

The area of interest consists of a combination of unmanaged timberland and previously surface mined areas. Dominant overstory species within the unmanaged timberland and previously mined areas are sweetgum, hickory, poplar, red oak, and pine. Understory is thick and consists mainly of younger overstory species mentioned earlier. Ground cover consists mainly of dead leaves, saw briar, green briar, and blackberry.

LEGEND

-  Previously Permitted Boundary
-  Proposed Revision Boundary
-  400 Surface Contour
-  Occupied Dwelling
-  Unoccupied Dwelling (Barn, Shed, etc.)
-  Private Impoundment
-  County Road (Paved unless otherwise designated)
-  Haul Road



MINE SITE LOCATION MAP
CANE CREEK, LLC.
CANE CREEK MINE
PART OF SECTIONS 27, 28, 33 & 34
TOWNSHIP 14 SOUTH, RANGE 7 WEST
WALKER COUNTY, ALABAMA

DRAWN BY: J.W.T.	DATE: 03/25/2013
DWG. NAME: CCCC	
APPROVED BY: L.G.S.	SCALE: 1"=2000'



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

ROBERT BENTLEY
GOVERNOR

N. GUNTER GUY, JR.
COMMISSIONER

CURTIS JONES
DEPUTY COMMISSIONER

PATRICIA J. POWELL, DIRECTOR
STATE LANDS DIVISION

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

March 29, 2013

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

RE: Sensitive Species Information request
Cane Creek, LLC - Cane Creek Mine

Dear Mr. Franks:

The Natural Heritage Section office received your e-mail dated 3/25/2013 addressed to Ashley Peters on 3/29/2013 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 Jefferson 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 Jefferson 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 2.3 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,



Mr. Heath Franks

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and water quality degradation represent the major threats to this species. This species appears relatively 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. 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
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>

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<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 reflects 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	<i>Necturus alabamensis</i>	
Endangered	Harperella	<i>Ptilimnium nodosum</i>	
Endangered/ State Protected	Ovate Clubshell	<i>Pleurobema perovatum</i>	220-2-.98 (1) (a)
Endangered/ State Protected	Triangular Kidneyshell	<i>Ptychobranhus greenii</i>	220-2-.98 (1) (a)
State Protected	Alligator Snapping Turtle	<i>Macrolemys temminckii</i>	220-2-.92 (1) (c)
State Protected	Long-tailed Weasel	<i>Mustela frenata</i>	220-2-.92 (1) (e)
State Protected	Paddlefish	<i>Polyodon spathula</i>	220-2-.94
Threatened	Mohr's Barbara's Buttons	<i>Marshallia mohrii</i>	
Threatened/ State Protected	Finelined Pocketbook	<i>Hamiota altilis</i>	220-2-.98 (1) (a)
Threatened/ State Protected	Flattened Musk Turtle	<i>Sternotherus depressus</i>	Section 9-11-269
Threatened/ State Protected	Orangenacre Mucket	<i>Hamiota perovalis</i>	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 Apalachicola 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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Montgomery, AL 36130-1456
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www.outdooralabama.com

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GOVERNOR

N. GUNTER GUY, JR.
COMMISSIONER

CURTIS JONES
DEPUTY 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.

CHARLES F. "CHUCK" SYKES
DIRECTOR

FRED R. HARDERS
ASST. DIRECTOR

April 11, 2013

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

RE: Cane Creek, LLC.
Cane Creek Mine Revision R-3

Dear Mr. Franks:

Based on a review of the project proposal, the Division of Wildlife and Freshwater Fisheries has no objection provided:

1. No state- or federally-protected species is adversely impacted by mining. We note that you have coordinated with the Natural Heritage Section, State Lands Division, regarding potential impacts to both state- and federally-protected species. In its letter of March 29, 2013, the Natural Heritage Section stated that no biological survey is known to have been conducted at the delineated location; therefore, no accurate assessment of the presence or absence of a protected species at the site could be inferred from the records in their database. The nearest recorded occurrence of a sensitive species is 2.3 miles from the subject property. If there is a potential for adverse impacts to state- or federally-protected species, a sensitive species survey by a qualified biologist is strongly recommended. We request the opportunity to review any species surveys conducted for the proposed project. If adverse impacts to protected species occur as a result of the project, further coordination with the Department of Conservation (334-242-3851) and the United States Fish and Wildlife Service (251-441-5181) will be required.
2. No net loss of stream or wetland function and 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. 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

Mr. Franks
4/11/2013
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correctly accounted for. We have no objection to the purchase of mitigation credits from a Corps-sanctioned wetland mitigation bank.

