



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

February 15, 2012

Jackie Grace
PERC Engineering Co., Inc.
P.O. Box 1712
Jasper, AL 35502-1712

RE: Sensitive Species Information request
WB Mining, LLC - Fishtrap Mine No.2 R-2

Dear Jackie Grace:

The Natural Heritage Section office received your e-mail dated 2/14/2012 addressed to Ashley Peters on 2/14/2012 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 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 5.6 miles from the subject site. This federally listed endangered species (Cahaba Shiner) inhabits primarily the main channel of the upper Cahaba River. It is threatened by high nutrient loads from upstream settlements, pollutants from the Birmingham area, siltation



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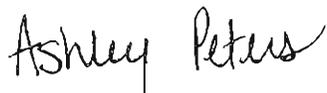
and is possibly adversely affected by strip-mining activities and chlorine from sewage treatment facilities.*

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>
<http://www.pfmt.org/wildlife/endangered/>

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<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.

Jefferson

| Protection Status | Common Name | Scientific Name | Applicable State Regulation |
|-----------------------------|------------------------------|-------------------------------|------------------------------------|
| Candidate | Black Warrior River Waterdog | <i>Necturus alabamensis</i> | |
| Candidate/ State Protected | Rush Darter | <i>Etheostoma phytophilum</i> | 220-2-.92 (1) (a) |
| Endangered | Leafy Prairie Clover | <i>Dalea foliosa</i> | |
| Endangered/ State Protected | Cahaba Shiner | <i>Notropis cahabae</i> | 220-2-.92 (1) (a) |
| Endangered/ State Protected | Plicate Rocksnail | <i>Leptoxis plicata</i> | 220-2-.98 (1) (a) |
| Endangered/ State Protected | Southern Clubshell | <i>Pleurobema decisum</i> | 220-2-.98 (1) (a) |
| Endangered/ State Protected | Triangular Kidneyshell | <i>Ptychobranchus greenii</i> | 220-2-.98 (1) (a) |
| Endangered/ State Protected | Upland Combshell | <i>Epioblasma metastriata</i> | 220-2-.98 (1) (a) |
| Endangered/ State Protected | Vermilion Darter | <i>Etheostoma chermocki</i> | 220-2-.92 (1) (a) |
| Endangered/ State Protected | Watercress Darter | <i>Etheostoma nuchale</i> | 220-2-.92 (1) (a) |
| State Protected | Cooper's Hawk | <i>Accipiter cooperi</i> | 220-2-.92 (1) (d) |
| Threatened/ State Protected | Blue Shiner | <i>Cyprinella caerulea</i> | 220-2-.92 (1) (a) |
| 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 | Goldline Darter | <i>Percina aurolineata</i> | 220-2-.92 (1) (a) |
| 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

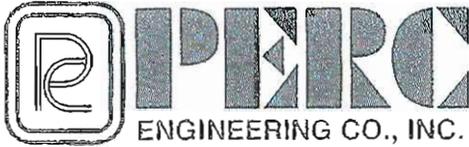
Candidate - Federally listed as a candidate species by the U. S. Fish and Wildlife Service

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 (*Elliptio chipolaensis*), and purple bankclimber (*Elliptioideus 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.



Ref: 2006-TA-0869

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

February 16, 2012

RECEIVED
FEB 21 2012

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

RE: WB Mining, LLC
Fishtrap Mine No. 2
P-3930 / Revision R-2

| | | | | | |
|-------------------------------|--------------|---------|-----------|------------|---|
| Post-it [®] Fax Note | 7671 | Date | 2-23-2012 | # of pages | 2 |
| To | Jackie Grace | From | USFWS | | |
| 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". 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 contact me at (205) 295-3129 or jackie.grace@percengineering.com.

Sincerely,
PERC Engineering Co., Inc.

Jackie Grace

Jackie Grace



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
William J. Pearson, Field Supervisor
Date 2-23-2012 # 3



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



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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.

FRED R. HARDERS
ACTING DIRECTOR

March 7, 2012

Jackie Grace
PERC Engineering Company, Inc.
P. O. Box 1712
Jasper, AL 35502

RE: WB Mining, LLC
Fishtrap Mine No. 2
P-3930 / Revision R-2

Dear Jackie Grace:

Please reference your letter dated February 16, 2012 regarding the "Area of Interest" associated with the above referenced surface coal mining operation. We have no comments on this project in addition to those in the letter from Mr. James Cherry dated September 8, 2008.

Feel free to contact me at 334-242-3851 if I can be of further assistance.

Sincerely,

Matthew D. Marshall
Environmental Coordinator