



**Alabama Department of Environmental Management**  
**adem.alabama.gov**

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

**AUG 24 2020**

**CERTIFIED MAIL 9489 0090 0027 6204 8225 98**  
**RECEIPT REQUESTED**

Stephen Moscicki  
Chief Operating Officer  
MCoal Corporation  
P.O. Box 3434  
Wise, Virginia 24293

**Re: Application Denial**  
NPDES Permit No. AL0080080  
Rosa Mine  
Blount County (009)

Dear Mr. Moscicki:

The National Pollutant Discharge Elimination System (NPDES) Permit Number AL0080080, hereinafter the Permit, was initially issued by the Alabama Department of Environmental Management (ADEM) to MCoal Corporation on October 23, 2009, with the respective effective and expiration dates being November 1, 2009, and October 31, 2014. The renewal application to administratively extend the Permit was due to the Department on May 4, 2014. The Department recorded the application as being received on May 2, 2014.

An application for an NPDES permit for the type of operations proposed by MCoal Corporation is not a complete application if the equivalent of a Pollution Prevention and/or Abatement (PAP) Plan is not filed with the Alabama Surfacing Mining Commission (ASMC) in compliance with a Memorandum of Agreement with ASMC regarding activities of this type in Alabama. On July 18, 2019, the ASMC permit and bonds associated with Rosa Mine (P-3931) were forfeited to ASMC. As a result, the equivalent to the PAP Plan is not active with ASMC, and the NPDES Permit Application was rendered incomplete.

ADEM Admin. Code r. 335-6-6-.08(k)(7) states that "[t]he permit writer shall determine if a permit application is complete as defined by this rule and if all the information necessary for determining permit conditions has been submitted. If additional information is required, the permit writer shall request the information from the applicant in writing and failure to respond by the applicant shall be grounds for denial of the permit application."

Within 30 days of receipt of this letter, MCoal Corporation must submit to the Department documentation that shows that the equivalent to the PAP Plan for Rosa Mine has been accepted by the ASMC. Alternatively, within 30 days of receipt of this letter, MCoal Corporation must submit to the Department sufficient justification as to why the Department should deem the application complete.

If the information noted above is not submitted by the abovementioned deadline, or an alternate date acceptable to the Department, the Department will proceed with denial of the NPDES application based on the failure to submit a complete application as allowed by ADEM Admin. Code r. 335-6-6-.17(c)(1)(iv).

Any mining, processing, construction, land disturbance, or other regulated activity, with the exception of the implementation of BMPs to prevent unpermitted discharges of pollutants, prior to the effective date of coverage under a formal permit would be considered unpermitted and may be subject to further enforcement action, possibly to include the issuance of an administrative order with a civil penalty.

If you have any questions concerning this matter, please contact Clint D. Dear by email at [clint.dear@adem.alabama.gov](mailto:clint.dear@adem.alabama.gov) or by phone at 334-274-4238.

Sincerely,

A handwritten signature in blue ink that reads "Jeffrey W. Kitchens".

Jeffery W. Kitchens, Chief  
Water Division

JWK/edd File: CORS/37537

cc: Clint D. Dear, ADEM  
Alabama Surface Mining Commission

