



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

Jackson 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: Red Mesa Energy, LLC**
Permit P-3984 (Bledsoe Mine)
Jackson 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



STATE OF ALABAMA

SURFACE MINING COMMISSION

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

December 18, 2017

Denial Decision: Permit Application- P3984 Red Mesa Energy, LLC – Bledsoe Mine

On July 16, 2015 Red Mesa Energy, LLC submitted permit application P3984 for the proposed Bledsoe Mine to the Alabama Surface Mining Commission (ASMC). A number of written comments were received regarding the permit application.

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 Bledsoe Mine.

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 over a period of months via numerous electronic mail messages and voice communications by ASMC Permit Manager Mark Woodley that:

- All leases (surface and mineral) for the initial mining increment must be obtained in accordance with Alabama Surface Mining regulations.
- Permit application maps must show the current surface and mineral ownership.
- Permit application maps must show the correct location of public roads.

- Detailed design plans for the primary haul road from the mine site to the public road must be submitted as part of the permit application to the Alabama Surface Mining Commission.

By letter dated January 18, 2017 from ASMC Permit Manager Mark Woodley notified the applicant that deficiencies regarding the location of the primary haul road and detailed design plans for the haul road that would be used to access the mine site needed to be addressed.

The Alabama Surface Mining Commission received an electronic message on February 28, 2017 from the Jackson County Engineering office stating that an extension of Jackson County Road 158 was never accepted into the county road inventory, a right-of-way was never deeded to the county and the county never conducted any maintenance for an extension of Jackson County Road 158. The Jackson County Engineering office stated Jackson County Road 158 ends at their current "End County Maintenance" sign located approximately 2.76 miles from Jackson County Road 75 which corresponds to their 1967 deed for the Jackson County Road 158 boundary. The applicant has not provided the Alabama Surface Mining Commission an updated permit application maps showing the correct end point for Jackson County Road 158.

The applicant has not obtained the required permits or approvals under Section 404 of the Clean Water Act from the U.S. Army Corps of Engineers.

By letter dated July 13, 2015 the State of Alabama Historical Commission requested that an archeological survey be conducted by a professional archaeologist for all portions of the project area that have not already been significantly disturbed or previously surveyed for cultural resources. The applicant has not provided the Alabama Surface Mining Commission a copy of an archeological survey for the Bledsoe Mine.

By letter dated July 30, 2014 the United States Department of the Interior Fish and Wildlife Service provided comments on a protected species habitat survey conducted by AST Environmental for the Bledsoe Mine. The protected species habitat field survey was conducted on September 30, 2013 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 P3984 for the Red Mesa Energy, LLC Bledsoe Mine 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.