STATE OF ALABAMA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
64 NORTH UNION STREET, SUITE 464
MONTGOMERY, ALABAMA 36130

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STATE LANDS DIVISION

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

January 9, 2012

Mr. Rich Weaver
DSM Design Group, LLC
P.O Box 690
Jasper, AL 35502

RE: Sensitive Species Information request
Birmingham Coal & Coke, Inc. - Gooden Creek Mine R-8

Dear Mr. Weaver:

The Natural Heritage Section office received your e-mail dated 1/9/2012 addressed to Ashley Peters on 1/9/2012 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 Walker 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 Walker 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 5.7 miles from the subject site. This state protected species (Cooper's Hawk) can be found primarily in hardwood forests throughout most of the Unites States and Canada. Populations of this species were in decline from about 1940 to the 1970's, but have

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recently began to increase. Destruction and disturbance of this species' habitat should be avoided and "taking" of the animal itself is prohibited.*

I hope this information will be useful to you. The provided information is to help you in fulfilling your necessary legal obligations. This does not constitute any form of Section 7 consultation. The Natural Heritage Section recommends that the U. S. Fish and Wildlife Service field office in Daphne be contacted for Section 7 consultations.

The information does not suggest that protected species are not at this location. The specific location of a sensitive species is considered 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 protected species that are believed to occur in the designated county and the legal protection status of each species. This list is a combination of the U.S. Fish and Wildlife Service (Daphne field office) federally listed species county and state lists and the Alabama State Lands Division's Natural Heritage Section (SLD-NHS) Database of species occurrence data. This list is continually being updated, and, therefore, it may be incomplete or inaccurate and is provided strictly for informational purposes. Site specific information can be provided by the Alabama SLD-NHS and/or the U.S. Fish and Wildlife 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. It also does not constitute any form of Section 7 consultation. The Alabama SLD-NHS recommends that the U.S. Fish and Wildlife Service field office in Daphne be contacted for Section 7 consultations.

Walker

Protection Status	Common Name	Scientific Name	Applicable State Regulation
Candidate	Black Warrior River Waterdog	Necturus alabamensis	
Endangered	Harperella	Ptilimnium nodosum	
Endangered/ State Protected	Ovate Clubshell	Pleurobema perovatum	220-2-.98 (1) (a)
Endangered/ State Protected	Triangular Kidneyshell	Ptychobranchus greenii	220-2-.98 (1) (a)
State Protected	Alligator Snapping Turtle	Macroclemys temminckii	220-2-.92 (1) (c)
State Protected	Long-tailed Weasel	Mustela frenata	220-2-.92 (1) (e)
State Protected	Paddlefish	Polyodon spathula	220-2-.94
Threatened	Mohr's Barbara's Buttons	Marshallia mohrii	
Threatened/ State Protected	Finelined Pocketbook	Hamiota altilis	220-2-.98 (1) (a)
Threatened/ State Protected	Flattened Musk Turtle	Sternotherus depressus	Section 9-11-269
Threatened/ State Protected	Orangenacre Mucket	Hamiota perovalis	220-2-.98 (1) (a)

Key to codes on list:

Endangered - Federally listed as an endangered species by the U. S. Fish and Wildlife Service

Threatened - Federally listed as a threatened species by the U. S. Fish and Wildlife Service

Candidate - Federally listed as a candidate species by the U. S. Fish and Wildlife Service

Experimental - Species is protected throughout its range, except for the nonessential experimental population, by the U. S. Fish and Wildlife Service

State Protected - It is unlawful to take, capture or kill; possess, sell or trade for anything of monetary value, or offer to sell or trade these species. Alabama Regulations relating to game, fish and furbearing animals. 2009-2010. Alabama Department of Conservation and Natural Resources. See http://www.outdooralabama.com/hunting/regulations/regs.cfm for more information.

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.

DSM
DESIGN GROUP, LLC
ENGINEERING / SURVEYING

January 9, 2012

Alabama Department of Conservation and Natural Resources
Attention: Ms. Ashley Peters
64 North Union Street
Montgomery, Alabama 36130

RE: **Birmingham Coal & Coke, Inc.**
Gooden Creek Mine, P-3878, ASMC Revision R-8

Dear Ms. Peters:

I would like to request an identification of the Areas of Special Concern located in the boundaries for the proposed ASMC Revision R-8 126.0 mining acres located in Sections 19 & 20, Township 12 South, Range 10 West, in Walker County, Alabama. We are in the process of applying for a surface coal-mining revision to permit # P-3878 through the Alabama Surface Mining Commission for this area and will need the comments to meet the requirements of the Law. Therefore, please find the enclosed "Request for Identification of Areas of Special Concern" for the above referenced proposed surface coal mining permit area.

I would like to thank you for your co-operation concerning this matter and would appreciate the assessment at your earliest convenience. If you should have any questions or need additional information, please do not hesitate to contact our office.
Sincerely,

DSM Design Group, LLC.

