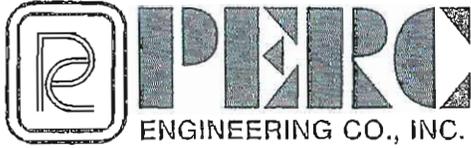


Ret: 2009-TA-0541



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

November 18, 2011

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

RE: Best Coal, Inc.
Narley Mine
Revision R-8

Post-it® Fax Note	7671	Date	11-28-2011	# of pages	▶
To	Heath Franks	From	US FWS		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	205-295-3114	Fax #			

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 "Area of Interest". A copy of the previous correspondence received from the Fish and Wildlife Service is attached. 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.

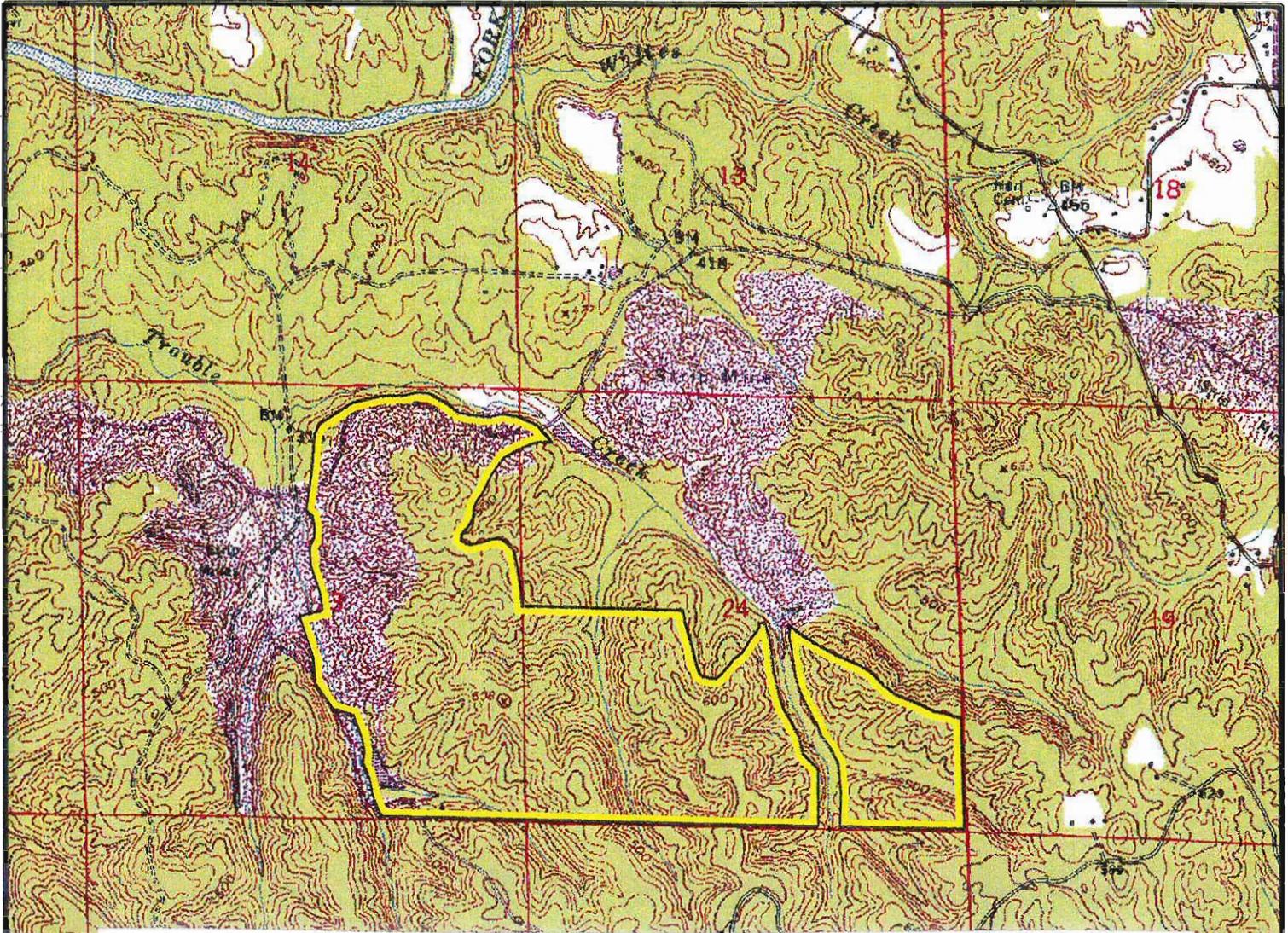
Heath Franks
Environmental Scientist



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 11-28-2011 # 3



Pre-Mine Landuse:

The proposed area of interest consists of two predominant land uses: Previously disturbed and undeveloped forest. The previously disturbed areas within this area have been naturally revegetated and the only overstory which exists within these areas consists of different species of pine trees. Other vegetation which exists within these areas consists of tall fescue, kudzu, shoemake, greenbriar, sawbriar, broom sedge, blackberry, mimosa, sicklepod, dog fennel, black nightshade, and crabgrass. Much of the ground cover in this area consists of pine straw. Within the undeveloped forest areas the dominant overstory is a mixture of typical deciduous and pine forest. Species are as follows: red oak, white oak, post oak, hickory, beech, sweet gum, yellow and tulip poplar, virginia pine, buttermilk pine, loblolly pine, longleaf pine, and cedar. Understory in these areas consists mainly of dogwood, redbud, mimosa, and muskiedine. Ground cover in these areas consists mainly of immature species mentioned above and fallen leaves from the above species, but also includes sawbriar, kudzu, and mullein.

LEGEND

 PERMIT BOUNDARY

Scale: 1" = 2,000'



**SITE LOCATION MAP
BEST COAL, INC.
NARLEY MINE NO. 3**

Sections 13 & 14, Township 15 North, Range 4 West,
Jefferson County, Alabama

DRAWN BY: C.M.O.	DATE: 2/6/09
DWG. NAME: BCNMSLU3	
APPROVED BY: J.H.F.	SCALE: 1"=2000'

Note: Base taken from Brookside, Warrior, Creel & Gardendale Alabama U.S.G.S. Quadrangle.

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

64 NORTH UNION STREET, SUITE 567
POST OFFICE BOX 301456
MONTGOMERY, ALABAMA 36130-1456
(334) 242-3465
FAX (334) 242-3032
www.outdooralabama.com



BOB RILEY
