



**STATE OF MISSISSIPPI  
TATE REEVES  
GOVERNOR  
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY**

March 23, 2022

Nathan Killingsworth  
APAC – Mississippi, Incorporated  
PO BOX 24508  
Jackson, MS 39225

Dear Mr. Killingsworth:

Re: APAC Mississippi Inc, Benton  
Mine  
Yazoo County  
COE No. MVK2016178  
WQC No. WQC2021028

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. 1251, 1341), the Office of Pollution Control (OPC) issues this Certification, after public notice and opportunity for public hearing, APAC Mississippi Inc., an applicant for a Federal License or permit to conduct the following activity:

APAC Mississippi Inc, Benton Mine: The applicant is applying for a Department of the Army permit for the discharge of dredged and/or fill material into jurisdictional wetlands and other waters of the United States for the purpose of constructing a wastewater pond and associated levee within the Benton Mine site.

In order to construct the wastewater pond and associated levee, approximately 0.33 acres of scrub-shrub wetlands would be impounded, and 0.03 acre of scrub-shrub wetlands would be filled. In addition, approximately 800.24 linear feet of perennial stream would be filled, and 436 linear feet of perennial stream would be impounded. [MVK2016178, WQC2021028].

The Office of Pollution Control certifies that the above-described activity will be in compliance with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and Section 49-17-29 of the Mississippi Code of 1972, if the applicant complies with the following conditions:

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1. All fill material and excavation areas shall have side slopes of at least 3:1 (horizontal: vertical) and shall be immediately seeded, stabilized and maintained. (Statement B) (11 Miss. Admin. Code Pt. 6, R. 1.1.1.B.)
2. Appropriate best management practices (BMPs) shall be properly installed and maintained to prevent the movement of sediment off-site and into adjacent drainage areas. Special care shall be taken prior to and during construction to prevent the movement of sediment into adjacent avoided wetland areas. In the event of any BMP failure, corrective actions shall be taken immediately. (Statement B) (11 Miss. Admin. Code Pt. 6, R. 1.1.1.B.)
3. A Stormwater Pollution Prevention Plan shall be implemented in accordance with the Mining Stormwater General Permit. (Statement C) (11 Miss. Admin. Code Pt. 6, R 1.3.4 A (9))
4. Mitigation credits must be purchased from an approved mitigation bank to mitigate the permanent impacts to 0.36 acres of forested wetlands and the permanent impacts to 1,237 lf of perennial streams. (Statement C) (11 Miss. Admin. Code Pt. 6, R 1.3.4 A (2))
5. The mitigation area shall be placed in a restrictive covenant. The covenant shall be properly recorded in the Miscellaneous Document Book, with the Registrar of Deeds, or with another appropriate official charged with the responsibility of maintaining records of title to and interest in real property within six months of the effective date of the authorization. A certified copy of the covenants must be furnished to the Office of Pollution control within 30 days of the recording. The covenant shall contain:
  - A. There should be no removal, destruction, cutting, mowing, application of biocides, or disturbance or other change in the vegetation in the conservation zone other than practices outlined in the management plans.
  - B. There shall be no agricultural, commercial, or industrial activities allowed in the conservation zone.
  - C. There shall be no construction or placement or buildings, or other structures in the mitigation area other than structures for wildlife enhancement, viewing, or scientific study.
  - D. There shall be no construction of roads in the on-site conservation zone. This does not include foot trails for recreational use. No

motorized vehicles (to include off-road and four-wheel drive vehicles) shall be allowed on said site.

6. Turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units. (Statement A) (11 Miss. Admin. Code Pt. 6, R. 2.2.A.)
7. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

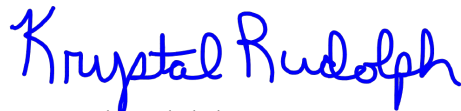
As part of the Scope of Review for Application Decisions, 11 Mississippi Administrative Code Part 6, Rule 1.3.4(B), the above conditions are necessary for the Department to ensure that appropriate measures will be taken to eliminate unreasonable degradation and irreparable harm to waters of the State, such that the activity will not meet the criteria for denial:

- (A) The proposed activity permanently alters the aquatic ecosystem such that water quality criteria are violated and/or it no longer supports its existing or classified uses. An example is the channelization of streams.
- (B) Nonpoint source/storm water management practices necessary to protect water quality have not been proposed.
- (C) The proposed activity in conjunction with other activities may result in adverse cumulative impacts.

The Office of Pollution Control also certifies that there are no limitations under Section 302 nor standards under Sections 306 and 307 of the Federal Water Pollution Control Act which are applicable to the applicant's above-described activity.

This certification is valid for the project as proposed. Any deviations without proper modifications and/or approvals may result in a violation of the 401 Water Quality Certification. If you have any questions, please contact Mr. Daniel Anderson.

Sincerely,



Krystal Rudolph, P.E., BCEE  
Chief, Environmental Permits Division

KR: doa

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cc: Samantha Thompson, U.S. Army Corps of Engineers, Vicksburg District  
Willa Brantley, Department of Marine Resources  
Molly Martin, Environmental Protection Agency  
Clay Cromwell, Headwaters Inc.