



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

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STATE LANDS DIVISION

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

February 22, 2010

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

RE: Sensitive Species Information request
Quality Coal Inc. - Sparks Branch No. 2

Dear Mr. Franks:

The Natural Heritage Section office received your e-mail dated 2/16/2010 addressed to Ashley Peters on 2/16/2010 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 2.6 miles from the subject site. This federally listed threatened species (Mohr's Barbara Button) is known only from northcentral Alabama to northwestern Georgia from a total of about 50 very localized sites. Many of the populations occur on or near roadside rights-of-way where they are vulnerable to a wide variety of activities such as road widening,



Mr. Heath Franks

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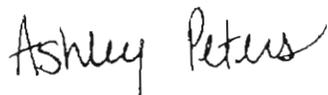
herbicide application, mowing, and planting of aggressive competitors. Other threats include the conversion of habitat to pasture, cropland, or pulpwood plantations, and the gradual encroachment of woody species into the open habitat in the absence of fire.*

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	Hasperella	<i>Ptilimnium nodosum</i>	
Endangered/ State Protected	Ovate Clubshell	<i>Pleurobema perovatum</i>	220-2-.98 (1) (a)
Endangered/ State Protected	Triangular Kidneyshell	<i>Ptychobranchus 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

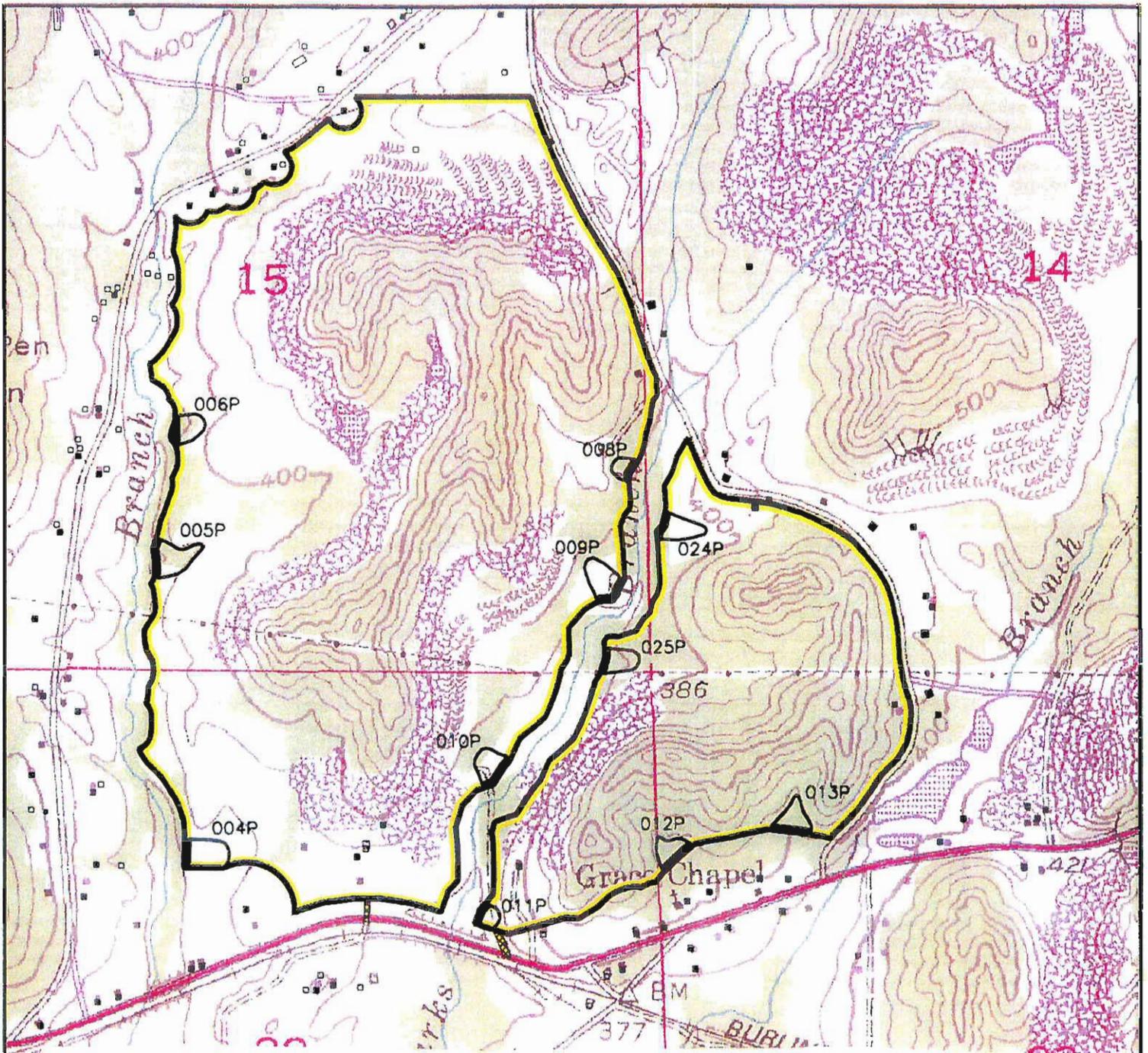
Candidate - Federally listed as a candidate species by the U. S. Fish and Wildlife Service

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 (*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 pearl mussel) (*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.



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, sassafras, mimosa, and muckiedine. 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.

MAP LEGEND

-  Area of Interest
-  Occupied Dwelling
-  Unoccupied Dwelling
-  Proposed Basin

Note: Area of interest occupies 444 acres.

Base map taken from the Jasper, Alabama USGS Quadrangle.



Quality Coal Co., Inc.
Sparks Branch Mine No. 2
Site Location Map

DRAWN BY: G.R.	DATE: 11-17-06
DWG. NAME: QCS25LW	
APPROVED BY: J.W.F.	SCALE: 1"=1000'

C:\Users\jw\Documents\Quality Coal Co., Inc.\QCS25LW.dwg



STATE OF ALABAMA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
WILDLIFE AND FRESHWATER FISHERIES DIVISION
64 NORTH UNION STREET, SUITE 567
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MONTGOMERY, ALABAMA 36130-1456
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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
ASST. DIRECTOR

March 10, 2010

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

**Re: Quality Coal, Inc.
Sparks Branch Mine No. 2**

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 by letter dated February 22, 2010 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.
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 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



PERC
ENGINEERING CO., INC.

2010-TA-0308

EB 24 2010

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

February 22, 2010

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

Post-it® Fax Note	7671	Date	3/10/10	# of pages	1
To	Heath Franks		FROM: Sandy M		
Co./Dept.	PERC		Co.: USFWS		
Phone #			Phone #: 251-441-5184		
Fax #	205-295-3114		Fax #: 251-441-6222		

RE: Quality Coal, Inc.
Sparks Branch Mine No. 2

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 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>).

William J. Pearson
William J. Pearson, Field Supervisor

3/10/2010
Date

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