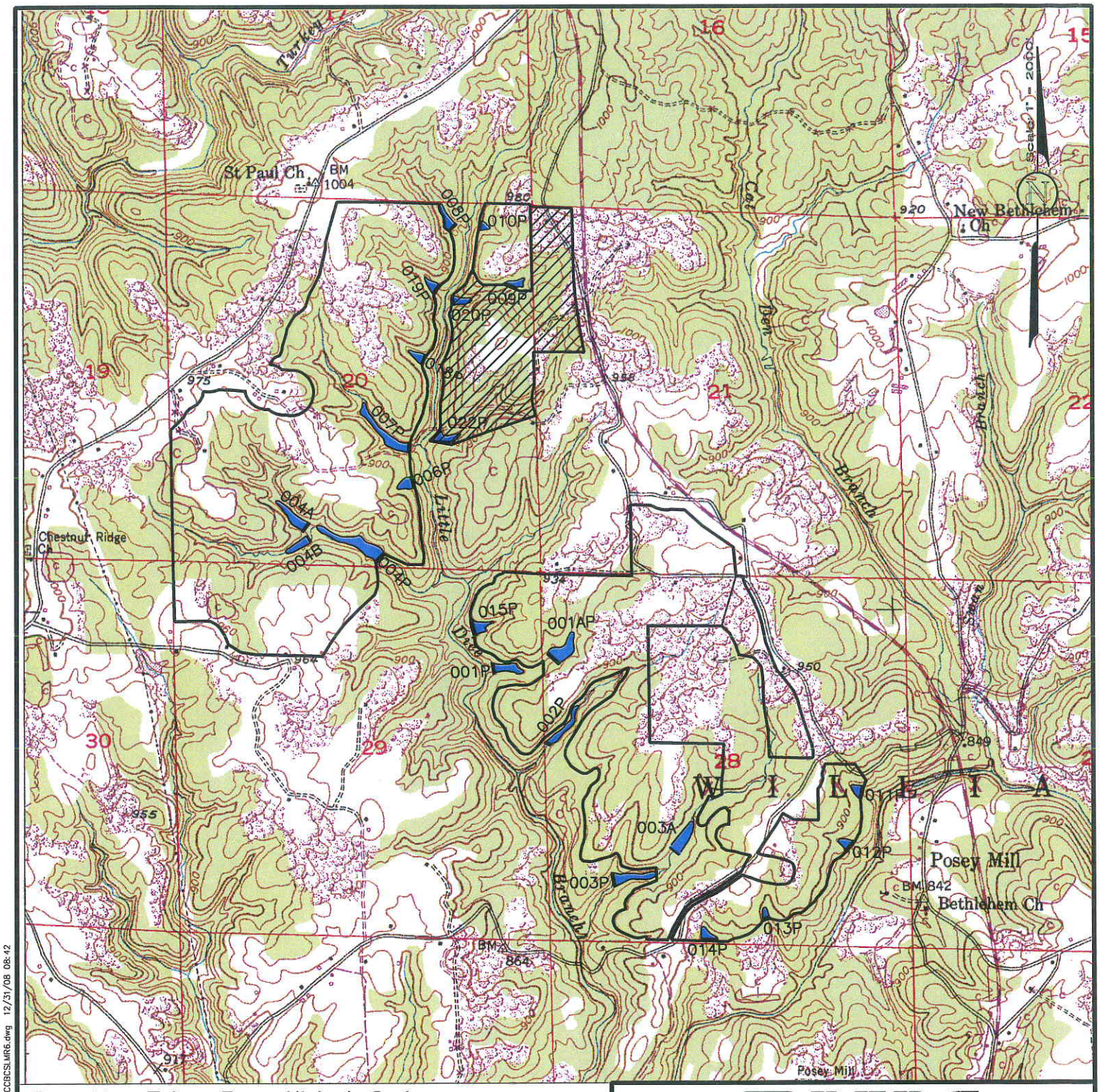

Base Map Taken From Kinlock Springs
Al. U.S.G.S. 7.5. Minute Quadrangle Map.