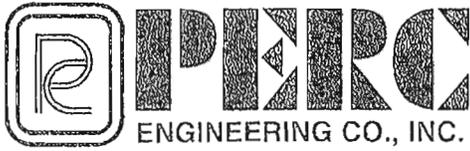
3. The density or diversity of aquatic biota is not adversely impacted and that aquatic habitat quality in streams and wetlands is not diminished: excessive siltation resulting from uncontrolled erosion at a mine site can be as destructive to the aquatic ecosystem of a stream or wetland as acid mine 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. Sediment ponds should be temporary and subsequently removed post mining. 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.
4. 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.
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,



Matthew D. Marshall
Environmental Coordinator



ky 1000 13:27:37 04-19-2013 1/1

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

APR - 4 2013
ALABAMA FIELD

April 2, 2013

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

Post-it® Fax Note	7671	Date	4-19-13	# of pages	▶
To	Heath Franks	From	USFWS		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	205-295-3114	Fax #			

RE: Cane Creek, LLC.
Cane Creek Mine Revision R-3

Dear Mr. Pearson:

2008-TA-0144

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 "Proposed Revision 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
Environmental Scientist



U.S. Fish and Wildlife Service
1208-B - 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. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT NEW PLANS FOR REVIEW. SITE MAY CONTAIN WETLANDS. Contact U.S. Army Corps of Engineers for a jurisdictional wetlands determination. We recommend the use of best management practices specific to your project (See <http://www.fws.gov/daphne/section7/bmp.html>).

William J. Pearson, Field Supervisor

4/19/2013
Date # 4

BIOLOGY MALACOLOGY ICHTHYOLOGY ENTOMOLOGY
TAXONOMY ORNITHOLOGY BOTANY

ENVIRONMENTAL ASSESSMENTS

YOKLEY ENVIRONMENTAL CONSULTING SERVICE

3698 Chisholm Road
Florence, Alabama 35630

Fax (256) 764-3780
E-Mail: paulyokley@comcast.net

Phone (256) 764-3780
Cell Phone (256) 648-0182

May 6, 2013

Environmental Assessment

On May 4, 2013, an environmental assessment for habitat and the possible presence of the following species federally listed as endangered, threatened, or of concern was conducted on the proposed site of the Cane Creek Mine, R-3 expansion, Cane Creek, LLC., Walker County, Alabama:

Indiana Bat
Gray Bat

Myotis sodalis
Myotis grisescens

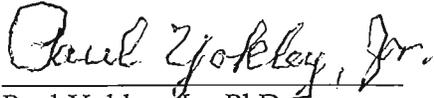
The proposed mine site and adjacent land was surveyed by direct observation by walking over the area looking for possible habitat and the actual presence of the listed species. Most, if not all of the proposed site has been logged or clear cut in the past. A significant portion of the eastern portion of the proposed site was clear cut in the last six months. A part of the western portion of the proposed site was clear cut several years ago. The proposed site has been utilized for deer hunting and has several large green fields. In the distant past, the site was a farm. The remains of an abandoned farm house are located near the center point of the southern boundary line of the site.

The entire region around the proposed site has been previously logged, clear cut, and/or surface mined. An active surface mine is located north of the site. Reclaimed surface mine sites are located to the east and north of the proposed site and to the west across State Road 269. Forest locations of significant size that exist in the area are usually intermediate age [15-30 year old] loblolly pines. Small areas of mixed age hardwoods with some pines exist in the region along roadsides, stream banks, steep hillsides, and as isolated plots at scattered locations. More recently clear cut areas on and near to the proposed site are early succession stage dense thickets of small trees, vines, herbaceous plants and grasses. South of the proposed site across Hay Valley Road is a recent clear cut.