GOVERNOR

M. BARNETT LAWLEY
COMMISSIONER

*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.*

M. N. 'CORKY' PUGH
DIRECTOR

FRED R. HARDERS
ASSISTANT DIRECTOR

March 11, 2009

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

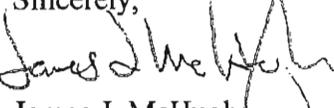
Re: Best Coal, Inc.
Narley Mine No. 3
Jefferson County

Dear Mr. Franks:

Based on a review of the project proposal, the Division of Wildlife and Freshwater Fisheries provides the following comments:

- Be advised that the USACE advises that all wetlands on mine sites, whether on previously disturbed or pristine areas, fall within the category of jurisdictional wetlands; however, dredge and fill activities might be permitted under specified conditions. We have no objection to the use of a wetland mitigation protocol such as WRAP (the Wetland Rapid Assessment Procedure), provided it is properly applied and provided that temporal losses are correctly accounted for. We have no objection to the purchase of mitigation credits from a Corps-sanctioned wetland mitigation bank.
- The density or diversity of aquatic biota is not adversely impacted and that aquatic habitat quality in streams and wetlands is not 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. We are therefore very concerned about the degradation/loss of aquatic habitat which may occur as a result of siltation associated with mining operations. We are also very concerned about the loss of stream habitat and stream functions which occur when settling ponds are constructed on intermittent or perennial streams. Such ponds not only result in the loss of stream functions within the impounded areas, but downstream flows below the dam are altered (during low rainfall periods, there is often no flow or inadequate flow in the stream downstream of the dam) and the upstream movement of fish is restricted except during floods, resulting in aquatic habitat fragmentation. The best way to protect aquatic habitat is to prevent sediment from entering a stream or wetland, not to contain the sediment within the stream or wetland once it has entered the aquatic ecosystem. We therefore recommend that spoil banks or other slopes be grassed as early as possible (well prior to reclamation), that silt barriers, terraces, and check dams be properly installed and maintained, that streamside buffer zones be 100 feet in width and well vegetated in order to function properly, that sedimentation ponds not be constructed in streams or