J. Rich Weaver
E.I.T

Enclosures

1400 Viking Drive P. O. Box 690 Jasper, AL 35502 (205) 221-6262 fax (205) 221-6850

REQUEST FOR IDENTIFICATION OF THE AREAS OF SPECIAL CONCERN FOR A SURFACE OR UNDERGROUND MINING OPERATION

Date: ____January 9, 2012

Mining Company Name: __ Birmingham Coal & Coke, Inc.____

Return Address: ___P. O. Box 690, Jasper, Alabama 35502-3431___

Contact Person: __ DSM Design Group, LLC., J. Rich Weaver _____
Contact email: __ rich@dsmdg.com _____

Mine Name: ___Gooden Creek Mine P-3878_____

Number of Acres: ___126.0 acres_____

USGS Quad Sheet(s) on which the Mine occurs: _Carbon Hill U.S.G.S Quad__

County: __Walker __

See Attached Map

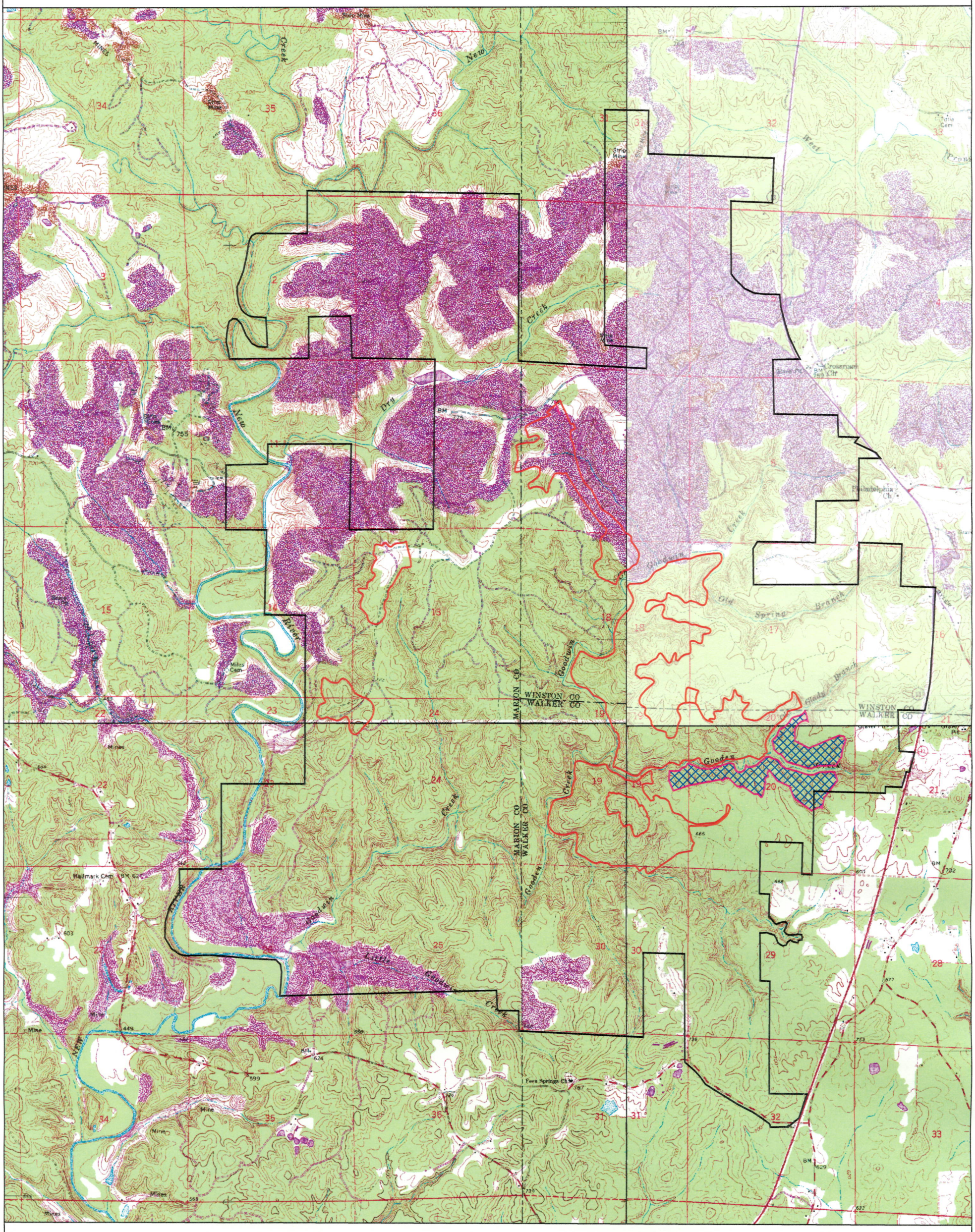
Current Landuse of Permit and Adjacent Areas:

_Undeveloped/No current use _____

Dominate Vegetation Communities of Permit and Adjacent Areas:

Virginia and Loblolly Pine, Sweet gums, Yellow Poplar, American Sycamore, Eastern Cottonwood, Honeysuckle, various grasses, weeds & briars.

1400 Viking Drive P. O. Box 690 Jasper, AL 35502 (205) 221-6262 fax (205) 221-6850



PREVIOUSLY STUDIED

126.0 ACRES TO BE ADDED BY REVISION
(4.2 acres outside study area)

Birmingham Coal & Coke, Inc
Gooden Creek Mine, P-3878

DRAWN BY: J.R.W.	DATE: 01/09/12	CURRENT P- 3878 PERMIT BOUNDARY (884.0 ACRES)
APPROVED BY: J.D.M.	DATE: 01/09/12	
SCALE: 1" = 3000'	SHEET: 1 OF 1	Proposed Revision Area Located: Sec. 19 & 20, T12S, R9W Walker County, Al USGS Quad. Carbon Hill

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1400 VIKING DRIVE
JASPER, ALABAMA 35501
TELEPHONE: (205) 221-6262