



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  
ASSISTANT COMMISSIONER

January 26, 2012

PATRICIA J. POWELL, DIRECTOR  
GREGORY M. LEIN, ASSISTANT DIRECTOR  
STATE LANDS DIVISION

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

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

RE: Sensitive Species Information request  
Cclay, Inc. - Skelton Creek Operation R-1

Dear Mr. Franks:

The Natural Heritage Section office received your e-mail dated 1/25/2012 addressed to Ashley Peters on 1/26/2012 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 1.9 miles from the subject site. This state protected species (Cooper's Hawk) can be found primarily in hardwood forests throughout most of the United States and Canada. Populations of this species were in decline from about 1940 to the 1970's, but have



Mr. Heath Franks

1/26/2012

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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  
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/>

Mr. Heath Franks

1/26/2012

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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

<b>Protection Status</b>	<b>Common Name</b>	<b>Scientific Name</b>	<b>Applicable State Regulation</b>
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 metastrata</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

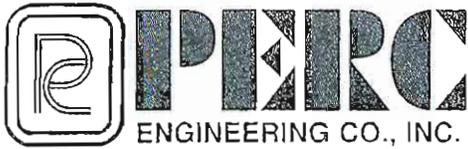
Candidate - Federally listed as a candidate species by the U. S. Fish and Wildlife Service

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: 2009-7A-0353

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

January 30, 2012



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

RE: CClay, Inc.  
Skelton Creek Operation  
Revision R-1

Post-it® Fax Note	7671	Date	2-3-2012	# of pages	▶
To	Heath Franks	From	U.S.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 R-1". 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 - 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  
Date 2-3-2012 # 4



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



64 North Union Street, Ste. 567  
P. O. Box 301456  
Montgomery, AL 36130-1456  
Phone: (334) 242-3465 Fax: (334) 242-3032  
www.outdooralabama.com

**ROBERT BENTLEY**  
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

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

Re: CClay, Inc.  
Skelton Creek Operation  
Revision R-1

Dear Mr. Franks:

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

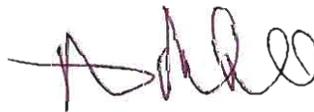
- No state- or federally-protected species is adversely impacted by mining. We note that you have coordinated with the Natural Heritage Section by letter dated January 26, 2012 regarding potential impacts to both State- and Federally-protected species for the proposed permit area. Please contact the U.S. Fish and Wildlife Service (251-441-5181) regarding potential impacts to federally-protected species. 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. If adverse impacts to protected species occur as a result of the project, further coordination with the Division of Wildlife and Freshwater Fisheries (334-242-3851) and the U.S. Fish and Wildlife Service will be required.
- 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 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 flows below the dam are altered (during low rainfall periods, there is often no flow or inadequate flow 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.