- wetlands, and that the mine owner/operator should be responsible for in-kind restoration or mitigation if streams or wetlands are adversely impacted by mining activities.
- 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 stream mitigation by restoring the functions of a degraded stream similar in size and natural (biological) productivity to the impacted stream.

Sincerely,

James J. McHugh
Wildlife Diversity Coordinator



United States Department of the Interior

FISH AND WILDLIFE SERVICE
P. O. Drawer 1190
Daphne, Alabama 36526

IN REPLY REFER TO:

03-0283

September 9, 2003

Mr. Keith Madison
PERC Engineering Co., Inc.
P.O. Box 1712
Jasper, Alabama 35502

Dear Mr. Madison:

Thank you for your letter of August 27, 2003, requesting comments on the proposed Narley Mine by Best Coal, Inc., in Walker County, Alabama. We have reviewed the information and are providing the following comments in accordance with the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

We have determined that the following Federally listed species may occur in the project area:

- flattened musk turtle (*Sternotherus depressus*) - Threatened
- red-cockaded woodpecker (*Picoides borealis*) - Endangered
- Cahaba shiner (*Notropis cahabae*) - Endangered
- plicate rocksnail (*Leptoxis plicata*) - Endangered
- triangular kidneyshell (*Ptychobranthus greeni*) - Endangered
- orange-nacre mucket (*Lampsilis perovalis*) - Threatened

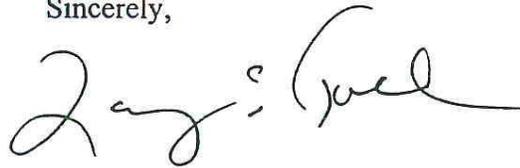
Please see the enclosed Fact Sheet for brief descriptions of these species and their habitats.

The flattened musk turtle, Cahaba shiner, plicate rocksnail, triangular kidneyshell, and orange-nacre mucket are known to occur in the section of Locust Fork near the proposed mining operation (U.S. Fish and Wildlife Service 2000). If the project could negatively impact Locust Fork through inputs of arsenic, selenium or mercury, siltation, or other water quality degradation, we recommend you contact this office for further discussions. If impacts to Locust Fork can be avoided through the use of vegetated buffers, settling ponds, and other BMPs, no further consultation is necessary for these species.

If suitable red-cockaded woodpecker nesting habitat (containing pine trees greater than 60 years old) may be impacted by the project, then surveys should be conducted to determine the presence or absence of this woodpecker species. If pine trees of this age will not be affected, then surveys for this species are unnecessary.

If additional consultation is necessary under section 7 of the Endangered Species Act, we are ready to provide technical assistance to Federal funding authorities regarding ways to avoid adverse impacts to the species. If you have any questions or need additional information, please contact Mr. Scott Floyd at (251) 441-5836. Please refer to the reference number located at the top of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry E. Goldman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Larry E. Goldman
Field Supervisor

Literature Cited

USFWS. 2000. Recovery plan for Mobile River Basin aquatic ecosystem. Atlanta, GA. 128 pp.

