

Attachment 2

U.S. Fish and Wildlife Service

May 23, 2005 Correspondence



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1208-B Main Street
Daphne, Alabama 36526

IN REPLY REFER TO:
05-0401

May 23, 2005

District Engineer
U.S. Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214

Attention: Ms. Lisa Morris

Dear Sir or Madam:

This is the report of the U.S. Fish and Wildlife Service (Service) concerning public notice 05-24, application No. 200500835 joint public notice U.S. Army Corps of Engineers (Corps), Tennessee Valley Authority (TVA), and the State of Alabama, in which the applicant, Alabama Department of Transportation (ALDOT), is proposing wetland and stream fill associated with the expansion of State Route (SR) 24 (Corridor V of the Appalachian Development Highway System) from the Mississippi state line to SR 247, Franklin County, Alabama.

The proposed work involves the construction of a four-lane highway on existing and new alignment, south of the City of Red Bay, Franklin County, Alabama, starting at the Mississippi/Alabama state line, continuing east to the junction with SR 247. As described, the purpose of the project is to expand the existing SR 24 from a two-lane to a four-lane highway with a median and two travel lanes. In so doing, this project would require the placement of fill material into 3.23 total acres of jurisdictional wetlands and 0.43 total acres of stream channel to construct highway, culverts, pipes, and erosion control (i.e. riprap) at culvert/pipe outlets. As designed, two tributaries would be relocated. ALDOT proposes to mitigate for these wetland impacts by debiting 3.23 credits from the ALDOT Jackson County Mitigation Bank, located near the town of Stevenson, Jackson County, Alabama. One credit is equal to 2 wetland acres (i.e. 2:1 ratio) at the ALDOT bank. ALDOT proposes stream mitigation through in-kind channel reconstruction and on-site tree and shrub mixture plantings to the south of the relocated stream channels. The purpose of the project is to provide the public a safe and efficient transportation facility to meet existing and projected future traffic demands.

This report is prepared in accordance with the requirements of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), and Fish and Wildlife Coordination Act (16 U.S.C. 661-667e) and is to be used in your determination of 404 (b) (1) guidelines compliance (40 CFR 230) and in your public interest review (33 CFR 320.4) as they relate to protection of fish and wildlife resources.

www.fws.gov

PHONE: 251-441-5181



FAX: 251-441-6222

5/23/05

Files	JMP
	JGP
	SDM
SEW /	RLM
SAW	WRM
MDW	LNM
HLT	KRK
SJS	CJH
JDS	DSG
DJS	BGF
JCR	CLC
DLR	WB
RLP	JKA
Pickwick-Wheeler Watershed Team	

A review of the Service's endangered species database revealed that the proposed project is located approximately 7 miles upstream of the designated Critical Habitat for the Cumberlandian combshell mussel (*Epioblasma brevidens*), an endangered species. Critical Habitat was designated for this species in September 2004 and was delineated as follows: Bear Creek from backwaters of Pickwick Lake at river mile 23, Colbert County, Alabama, upstream through Tishomingo County, Mississippi, ending at the Alabama/Mississippi state line (USFWS 2004). Hence, the designation took place after the environmental review conducted by ALDOT for this project (date of project approval: February 10, 2003). However, since the project is located upstream and outside Critical Habitat for this species, we conclude this project would not appreciably diminish the value of Critical Habitat for the Cumberlandian combshell mussel. Therefore, formal consultation for this mussel and its Critical Habitat is not needed.

Further review of our database revealed the project is located within the range of the federally-listed endangered Leafy prairie clover (*Dalea foliosa*), the endangered Tennessee yellow-eyed grass (*Xyris tennesseensis*), the threatened Lyrate bladderpod (*Lesquerella lyrata*), and the threatened Eggert's sunflower (*Helianthus eggertii*). A vegetative survey was conducted for this project in January 2001. That survey found no Leafy prairie clover, Tennessee yellow-eyed grass, or Lyrate bladderpod within the bounds of the proposed highway expansion alignment/right-of-way. In January 2001, there was no knowledge or historical records of the Eggert's sunflower being located in Franklin County, Alabama. Therefore, ALDOT's contract botanist did not search for the sunflower.