LEGEND

- Permit Boundary
- 001P Sediment Basin
- Occupied Dwelling
- Unoccupied Dwelling (Barn, Shed, ect.)
- County Road (Paved unless otherwise designated)
- New Area Added

PERC ENGINEERING CO., INC.
1606 Highway 78 West Jasper, Alabama 35501
P.O. Box 1712 Jasper, Alabama 35502
(205) 384-5553 Office (205) 295-3114 Fax

Birmingham Coal & Coke Co., Inc.
Bear Creek Mine
Sections 20, 21, 28 & 29
T8S, R10W
Franklin County, Alabama

DRAWN BY:	S.D.M.	DATE:	12/31/2008
DWG. NAME:	BCCBCSLMR6		
APPROVED BY:	L.G.S.	SCALE:	1"=2000'

\\Perc600\perc_eng\Steve Miles\Steve Docs\Mines\Bear Creek\BCCBC R6\BCCBCSLMR6.dwg 12/31/08 08:42

STATE OF ALABAMA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
64 NORTH UNION STREET
MONTGOMERY, AL 36130

BOB RILEY
GOVERNOR

M. BARNETT LAWLEY
COMMISSIONER

JAMES H. GRIGGS, DIRECTOR
GREGORY M. LEIN, ASSISTANT DIRECTOR
STATE LANDS DIVISION

TELEPHONE (334) 242-3484
FAX NO. (334) 242-0999

January 5, 2009

Mr. Heath Franks
PERC Engineering Co., Inc.
P.O. Box 1712
Jasper, AL 35502-1712

RE: Sensitive Species Information request
Birmingham Coal & Coke Co., Inc - Bear Creek Mine

Dear Mr. Franks:

The Natural Heritage Section office received your e-mail dated December 31, 2008 addressed to Ashley Peters on December 31, 2008 and has since developed the following information pertaining to sensitive species (state protected, and federally listed candidate, threatened, and endangered species). I have enclosed a list of sensitive species which the Natural Heritage Section Database or the U.S. Fish and Wildlife Service have indicated occur or have occurred in Franklin County. Additionally, I have listed some potentially helpful and informative web sites at the end of this letter.

The Natural Heritage Section database contains numerous records of sensitive species in Franklin County. Our database indicates the area of interest has had no biological survey performed at the delineated location, by our staff or any individuals referenced in our database. Therefore we can make no accurate assessment to the past or current inhabitancy of any federal or state protected species at that location. A biological survey conducted by trained professionals is the most accurate way to ensure that no sensitive species are jeopardized by the development activities. The closest sensitive species is recorded in our database as occurring approximately 7.2 miles from the subject site. This federally listed threatened species (Orangenacre Mucket) is found in numbers only in a few streams originating in and flowing through U. S. Forest Service lands in northwest Alabama. Isolated individuals are occasionally found in the upper Tombigbee and Black Warrior River drainages. Habitat modification, sedimentation, and water quality degradation represent the major threats to this species. This species appears elatively tolerant of nondestructive intrusion, though heavy recreational use of habitat could potentially be excessively disruptive.*

I hope this information will be useful to you. The provided information is to help you in fulfilling your necessary legal obligations. The information does not suggest that protected species are not at this location. The specific location of a sensitive species is considered

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confidential information by a State Lands Division Regulation and can be released only to individuals who enter into a confidentiality and indemnity contract with the State Lands Division.

The Natural Heritage Section provides this information as a service to the people of Alabama. The NHS acts as a clearing house for species distribution data. We happily accept any information environmental researchers are willing to donate. Sensitive species exact locations are kept confidential. If you would be willing to donate any information to this database, we will be better able to assist all individuals interested in environmental compliance.

Sincerely,

Ashley Peters

Ashley Peters
Database Manager
Natural Heritage Section

Enclosures

*Paraphrased Information from NatureServe. 2006. NatureServe Explorer: An online encyclopedia of life [web application]. Version 5.0. NatureServe, Arlington, Virginia. Available http://www.natureserve.org/explorer. (Accessed: August 18, 2006).

Potentially helpful web sites

Information about federally listed species
http://daphne.fws.gov/es/specieslst.htm
http://www.pfmt.org/wildlife/endangered/
http://www.natureserve.org/explorer/

State Protected Species Regulations:
http://www.outdooralabama.com/hunting/regulations/regs.cfm

ALABAMA'S FEDERALLY LISTED AND STATE PROTECTED SPECIES (BY COUNTY)

This is a list of species deemed sensitive by the Alabama State Lands Division's Natural Heritage Section (SLD-NHS) believed to occur in the designated county and the legal protection status of either State protected or federally listed. This list is a combination of the April 2007 U.S.F.W. Service (Daphne field Office) federally listed species by county list and the Alabama State Lands Division's Natural Heritage Section Database of species distributions data. This list is continually being updated, and, therefore, it may be incomplete or inaccurate and is provided strictly for informational purposes. It does not constitute any form of Section 7 consultation. We recommend that the U.S.F.W. Service Field Office in Daphne be contacted for Section 7 consultations. Site specific information can be provided by the Alabama SLD-NHS and/or the U.S.F.W. Service (Daphne field Office) prior to project activities. To be certain of occurrence, surveys should be conducted by qualified biologists to determine if a sensitive species occurs within a project area. Species not listed for a given county does not imply that they do not occur there, only that their occurrence there is as yet unrecorded by these two agencies. This list is currently under review and refects only our current understanding of species distributions.