Fact Sheet

Flattened Musk Turtle

The flattened musk turtle is a small aquatic turtle with a distinctly flattened carapace up to 4.7 inches long. The keel is virtually, if not altogether, lacking. The carapace is dark brown to orange with dark bordered seams and is slightly serrated behind. The plastron is pink to yellowish. The head is greenish with a dark reticulum that often breaks up to form spots on the top of the snout. Stripes on the top and sides of the neck, if present, are narrow. There are two barbels on the chin, all four feet are webbed, and males have thick, long, spine-tipped tails. The diet of the flattened musk turtle consists primarily of mollusks when available, and sometimes insects. It occurs in the upper Black Warrior River system and is capable of living in a variety of streams and lakes, but prefers free-flowing large creeks or small rivers with vegetated shallows. Optimum habitat contains rock crevices, abundant molluscan fauna, low silt loads and deposits, low nutrient concentrations and bacterial counts, moderate temperatures, and minimal pollution.

Red-cockaded Woodpecker

The red-cockaded woodpecker is 18 to 20 cm long with a wing span of 35 to 38 cm. There are black and white horizontal stripes on its back, and its cheeks and underparts are white. Its flanks are black streaked. The cap and stripe on the side of the neck and the throat are black. The male has a small red spot on each side of the black cap. After the first post fledgling molt, fledgling males have a red crown patch. Egg laying occurs during April, May, and June with the female utilizing her mate's roosting cavity for a nest. Most often, the parent birds and some of their male offspring from previous years form a family unit called a group. Commonly, these groups are comprised of three to five birds. Rearing the young birds becomes a shared responsibility of the group. This bird's range is closely tied to the distribution of southern pines. Historically, the red-cockaded woodpecker occurred from East Texas and Oklahoma, to Florida, and north to New Jersey. Open stands of pines with a minimum age of 60 years provide suitable nesting habitat. Longleaf pines (*Pinus palustris*) are most commonly used, but other species of southern pine are also acceptable. Dense stands (stands that are primarily hardwoods, or that have a dense hardwood understory) are avoided. Foraging habitat is provided in pine and pine hardwood stands 30 years old or older, with foraging preference for pine trees 10 inches or more in diameter. In good, well-stocked pine habitat, sufficient foraging substrate can be provided on 80 to 125 acres.

Cahaba Shiner

The Cahaba shiner is a small, delicate-bodied, silvery-colored fish about 6.35 cm long with a peach-colored narrow stripe over the dark lateral stripe. This species differs from the mimic shiner, a closely related species, by a lateral stripe that does not expand before the caudal spot and by the absence of a predorsal dark blotch. Also, the Cahaba shiner's dorsal, caudal peduncle scales are uniformly dark and pigmented and its peduncle scales are broadly outlined and diffuse. This shiner probably requires a river with sufficient small crustaceans, insect larvae, and algae for food, similar to its close relative, the mimic shiner.

Plicate Rocksnail

The plicate rocksnail grows to about 20 mm in length. Shells are subglobose with broadly rounded apertures. The body whorl may be ornamented with strong folds or plicae. The shell color is usually brown, occasionally green, and often with four equidistant color bands. The columella (central column or axis) is smooth, rounded, and typically pigmented in the upper half. The aperture is usually bluish-white, occasionally pink or white. The operculum (plate that closes the shell when the snail is retracted) is dark red, and moderately thick. The plicate rocksnail historically occurred in the Black Warrior River and its tributary, the Little Warrior River, and the Tombigbee River. Status surveys show populations of plicate rocksnails only in an approximately 55 mile reach of the Locust Fork of the Black Warrior River in Jefferson and Blount counties, Alabama.

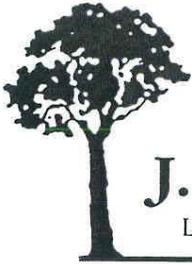
Triangular Kidneyshell

The triangular kidneyshell is oval to elliptical in outline, and may approach 100 mm in length. The shell is generally compressed, and may be ventrally flattened. The posterior ridge is broadly rounded and terminates in a broad round point post-ventrally. The pseudocardinal teeth are heavy, and the laterals are heavy, gently curved and short. The periostracum is straw-yellow in young specimens, but becomes yellow-brown in older ones. It may have fine and wavy, or wide and broken, green rays anterior to the posterior ridge. The triangular kidneyshell is found in high-quality stream and small-river habitat, on stable sand or gravel substrate in moderate to swift currents.