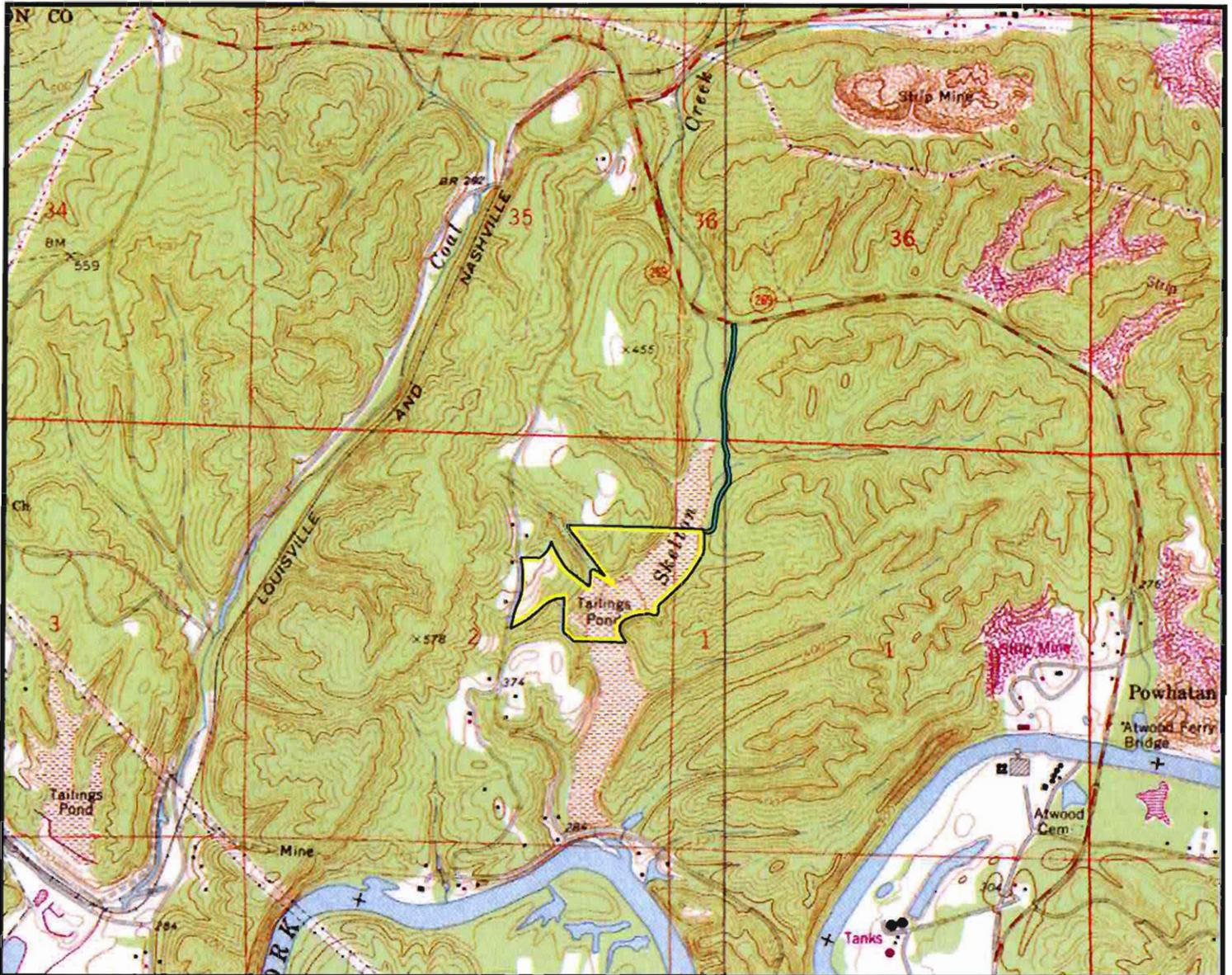
- Channel realignment, excavation, diversion or alteration of flow, impoundment, or excessive sedimentation of streams should not occur as a result of mining. If such impacts do occur, the mine owner/operator should provide corrective action through active restoration or stream mitigation for unresolved impacts.
- 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,

A handwritten signature in dark ink, appearing to read 'M. Marshall', with a stylized, cursive script.

Matthew D. Marshall  
Environmental Coordinator



### LEGEND

- Previously Studied Boundary  
±50 Acres*
- Area of Interest R-1  
±3 Acres*

The proposed area of interest consists of two distinct landuse areas: 1) previously disturbed and 2) undeveloped no current use. The previously disturbed areas consist of an old fines impoundment, and as such, is only covered with such tree, shrub, and ground cover species which is resistant to a high sulfur plant medium, therefore this area is sparsely covered with willow, shoemaker, cowcumber, nutsedge, some non-merchantable pine, and kudzu. 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 sawbricr, kudzu, and mullein.