However, later that same year (during the fall of 2001), a private consultant botanist for TVA found a population of Eggert's sunflower while surveying for listed plant species on a separate state highway project (expansion of SR 13) located in Franklin County, Alabama. Since this new population of Eggert's sunflower was found, the Service has added the sunflower to the list of federally endangered and threatened species known to occur in Franklin County.

On April 28, 2005, a representative of ALDOT contacted the Service to discuss the need for conducting further vegetative surveys along the SR 24 expansion alignment to account for the presence/absence of Eggert's sunflower. In subsequent phone calls between Service biologists, it was determined that further vegetative surveys would be necessary to verify this plant's presence/absence along the proposed project alignment. On May 2, 2005, the Service contacted ALDOT to inform them of the need for further botanical surveys. ALDOT informed the Service that the consulting botanist who originally surveyed this project would be contracted to survey this area once again for the listed plant species.

On May 9, 2005, representatives from the Corps, TVA, ALDOT, and the Service visited the proposed project site(s) to review project plans and to discuss project impacts on fish, wildlife, and plant resources. Concerns for a federally-listed threatened plant species, potentially located on, or near, the proposed highway construction alignment, as well as, the impacts to wetlands and streams were discussed. At the time agency representatives met, ALDOT's contract botanist had not conducted the re-survey of the area. Agency representatives visited several sites where streams and/or wetlands would be affected by the proposed project. The discussion at these sites mostly concentrated on how wetland and stream impacts would be mitigated both on and off-site.

The project area was re-surveyed on May 9, 2005 by Mr. Scott Gunn, Southeastern Botanical Survey, to verify the presence of the four listed plant species known to occur in Franklin County, plus an additional Federally threatened species, the Price's potato-bean (*Apios priceana*). Mr. Gunn re-surveyed several marginally suitable habitat sites for these species located along the proposed highway alignment. However, none of the listed plant species were found during his survey effort.

We reviewed Mr. Gunn's survey results and by this letter to the ALDOT, the Service concurs with those results. The Service concludes, therefore, no further endangered species consultation would be required for this project, unless: 1) the identified action is subsequently modified in a manner that causes an effect on listed species or a designated Critical Habitat; 2) new information reveals the identified action may affect Federally protected species or designated Critical Habitat in a manner or to an extent not previously considered; or 3) a new species is listed or Critical Habitat is designated under the Endangered Species Act that may be affected by the identified action.

The stream channel mitigation proposed for this project is reasonable, but we believe that the design of the stream channels should be re-evaluated. We encourage ALDOT to avoid use of concrete-lined and/or riprap lined channels. Instead, we recommend the employment of bioengineering techniques for stream channel and stream bank design such as use of coir matting, logs, blankets or similar products; particularly in ephemeral or intermittent channels. For perennial flowing streams, we recommend incorporating native materials such as logs, rootwads, and large rock into stream channel design in an attempt to mimic natural conditions of the subject stream channel. Stream channel designs should reflect that of the existing stream conditions. For instance, the impacted stream channel's dimension, pattern, and profile should be matched in the design of the relocated or altered stream channel. We concur with ALDOT, all stream channels and stream banks altered by the proposed action would be mitigated by reestablishment, and in some cases, establishment of a vegetated buffer (riparian) along the length of these impacted stream reaches. We recommend the planting of native trees and shrubs consistent with those species growing in riparian areas of streams in northwest Alabama.

As proposed, three existing culvert structures would be extended and three new culverts would be constructed to accommodate stream flows under the proposed highway facility. ALDOT proposes to place differing lengths of riprap downstream of the outlet of each of these culverts to help protect these structures from erosion and to minimize stream incision downstream from these structures. We appreciate ALDOT's concern with regard to stream incision (down-cutting), however, we recommend, where practicable, the reduction in the amount of riprap placed in the stream channel to accomplish this measure.