Orange-Nacre Mucket

The orange-nacre mucket is a medium-sized mussel approximately 50-90 mm in length. The shell is oval in shape and moderately thick. The posterior margin of the shell of mature

females is obliquely shortened. The inner surface is usually rose colored, pink, or occasionally white. The outer surface ranges from yellow to dark reddish brown, with or without green rays. The orange-nacre mucket is currently restricted to high-quality stream and small-river habitat, and is found on stable sand, gravel or cobble substrate in moderate to swift current.



J. H. Graham, L.L.C.

Land Management & Forestry Consulting

812 Airport Road, South
Jasper, AL 35501-3851

205 221-7999
Fax 221-5785

December 18, 2003

Mr. Keith Madison
PERC Engineering Co., Inc.
P.O. Box 1712
Jasper, AL 35502

RE: Best Coal, Inc., Narley Mine

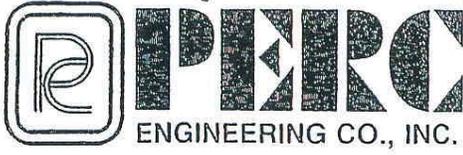
Dear Mr. Madison:

An inspection of the project impact zone of Best Coal, Inc. 's, Narley Mine, in Jefferson County Alabama, determined that pine trees greater than 60 years old are present. However, these trees are not part of suitable red-cockaded woodpecker (*Picoides borealis*) nesting habitat. Our inspection also failed to identify enough foraging habitat within and around the project impact zone to support a clan of red-cockaded woodpeckers.

In our opinion a survey is unnecessary. The attached map defines the project impact area.

Sincerely,

Joseph Graham, III
State of Alabama
Registered Forester # 1411



(see log 2000) JS/m) 2009-TA-0347

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



March 3, 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	3/19/09	# of pages	1
To	Heath Franks				
Co./Dept.	PERC				
Phone #					
Fax #	205-295-3114				
FROM:	Sandy M				
Co.:	USFWS				
Phone #:	251-441-5184				
Fax#:	251-441-6222				

RE: Best Coal, Inc.
Narley Mine No. 3

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 "Permit Boundary ". 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.

