constitutes a final decision of the regulatory authority on the permit application. Within 30 days hereof the applicant or any person with an interest which is or may be adversely affected by this decision may request a hearing before a hearing officer on the final decision of the regulatory authority. The hearing officer shall hold a hearing within 30 days of such request and provide notification to all interested parties thereto.