

SUMMARY RESPONSE TO COMMENTS

**South Carolina Department of Health and Environmental Control
Bureau of Land and Waste Management
Division of Mining and Solid Waste Management**

**Approval of the Application and Issuance of Mine Operating Permit I-002279
Sandridge Road Holdings, LLC
Pineland Mine**

This Summary Report outlines specific issues, within the jurisdiction of the South Carolina Department of Health and Environmental Control (DHEC), considered in review of Sandridge Land Holdings' application for a Mine Operating Permit for the Pineland Mine. To construct and operate the Pineland Mine and its associated process equipment, DHEC requires a National Pollutant Discharge Elimination System (NPDES) Permit and a Mine Operating Permit. The NPDES Permit was issued on October 5, 2020. This Summary Report is specific to the technical review for the Mine Operating Permit under the authority of the SC Mining Act (Act).

General overview: DHEC's Mining and Solid Waste Division reviewed all information submitted by the applicant, as well as all comments received from governmental agencies and the public to determine if the application met all appropriate requirements. With the thorough review of all information submitted, DHEC has approved the mine permit application and issued the mine operating permit. The permit will require the mine operator to comply with the SC Mining Act and the SC Code of Regulations.

The South Carolina Mining Act: The legislative purposes of the Act are to provide: (1) the usefulness, productivity, and scenic values of all lands and waters involved in mining within the State receive the greatest practical degree of protection and restoration; and that (2) no mining may be carried on in the State unless plans for the mining include reasonable provisions for protection of the surrounding environment and for reclamation of the area of land affected by mining.

The Act provides specific criteria for review of applications for mining permits by DHEC. The Act does not supersede local zoning ordinances. Issues related to zoning (i.e., property value and industrial development) are under the jurisdiction of county and municipal planning departments and governed by zoning and land use regulations. DHEC is not authorized to consider the effect of a mining operation on property values. DHEC is required to evaluate the application in a timely manner and to consider relevant environmental issues.

Application for the Mine Operating Permit: DHEC received the Application for a Mine Operating Permit from Sandridge Road Holdings, LLC for the proposed Pineland Mine on September 19, 2019. An *Intent to Mine* notice for the Pineland Mine application was advertised in the *Post and Courier* on February 27, 2020 and March 5, 2020. The *Intent to Mine* notice was mailed to adjacent landowners, government and

regulatory agencies, and other interested parties.

Permit Application Specifications: Sandridge Road Holdings, LLC is permitted to mine sand at this location. The permitted area of this mine operation is composed of two tracts of land totaling 314.71 acres as listed; The current topography of the permitted area ranges from 100-90 feet above mean sea level (msl). The mine will be excavated to a maximum depth of 30 below the ground surface (bgs) measured from the lowest ground surface elevation.

Land within a mine operating permit is designated according to the permitted use. The 314.71 acre *Permitted area* is composed of *Affected acres*, *Future Reserves* and *Buffer Areas*. The following list provides an area description, type of activities permitted, and the designated acreage for each component of the Permitted area:

1) **Affected Area** – 62.3 acres. The affected area is composed of all lands to be disturbed by mining activities (pit, sediment basins, haul roads, berms, processing area, overburden storage piles, etc.). Of the 62.3 acres of Affected Area, 40.0 acres are currently bonded and may be affected. The affected area is subject to reclamation requirements.

2) **Future Reserves** – 129.8 acres. Prior to the initiation of activity in the future reserves, the operator shall submit detailed mine and reclamation plans to DHEC for approval. Lands designated as future reserves have been proposed for use as overburden storage areas. If the operator proposes a different use in the future, that use may require a substantial modification to the permit. If a use requires a substantial modification to the permit, public notice will be required.

3) **Buffer area** – 122.61 acres. Buffer is land not to be disturbed by mine activity. Buffers are used to lessen potential effects to surrounding land (setbacks to property boundaries, public roads, wetlands, wildlife, etc.). Any land disturbance not consistent with accepted silviculture practices in the buffer areas requires this Mine Operating Permit to be modified *prior* to any such disturbance. Appropriate silviculture practices may be utilized to manage upland buffer areas allowing the thinning of timber under the direction of a SC Licensed Professional Forester.

Mine Reclamation: The Act defines reclamation as the reasonable rehabilitation of affected land (mined or otherwise disturbed) to a useful purpose and the protection of natural resources in surrounding areas. The Act does not require the land disturbed by mining to be returned to its original state. Reclamation of the mine to a specific land use is based on many factors; including, but not limited to; the method of mining, the material mined, the geology and topography of the area, size, surrounding land uses and the desired use for the former mine site. Lakes or ponds, grassland, woodland, cropland, parks or recreational developments, residential or commercial developments may be acceptable reclamation objectives.