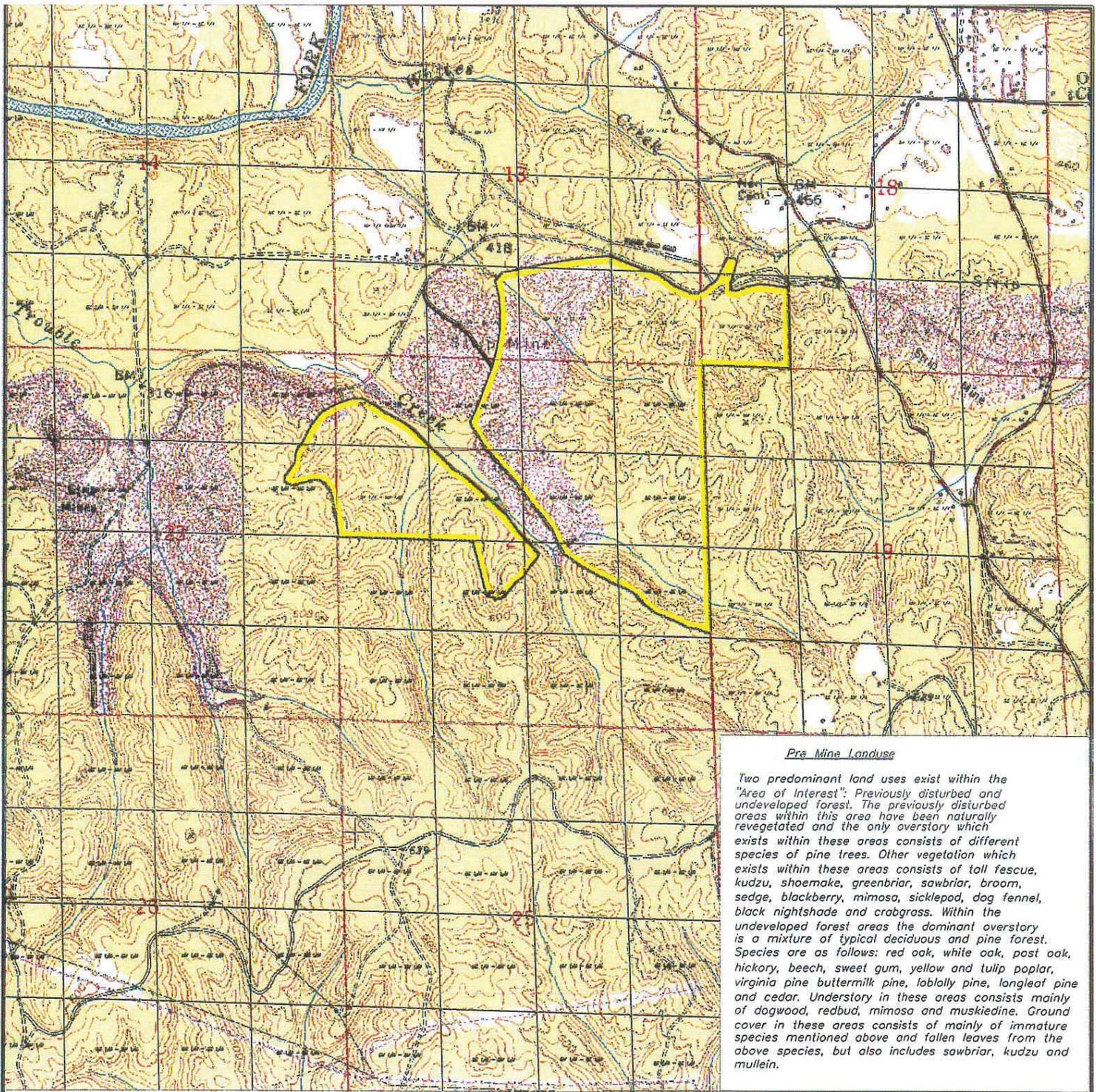
Heath Franks
Heath Franks
Environmental Scientist



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>).

W. J. Pearson
William J. Pearson, Field Supervisor
Action for
Date 3/19/09 # 3

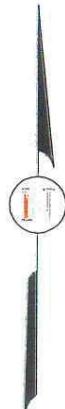


Pre Mine Landuse

Two predominant land uses exist within the "Area of Interest". Previously disturbed and undeveloped forest. The previously disturbed areas within this area have been naturally revegetated and the only overstory which exists within these areas consists of different species of pine trees. Other vegetation which exists within these areas consists of tall fescue, kudzu, shoemaker, greenbriar, sawbriar, broom, sedge, blackberry, mimosa, sicklepod, dog fennel, black nightshade and crabgrass. Within the undeveloped forest areas the dominant overstory is a mixture of typical deciduous and pine forest. Species are as follows: red oak, white oak, post oak, hickory, beech, sweet gum, yellow and tulip poplar, virginia pine buttermilk pine, loblolly pine, longleaf pine and cedar. Understory in these areas consists mainly of dogwood, redbud, mimosa and muskiedine. Ground cover in these areas consists of mainly of immature species mentioned above and fallen leaves from the above species, but also includes sawbriar, kudzu and mullein.

LEGEND

 Permit Boundary



**Site Location Map
Best Coal Inc.
Narley Mine**

Sections 13, 23 & 24, Township 15 South, Range 4 West,
Sections 18, Township 15 South, Range 3 West,
Jefferson County, Alabama

DRAWN BY:	P.T.O.	DATE:	8-6-03
DWG. NAME:	BCNMSLM		
APPROVED BY:	W.K.M.	SCALE:	1"=2000'

Note: Base taken from Brookside, Warrior, Creel & Gardendale Alabama U.S.G.S. Quadrangle.