

TASK ENGINEERING MANAGEMENT INC.

**PO Box 660548
BIRMINGHAM, ALABAMA 35266
(205) 978-5070**

February 20, 2010

Ms. Jo Lewis
Alabama Department of Conservation & Natural Resources
64 North Union Street
Montgomery, Alabama 36130-0900

Re: CDM Mining & Equipment, LLC.
Masseyline Mine

Dear Ms. Lewis:

Please accept this letter as our request for comments from your office regarding the proposed surface coal mine site of Masseyline Mine.

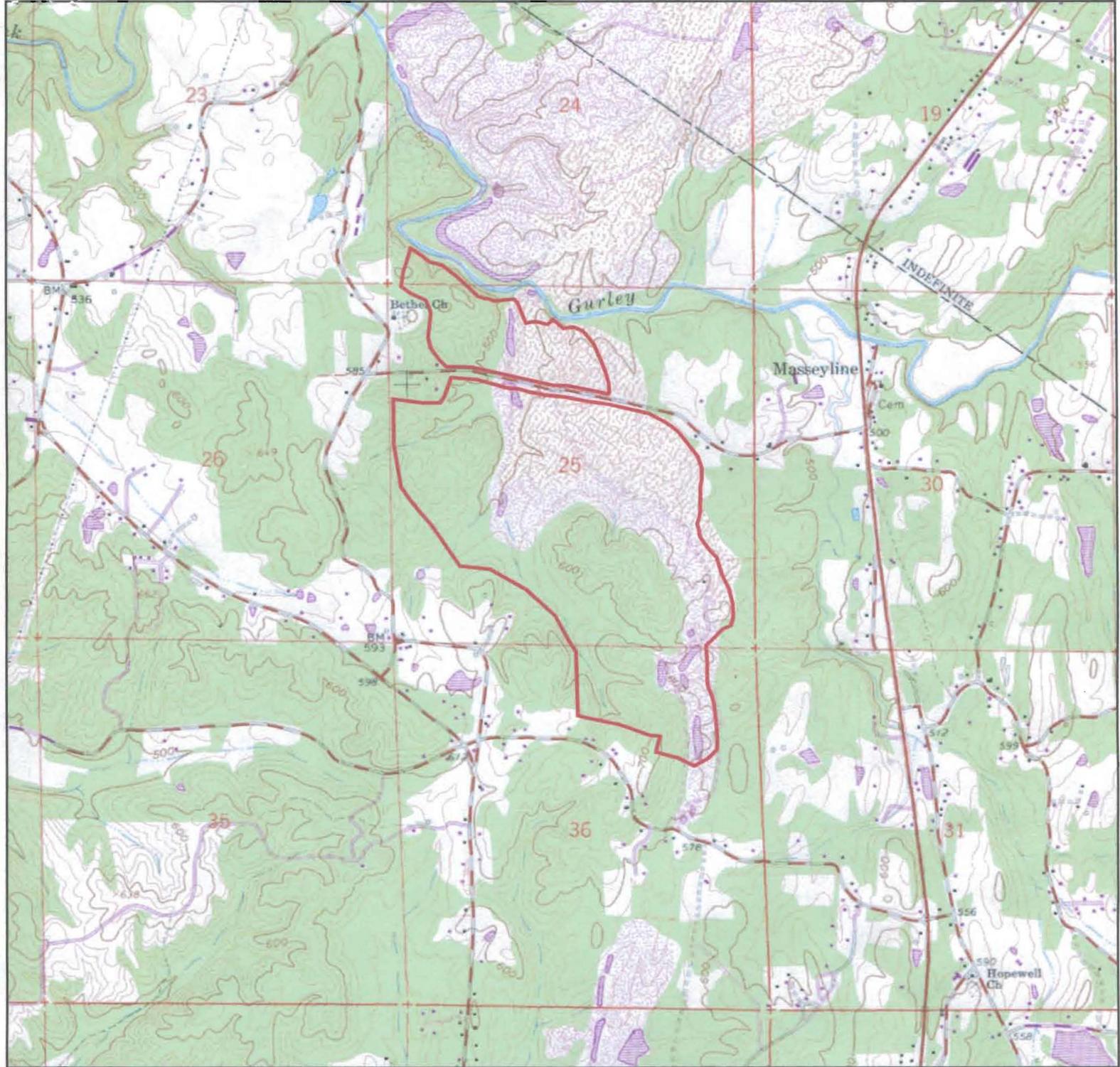
We are in the process of applying for a mining permit on approximately 437 acres in Sections 25 and 26, Township 14 South, Range 2 West as depicted on the Trafford U.S.G.S Quadrangle map located in Walker County, Alabama. The proposed site location is shown on the attached "Project Location Map" included with this request.

If you have any questions or need additional information, please call us at your convenience at (205)978-5070.

Sincerely,



Jerry W. Williams,
Ala. PE #12739



**PROJECT LOCATION MAP
SECTIONS 25 & 36
TOWNSHIP 14 SOUTH, RANGE 2 WEST
JEFFERSON COUNTY, ALABAMA**



TOTAL PROPOSED DISTURBED AREA - 437.16 ACRES
BASE MAP: TRAFFORD U.S.G.S. QUADRANGLE MAP

PROPOSED PERMIT BOUNDARY

SHEET
1 OF 1

SCALE
1" = 2000'

CLIENT / MINE
**CDM MINING & EQUIPMENT, LLC.
MASSEYLINE MINE**

TASK EMI
CONSULTING ENGINEERS
P.O. BOX 660548
BIRMINGHAM, ALABAMA 35266
(205) 978-5070 FAX (205) 874-6184



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

BOB RILEY
GOVERNOR

M. BARNETT LAWLEY
COMMISSIONER

HOBBIE SEALY
ASSISTANT COMMISSIONER

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GREGORY M. LEIN, ASSISTANT DIRECTOR
STATE LANDS DIVISION

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

February 25, 2010

Mr. Jerry Williams
Task Engineering Management Inc.
P.O. Box 660548
Birmingham, AL 35266

RE: Sensitive Species Information request
CDM Mining & Equipment, LLC - Masseyline Mine

Dear Mr. Williams:

The Natural Heritage Section office received your letter dated 2/20/2010 addressed to Jo Lewis on 2/25/2010 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 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 0.6 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



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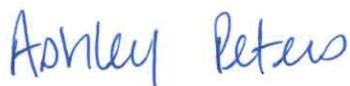
coal mining); habitat fragmentation and related increased vulnerability to human-caused catastrophes and demographic accidents also appear to be problems.*

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/>
<http://www.natureserve.org/explorer/>

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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	Finlined 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 (*Elptio 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.