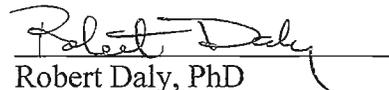
There is no suitable habitat for the gray or Indiana bat. There is no cave habitat for the gray bat on the proposed site and adjacent land. There is no suitable "underground" or man-

made shelter habitat for the Indiana bat on the proposed site and adjacent land. No large dead trees were observed on the proposed site and adjacent land. There is no suitable exfoliating summer tree habitat on the proposed site and adjacent land. The level of historical and current disturbance from all sources prohibits the existence of the gray or Indiana bat at or near this location. Bats were not observed during the survey.

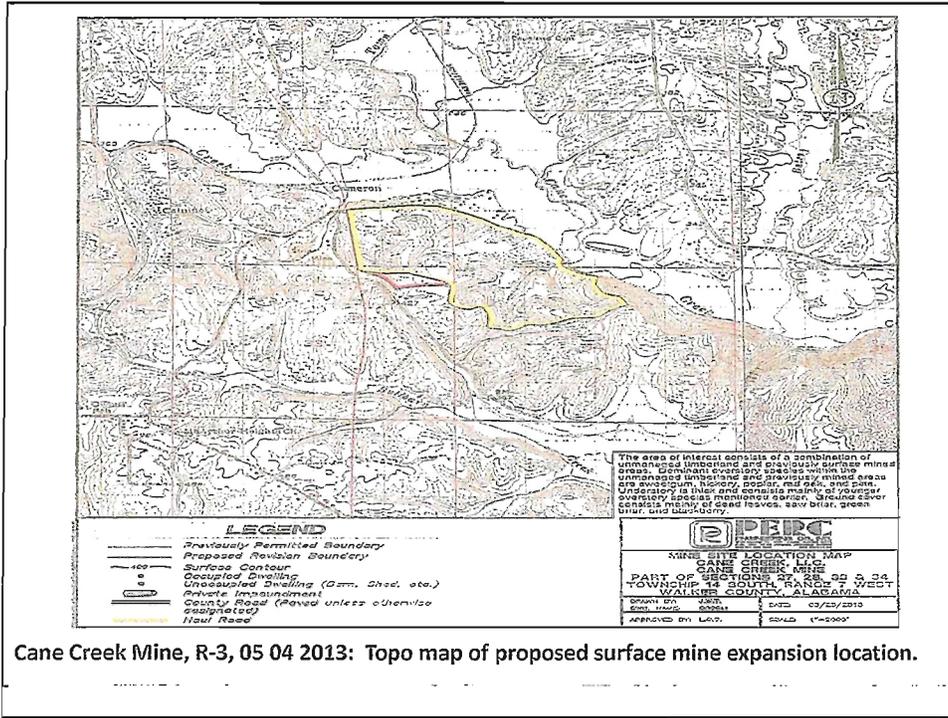
The proposed surface mine expansion will not affect the listed species and their required habitat, since the listed species and their required habitat does not exist on the proposed site and adjacent land.