Scale 1" = 2000'



**CCLAY, INC.**  
**SKELTON CREEK OPERATION P-3934**  
**SITE LOCATION MAP/ REVISION R-1**

DRAWN BY: J.H.F.	DATE: 1-25-12
DWG. NAME: CCSCSLMR1	
APPROVED BY: L.G.S.	SCALE: 1"=2000'



BOB RILEY  
GOVERNOR

M. BARNETT LAWLEY  
COMMISSIONER

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

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

TELEPHONE (334) 242-3454  
FAX NO. (334) 242-6959

March 11, 2009

Mr. Pete Parrish  
PERC Engineering Co., Inc.  
P.O. Box 1712  
Jasper, AL 35502-1712

RE: Sensitive Species Information request  
R & S Resource Recovery, Inc., Skelton Creek Operation

Dear Mr. Parrish:

The Natural Heritage Section office received your e-mail dated March 10, 2009 addressed to Ashley Peters on March 11, 2009 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. This does not constitute any form of Section 7 consultation. We recommend that the U.S. Fish and Wildlife Service field office in Daphne be contacted for Section 7 consultations.

The closest sensitive species is recorded in our database as occurring approximately 3.3 miles from the subject site. This federally listed threatened species (Flattened Musk Turtle) feeds on invertebrates such as snails and mussels in undammed small to medium sized clear shallow streams in a small range in the Black Warrior River system. It can also be found upstream and downstream of impoundments. Threats include overcollecting, disease, and habitat degradation from sedimentation and water pollution (in part related to coal mining); habitat fragmentation and related increased vulnerability to human-caused catastrophes and demographic accidents also appear to be problems.\*



Mr. Pete Parrish

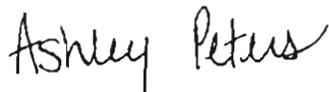
3/11/2009

Page 2

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 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/>  
<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 reflects only our current understanding of species distributions.

## Jefferson

Protection Status	Common name	Scientific Name	State Regulation Applicable
Candidate	Black Warrior Waterdog	<i>Necturus alabamensis</i>	
Candidate	Rush Darter	<i>Etheostoma phytophilum</i>	220-2-.92 (1) (a)
Endangered	Cahaba Shiner	<i>Notropis cahabae</i>	220-2-.92 (1) (a)
Endangered	Leafy Prairie-clover	<i>Dalea foliosa</i>	
Endangered	Plicated Rocksnail	<i>Leptoxis plicata</i>	220-2-.98 (1) (a)
Endangered	Red-cockaded Woodpecker	<i>Picoides borealis</i>	220-2-.92 (1) (d)
Endangered	Southern Clubshell	<i>Pleurobema decisum</i>	220-2-.98 (1) (a)
Endangered	Triangular Kidneyshell	<i>Ptychobranthus greenii</i>	220-2-.98 (1) (a)
Endangered	Upland Combshell	<i>Epioblasma metastriata</i>	220-2-.98 (1) (a)
Endangered	Vermilion Darter	<i>Etheostoma chermocki</i>	220-2-.92 (1) (a)
Endangered	Watercress Darter	<i>Etheostoma nuchale</i>	220-2-.92 (1) (a)
Endangered	Wood Stork	<i>Mycteria americana</i>	220-2-.92 (1) (d)
State Protected	Alabama Map Turtle	<i>Graptemys pulchra</i>	220-2-.92 (1) (c)
State Protected	Bald Eagle	<i>Haliaeetus leucocephalus</i>	220-2-.92 (1) (d)
State Protected	Black-knobbed Map Turtle	<i>Graptemys nigrinoda</i>	220-2-.92 (1) (c)
State Protected	Green Salamander	<i>Aneides aeneus</i>	220-2-.92 (1) (b)
State Protected	Rafinesque's Big-eared Bat	<i>Corynorhinus rafinesquii</i>	220-2-.92 (1) (e)
State Protected	Southeastern Bat	<i>Myotis austroriparius</i>	220-2-.92 (1) (e)
Threatened	Blue Shiner	<i>Cyprinella caerulea</i>	220-2-.92 (1) (a)
Threatened	Finelined Pocketbook	<i>Hamiota altilis</i>	220-2-.98 (1) (a)
Threatened	Flattened Musk Turtle	<i>Sternotherus depressus</i>	
Threatened	Goldline Darter	<i>Percina aurolineata</i>	220-2-.92 (1) (a)
Threatened	Orangenacre Mucket	<i>Lampsilis provalis</i>	220-2-.98 (1) (a)