Franklin

Protection Status	Common name	Scientific Name	State Regulation Applicable
Candidate / State Protected	Slabside Pearlymussel	Lexingtonia dolabelloides	220-2-.98 (1) (a)
Endangered	Gray Bat	Myotis grisescens	220-2-.92 (1) (e)
Endangered	Indiana Bat (P)	Myotis sodalis	220-2-.92 (1) (e)
Endangered	Leafy Prairie-clover	Dalea foliosa	
Endangered	Tennessee Yellow-eyed Grass	Xyris tennesseensis	
Endangered / Experimental	Cumberlandian Combshell	Epioblasma brevidens	220-2-.98 (1) (a)
State Protected	Bald Eagle	Haliaeetus leucocephalus	220-2-.92 (1) (d)
State Protected	Eastern Hellbender	Cryptobranchus alleganiensis alleganiensis	220-2-.92 (1) (b)
State Protected	Green Salamander	Aneides aeneus	220-2-.92 (1) (b)
State Protected	Lollipop Darter	Etheostoma neopterum	220-2-.92 (1) (a)
State Protected	Rabbitsfoot	Quadrula cylindrica	220-2-.98 (1) (a)
Threatened	Lyrate Bladderpod	Lesquerella lyrata	

Key to codes on list:

Endangered - Federally listed as Endangered
Threatened - Federally listed as Threatened
Candidate - Federally listed as Candidate
State Protected - It is unlawful to take, capture, or kill; possess, sell, trade for anything of monetary value, or offer to sell or trade these species. Alabama Regulations relating to game, fish, and furbearing animals. 2005-2006. Alabama Department of Conservation and Natural Resources.

(P) - Possible Occurrence
(S/A) - Similarity of Appearance to a listed species
(PE) - Proposed for federal listing as Endangered
(PT) - Proposed for federal listing as Threatened
(CH) - Cristical Habitat has been designated
(PCH) - Cristical Habitat has been proposed
(H) - Historically known to have occured in the

Experimental - Species is protected throught its range including Colbert and Lauderdale counties except for the nonessential experimental population. Endangered and Threatened Wildlife and Plants; Establishment of Nonessential Experimental Population Status for 16 Freshwater Mussels and 1 Freshwater Snail in the Free-Flowing Reach of the Tennessee River below the Wilson Dam, Colbert and Lauderdale Counties, Alabama. [Federal Register; June 14, 2001 (Volume 66, Number

Notes:

- Bald eagle (Haliaeetus leucocephalus), red-cockaded woodpecker (Picoides borealis) and the American peregrine falcon (Falco peregrinus anatum) may occur in any county, if habitat exists.
- Wood stork: July - October
- Bald eagle (Haliaeetus leucocephalus) has been delisted. This species is still protected by the non-game species regulation and the migratory bird act. This species distribution is statewide but it is most likely to be observed near large rivers and reservoirs.
- Sea turtles: Only loggerhead is potential nester, the rest are in coastal waters.
- Black bear (Ursus americanus sp.) - known to exist in Mobile County, but not listed.
-Gulf moccasinshell (Mediondus penicillatus), oval pigtoe (Pleurobema pyriforme), Chipola slabshell (El liptio chipolaensis), and purple bankclimber (Elliptoideus sloatianus) are freshwater mussels of the family Unionidae found only in eastern Gulf Slope streams draining the Apalachicolan Region, defined as streams from the Escambia to the Suwannee river systems, and occurring in southeast Alabama, southwest Georgia, and north Florida. All are listed as "Endangered".
- Fanshell (Cyprogenia stegaria), oyster mussel (Epioblasma capsaeformis), and Catspaw (purple cat's paw pearlymussel) (Epioblasma obliquata obliquata) are historically known to be found in the Tennessee River system and drainage.
-Gentian pinkroot (Spigelia gentianoides) has been historically found along the Alabama-Florida border.
-West Indian Manatee (Trichechus manatus) has been known to move north along the gulf coast west to Louisiana.

STATE OF ALABAMA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
WILDLIFE AND FRESHWATER FISHERIES DIVISION
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GOVERNOR

M. BARNETT LAWLEY
COMMISSIONER

M. N. 'CORKY' PUGH
DIRECTOR

FRED R. HARDERS
ASST. DIRECTOR

The mission of the Wildlife and Freshwater Fisheries Division is to manage, protect, conserve, and enhance the wildlife and aquatic resources of Alabama for the sustainable benefit of the people of Alabama.