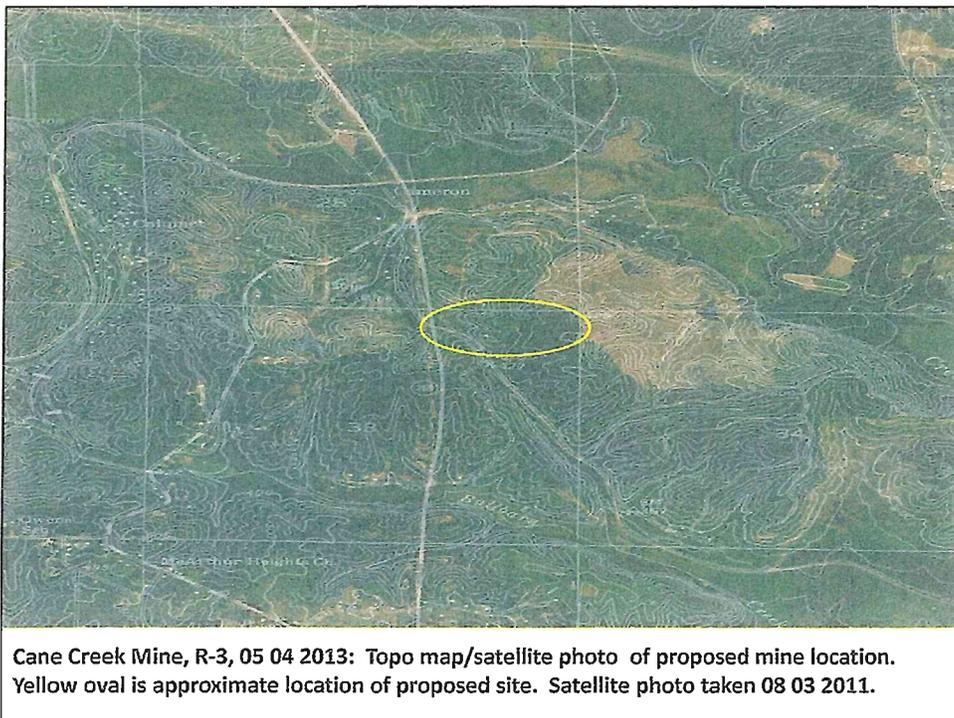
Paul Yokley, Jr., PhD
Biologist



Robert Daly, PhD
Biologist



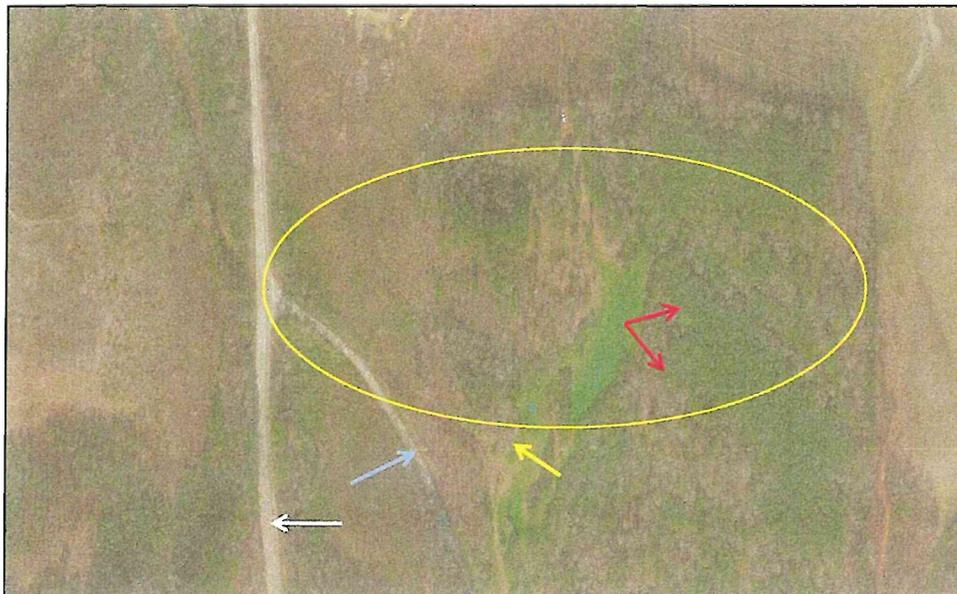
Cane Creek Mine, R-3, 05 04 2013: Topo map of proposed surface mine expansion location.



Cane Creek Mine, R-3, 05 04 2013: Topo map/satellite photo of proposed mine location. Yellow oval is approximate location of proposed site. Satellite photo taken 08 03 2011.



Cane Creek Mine, R-3, 05 04 2013: Satellite photo of proposed mine location. Yellow oval is approximate location of proposed site. Active surface mine north of site. Reclaimed surface mine east and west of site. Dark green areas are intermediate age pines. Satellite photo 12 12 2012.



Cane Creek Mine, R-3, 05 04 2013: Satellite photo of proposed mine location. Yellow oval is approximate location of proposed site. Yellow arrow: abandoned farm house. Red arrows: clear cut areas since sat photo date. White arrow: AL Highway 269. Blue arrow: Hay Valley Road. Satellite photo 12 12 2012.



Cane Creek Mine, R-3, 05 04 2013: Western part of proposed site. Alabama Highway 269 to left of photo. Hay Valley Road behind camera location. Regrowth area of previous clear cut. Intermediate age mixed forest hillside to right.



Cane Creek Mine, R-3, 05 04 2013: View up power line right-of-way into middle hill top region of proposed site. Intermediate age mixed forest hillside.



Cane Creek Mine, R-3, 05 04 2013: View to north across middle of proposed site. Recent clear cut of eastern portion of site to right. Green fields in fore ground.



Cane Creek Mine, R-3, 05 04 2013: View to north from middle of proposed site. Recently cleared access to northern boundary line of site. Green field in fore ground.