Pineland Mine is allowed to affect 62.3 acres throughout the Life of the Mine. Based on

the requirements of the Act (Section 48-20-110) and Regulations (R.89-200), DHEC set the reclamation bond at \$80,000.00. This reclamation bond covers 40.0 acres; Sandridge Land Holdings, LLC is permitted to have no more than 40.0 acres of affected land at any one time. The reclamation bond will remain in effect with DHEC until the mine site has been reclaimed to regulatory standards and released. The reclamation bond is in place to ensure proper reclamation of disturbed areas (it does not serve as financial assurance for potential off-site impacts).

The approved reclamation plan states the pit area will fill with water for reclamation as a lake. Other disturbed areas will be graded and vegetated as grassland. Once all mining has ended and the site meets reclamation standards, the mining permit will be canceled; at that time the Mining & Reclamation Program has no further jurisdiction over land use.

Operating Hours: A comment was received regarding operating hours. DHEC does not normally have the authority to regulate operating hours at mine sites. However, the operator has voluntarily agreed to restrict hours to 6am to 5pm on weekdays and 7am to 3pm on Saturdays. This condition is a part of their permit and is fully enforceable.

Community / Quality of Life: Comments were received regarding the potential impacts to the community's way of life. DHEC cannot make its permit decisions based on these factors. The permit decision is based on DHEC's technical review of the permit application and the Act and Regulations in place at the time of the DHEC's review.

Traffic: A comment was received regarding traffic. The SC Mining Act does not grant authority to regulate traffic on public roads, therefore DHEC cannot consider truck traffic in the review of an application. The Act only allows evaluation of potential physical impacts to public roads (e.g.) undermining). Jurisdiction controlling use of roads, enforcement of speed and weight limits, setting traffic patterns, site access, etc. is the responsibility of the SC Department of Transportation, SC Public Service Commission, and the Dorchester County Department of Public Works.

Noise: A comment was received regarding noise associated with mining activity. The majority of noise generated with mining activity is associated with motorized vehicles and equipment. The level of noise perceived at residences is usually related to the distance from the source of the sound, weather conditions, topography, and the type and condition of the equipment. Equipment such as trucks, dozers, and loaders usually has an average noise level determined by the manufacturer. The majority of the equipment averages 75 to 90 decibels (db) at a distance of fifty feet. Sound decreases (attenuates) with distance at the rate of about 3 to 5 db each time the distance between the source and the person hearing it is doubled. Maintaining vegetated buffers will also help in buffering noise. Areas of natural vegetation will be kept along the perimeter of mine activity to block the direct path of sound. The mine operating permit would require the operator to maintain equipment (e.g., mufflers on trucks, trackhoes, pumps) to

minimize noise from the site. The combination of undisturbed vegetated buffers, maintenance of equipment, and distance from the operation will reduce the potential for sound heard offsite. There may be instances when the sound of equipment (back up alarms, trucks, etc.) can be heard, but the decibel levels should not be excessive.

Affects To Groundwater Quantity/ Quality: Comments were received regarding potential effects to groundwater. DHEC considers effects of mining activities on the quantity of groundwater available to nearby water supply wells, wetlands and surface waters. The operator will pump water (groundwater, stormwater) from the mine. The potential for any adverse effect on groundwater supplies and wetlands is reduced due to several factors: the shallow depth of the mine (30 feet), pumping water to a sediment basin, and the presence of wetlands. The shallow depth will minimize the draw of groundwater resources from surrounding areas and released water will recharge the wetlands and aquifer minimizing potential impacts to groundwater supply.

The permit is conditioned that if a water supply well complaint is received, DHEC must determine if dewatering activities at the operation have caused the problem. If DHEC determined the mine caused the problem, the operator is responsible for repairing, deepening, or re-drilling affected wells. Mine operations in the area do not use chemicals.

The Stormwater Pollution and Prevention Plan required under the NPDES permit outlines spill prevention and clean-up measures from maintenance of equipment.

Wetland Protection: A comment was received regarding the protection of wetlands. The proposed plans show that all mining activity will be restricted to upland areas; Sandridge Road Holdings, LLC is not proposing to dredge or fill any wetlands. The Army Corps of Engineers (USACE) delineated approx. 68.4 acres of federally defined wetlands within the 314.71-acre site. A minimum 50-ft vegetated buffer shall be maintained in its natural state between the operation and wetlands. Additionally, the operator is required to install best management practices, such as silt fencing brush barriers or berms, to help prevent direct impacts to wetland areas.

The USACE approved a Preliminary Jurisdictional Determination (PJD) for this site on October 3, 2018. A follow up PJD was approved October 22, 2018.