January 16, 2009

Mr. Heath Franks
PERC Engineering Co., Inc.
Post Office Box 1712
Jasper, Alabama 35502

Re: Project No: Bear Creek Mine Revision R-6
Project Description: Land disturbance for underground coal mining operations
Location: Bear Creek Mine // Section 20 & 21, Township 8 S, Range 10 W
Franklin County

Dear Mr. Franks:

The Division of Wildlife and Freshwater Fisheries, Department of Conservation and Natural Resources has reviewed the above-referenced project and provides the following comments and recommendations:

1. This project is unlikely to impact any state-protected species. Federally-protected species are under the jurisdiction of the U. S. Fish and Wildlife Service. Please contact that agency regarding potential impacts to federally-protected species (251-441-5181).

2. No net loss of stream functions or habitat should occur as a result of the project. If flowing streams, ditches, or wetlands will be impacted by the proposed activity, the Army Corps of Engineers - Mobile District (251-690-3188), should be contacted to determine if the activity falls under a Corps regulation requiring mitigation for adverse ecological, morphological, or hydrological impacts. We have no objection to the use of a wetland mitigation protocol such as WRAP (the Wetland Rapid Assessment Protocol), provided it is properly applied by a trained professional and provided that temporal loss is correctly accounted for. Furthermore, we have no objection to the purchase of mitigation credits from a Corps-sanctioned wetland mitigation bank.

3. The density or diversity of aquatic biota should not be adversely impacted and the aquatic habitat quality in streams and wetlands should not be diminished; excessive siltation resulting from uncontrolled erosion at a mine site can be as destructive to the aquatic ecosystem of a stream or wetland as acid mine discharges. Therefore, we encourage the proper installation and implementation of best management practices as outlined in the Alabama Handbook for

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Erosion Control in order to minimize erosion and migration of sediments into wetland and stream areas. Appropriate siltation barriers include: green zones, sod strips, silt fences, erosion eels or other superior means of erosion control in construction areas. Spoil banks, terraces, streamside buffer zones (minimum of 100 feet in width) or other slopes should be adequately vegetated as early as possible (well prior to reclamation) in order to minimize or prevent siltation downstream of the project site.

4. The sediment basin locations, as proposed, appear to be located within several potentially intermittent or ephemeral stream segments as part of headwater drainage networks to the Little Dice Branch system. Channel realignment, excavation, diversion or alteration of flow, impoundment, or excessive sedimentation of streams should not occur as a result of mining. If such impacts do occur, the mine owner/operator should provide corrective action through active restoration or stream mitigation for unresolved impacts. Furthermore, we recommend that you coordinate with the Alabama Department of Environmental Management to ensure regulatory compliance.

5. State water quality standards (particularly those related to erosion control, water turbidity, and dissolved oxygen) should be strictly adhered to.

We appreciate the opportunity to comment on this project.

Sincerely yours,

Sandy P. Gibson
Environmental Coordinator

2009-TA-0181

8

PERC
ENGINEERING CO., INC.

Telephone: (205) 384-5553
Facsimile: (205) 295-3114 - Main Building
(205) 295-3115 - Water Lab
Web Address: www.percengineering.com

RECEIVED
JAN 8 2009
DAPHNE FIELD OFFICE

January 5, 2009

Mr. Bill Pearson
Fish and Wildlife Services
Daphne ES Field Office
1208-B Main Street
Daphne, Alabama 36526

Post-it® Fax Note 7671	Date 2/5/09	# of pages ▶ 1
To Heath Franks	FROM: Sandy M	
Co./Dept. PERC	Co.: USFWS	
Phone #	Phone #: 251-441-5184	
Fax # 205-295-3114	Fax#: 251-441-6222	

RE: Birmingham Coal & Coke Co., Inc.
Bear Creek Mine
Revision R-6

Dear Mr. Pearson:

Attached please find a request for the identification of areas of special concern and mapping showing the proposed permit area for the above referenced disturbance for a surface coal mining operation. This area is identified on the attached map as the "New Area Added". I have attached a copy of the correspondence with Alabama Department of Conservation and Natural Resources Natural Heritage Section. Please process at your earliest convenience. Your prompt consideration will be most appreciated.

If you require additional information, please feel free to call at (205) 295-3112 or email at hfranks@percengineering.com.

Sincerely,
PERC Engineering Co., Inc.

Heath Franks

Heath Franks
Environmental Scientist

U.S. Fish and Wildlife Service
1208-B Main Street – Daphne, Alabama 36526
Phone: 251-441-5181 Fax: 251-441-6222

No federally listed species/critical habitat are known to occur in the project area. As described, the project will have no significant impact on fish and wildlife resources. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT NEW PLANS FOR REVIEW. We recommend use of best management practices specific to your project (See http://www.fws.gov/daphne/section7/bmp.html).

William J. Pearson, Field Supervisor Date 2/5/09 #3