## Key to codes on list:

Endangered - Federally listed as Endangered	(P) - Possible Occurrence
Threatened - Federally listed as Threatened	(S/A) - Similarity of Appearance to a listed species
Candidate - Federally listed as Candidate	(PE) - Proposed for federal listing as Endangered
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.	(PT) - Proposed for federal listing as Threatened
Alabama Department of Conservation and Natural Resources.	(CH) - Critical Habitat has been designated
	(PCH) - Critical Habitat has been proposed
	(H) - Historically known to have occurred in the

Experimental - Species is protected through 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 (*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.



(Also see 2006-7A-0644) R.H.

109

AF

2004-1A-0353



Telephone: (205) 384-5553  
Facsimile: (205) 295-3114 - Main Building  
(205) 295-3115 - Water Lab  
Web Address: www.percengineering.com  
DIRECT DIAL 205-295-3100  
DIRECT FAX 205-295-3138  
E-MAIL PPARRISH@PERCENGINEERING.COM

March 11, 2009

Mr. William J. Pearson  
United States Department of the Interior  
Fish and Wildlife Service  
Daphne ES Field Office  
1208-B Main Street  
Daphne AL 36526

Post-it® Fax Note	7671	Date	3/17/09	# of pages	1
To	R.E. Parrish	FROM:	Sandy M		
Co./Dept.	PERC	Co.:	USFWS		
Phone #		Phone #:	251-441-5184		
Fax #	205-295-3114	Fax #:	251-441-6222		

RE: R & S Resource Recovery, Inc.  
Skelton Creek Operation

Dear Mr. Pearson:

I have attached a request for the identification of areas of special concern and a map showing the proposed permit area for a proposed fine coal recovery operation located in Jefferson County, Alabama near the Powhatan community. The proposed permit boundary is outlined on the attached map and encompasses approximately 50 acres. Please process this request at your earliest convenience.

If you require additional information, please feel free to contact me.

Sincerely,

PERC Engineering Co., Inc.

R. Evan "Pete" Parrish

enclosures



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> ).

	3/17/09
William J. Pearson, Field Supervisor	Date
Acting for	#14



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 25, 2009

Mr. Evan Parrish  
 PERC Engineering Co., Inc.  
 P. O. Box 1712  
 Jasper, AL 35502

Re: R & S Resource Recovery, Inc.  
 Skelton Creek Operation  
 Jefferson County

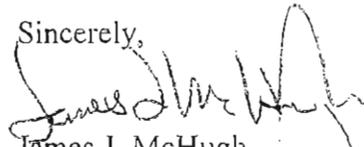
Dear Mr. Parrish:

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

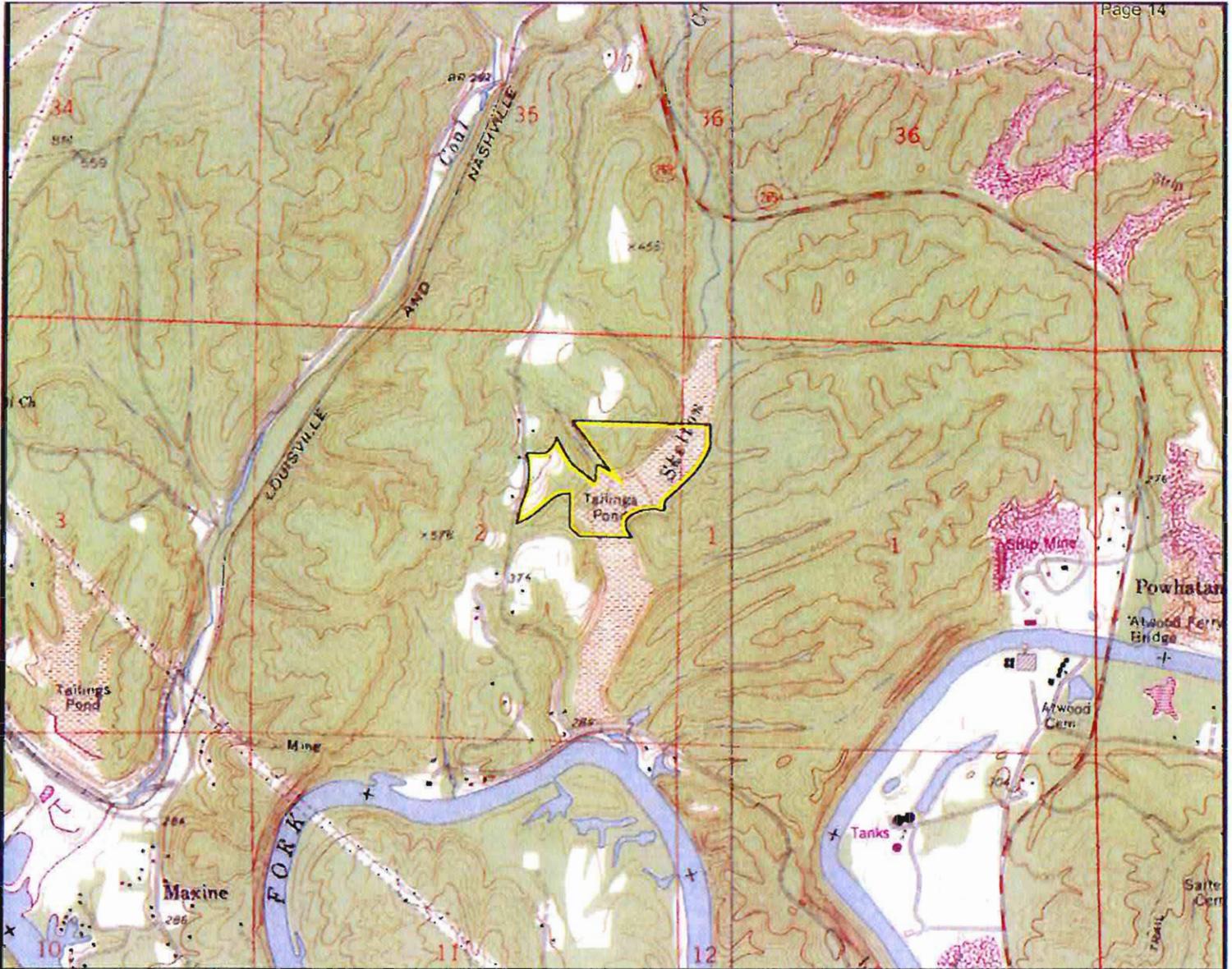
- wetlands, and that the mine owner/operator should be responsible for in-kind restoration or mitigation if streams or wetlands are adversely impacted by mining activities.
- Channel realignment, excavation, diversion or alteration of flow, impoundment, or excessive sedimentation of streams should not 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



**LEGEND**

— Proposed Permit Boundary  
±50 Acres

The proposed permit area consists of two distinct landuse areas: 1)previously disturbed and 2)undeveloped no current use. The previously disturbed areas consist of an old fines impoundment, and as such, is only covered with such tree, shrub, and ground cover species which is resistant to a high sulfur plant medium, therefore this area is sparsely covered with willow, shoemaker, cowcumber, nutsedge, some non-merchatable pine, and kudzu. 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, lablolly 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 sawbrier, kudzu, and mullein.

Scale: 1" = 2000'



R & S RESOURCE RECOVERY, INC.  
SKELTON CREEK OPERATION  
SITE LOCATION MAP

DRAWN BY: K.E.S.  
DWG. NAME: RSCSLM  
APPROVED BY: R.E.P.

DATE: 3-9-88  
SCALE: 1"=2000'