In addition to USACE's determination, DHEC's office of Ocean and Coastal Resource Management (OCRM) must certify the project is consistent with the Coastal Zone Management Plan, which includes protection of isolated wetlands. On July 1, 2020, OCRM certified that this project is Conditionally Consistent with the Guidelines for Evaluation of All Projects as well as the Coastal Industries (Mining), Wildlife and Fisheries Management, and Stormwater Management (Runoff and Mines and Landfills) policies contained in the S.C. Coastal Zone Management Program.

Discharges From The Mine /Protection Of The Four Holes Swamp/Wetlands:

Comments were received regarding discharge and protection of The Four Holes Swamp. Mines must discharge water in accordance with the NPDES General Permit for Discharges Associated with Nonmetal Mineral Mining Facilities. Discharges from outfalls are subject to limits on total suspended solids and pH and require a plan outlining fuel storage, clean-up measures and reporting of spills. No chemicals will be used in the excavation of the Pineland Mine. Turbidity (cloudy water) is not regulated under the NPDES permit coverage. However, the operator shall install best management practices in the discharge process to reduce the potential for cloudy water being released from the operation. Potential impacts to the Four Holes Swamp are minimized due to the distance between the active operation and the Four Holes Swamp, the installation of best management practices for sediment and erosion control, and the effluent limits set by the NPDES permit.

Endangered Species/ Wildlife: A comment was received expressing concern for the potential impact to endangered species. State and Federal wildlife agencies [SC Department of Natural Resources (SCDNR), US Fish and Wildlife Service (USFWS)] and Non-Governmental Organizations (SC Wildlife Federation) were notified of the application. DHEC requested comments on the potential impact of the proposed operation, especially any concerns with state and federally listed threatened or endangered species (T&E). SCDNR reviewed the project application and did not identify any T&E species within the project boundary. Similarly, USFWS responded with a Clearance letter that states the project will have no effect or impact upon federally protected species or designated critical habitats.

According to SCDNR Heritage Trust and Eagle databases, no occurrences of any T&E species or bald eagles are recorded on-site or within close proximity. In preparation for the Sandridge Road Holdings, LLC's enrollment in SCDNR's Safe Harbor Program, a baseline survey for the red-cockaded woodpecker (RCW) was performed. Of the six habitat types found on-site, only the pine forest was deemed potentially suitable for any RCW. Based on their field review, SCDNR concurs that no RCWs are present onsite.

On April 10, 2020 a species and habitat assessment was conducted by Sabine and Waters on all areas of proposed project area to evaluate the presence of T&E, the bald eagle and their respective habitats. No evidence of any T&E species or the bald eagle was observed. The survey concluded that mining activity will have no effect on the Wood Stork Canby's dropwort, pondberry, red-cockaded woodpecker, or the bald eagle. The survey also concluded that mining activity was not likely to adversely impact the Northern long-eared bat. On April 20, 2020, USFW issued their concurrence with this survey report and authorized use of the "U.S Fish and Wildlife Service Clearance Letter for Species and Habitat Assessments".

Concern for Building Onsite Haul Roads: A comment was received regarding the construction of onsite haul roads. There are existing internal roads that will be utilized for hauling. The USACE has verified the existing roads as upland, therefore no fill permit or other DHEC permit is required.

Size of Sediment Basins: A comment was received regarding the adequacy of the size of the sediment basins. Sandridge Road Holdings, LLC has indicated that Segments 1 and 2 are to be mined to their GP1 limits (5 acres each, 10 acres total) and then used as sediment basins for the remaining site for dewatering activities. The operator is responsible for all dewatering activities on the site and must adhere to their NPDES Permit conditions.

Mine Depth: A comment was received expressing concern for the 30-foot maximum depth of mining and a request that mining be limited to 20-feet to ensure the water table remains high. Impact on water table conditions around the Pineland Mine should be minimal at the relatively shallow depth of 30-feet. Typically, dewatering activities only impact groundwater in close proximity to the pits edge. Dewatering activities will only occur during times of excavation, therefore any hydrogeological impacts would be temporary and minimal.

General Opposition: DHEC received a comment requesting denial of the permit. While DHEC recognizes all comments received, it is important to understand DHEC is legally required to make a decision based on the technical aspects of an application and the requirements as defined in Section 48-20-70 of the Act. Permitting decisions are not based on public approval or disapproval of a proposed operation. Pineland Road Holdings, LLC has demonstrated compliance with the technical requirements of the Act.

Appeal Of Decision/ Request For Further Review: Section 48-20-190 of the Act allows for appeals of decisions of the Department. Any person commenting during the application process is notified of the decision on an application. This notice includes procedures on the initial step of an appeal - requesting a review of a decision by the DHEC Board. That process can be found at <https://www.scdhec.gov/about-dhec/sc-board-health-and-environmental-control/guide-board-review>

South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address:
South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201
Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail (boardclerk@dhec.sc.gov).
4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will

respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be public noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publically noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.