We recommend culvert structures be oversized to accommodate appropriate flood events and be placed below existing stream substrate levels to reduce the likelihood of stream incision (down-cutting) occurring downstream of the culvert outlet. The culverts should also be placed at, or near the slope of the existing stream channel. By burying the oversized culvert, aquatic organisms utilizing these stream reaches are afforded easy access into and migration through these structures. After the culvert is properly placed and once stream flows are returned through

the structure, stream substrata (sediment, gravel, cobble) would move into the bottom of the culvert and settle out, forming a similar streambed that occurs upstream and downstream from the structure. These conditions are desirable for the aquatic biota as compared to a culvert structure with an exposed, corrugated or concrete-lined bottom.

Three bridges are proposed for construction. We understand that each bridge would require the construction of bridge piers to support the bridge decking. The bridge piers for the bridges crossing Bear Creek proper and Mud Creek, a tributary to Bear Creek, would have direct impacts on these streams. Therefore, all measures necessary to protect water quality and aquatic habitat near these structures should be employed. A third bridge would be constructed between Mud Creek and Bear Creek and would act as a relief structure to accommodate flood waters occurring on the shared floodplain of these two streams.

We concur with ALDOT's proposal to mitigate, in-kind wetland impacts at their Jackson County Wetland Mitigation Bank. However, since this project is located west of the I-65 corridor in the Tennessee Valley, it would fall into the service area for the Town Creek Wetland Mitigation Bank, located near the town of Wolf Springs, Alabama on state route 157. Once ALDOT's Town Creek Wetland Mitigation Bank receives final approval to release credits, we recommend the credits debited from the Jackson County bank for this project be transferred to the Town Creek bank. We continue to encourage avoidance of wetlands; minimization of wetland impacts; and finally, when wetlands are impacted, we recommend mitigation of those impacts within the same watershed; where practicable.

Best Management Practices (BMPs) are essential in minimizing adverse impacts to fish and wildlife resources. Therefore, BMPs and their appropriate use should be employed prior to and maintained throughout the duration of the project (e.g. during all phases of construction for this project) to avoid or minimize sedimentation into Bear Creek, Mud Creek, and the various tributaries to Bear Creek impacted by this project. To further reduce sedimentation impacts into Bear Creek proper and the Tennessee River, the Service recommends that the proposed activities occur during low flow conditions (generally July through September). As noted above, this project is located upstream from the designated Critical Habitat for the Cumberlandian combshell mussel (*Epioblasma brevidens*). Therefore, any and all activities associated with the construction of this highway facility need to be conducted in a manner to eliminate and/or reduce sedimentation and erosion impacts in Bear Creek. Waterbodies adjacent to land disturbance activities should be protected from surface runoff, rill erosion, streambank sloughing, and gullyng. We recommend the use of erosion control devices, such as silt fences, hay bales, and straw mulch to reduce sedimentation. These control measures should be constructed appropriately, to design specifications.

No significant adverse effects on fish and wildlife resources are expected to result from the proposed action if the BMPs and stream channel mitigation, as proposed, is implemented. Therefore, the Service has no objections to the issuance of this permit. Our comments are provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

We appreciate the opportunity to comment on this project and request that we be kept informed of the progress of this project. For questions or concerns please call Mr. Rob Hurt of my staff at (256)353-7243, ext. 29.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry E. Goldman". The signature is fluid and cursive, with the first name "Larry" being the most prominent.

Larry E. Goldman
Field Supervisor

cc: Mr. Stephen Williams, TVA, Muscle Shoals, AL ✓
Mr. Jon Hornsby, Alabama Wildlife & Freshwater Fisheries Division, Montgomery, AL
Ms. Tonya Mayberry, ADEM, Montgomery, AL
Ms. Morgan Jackson, EPA, Atlanta, GA
Mr. Rob Hurt, USFWS, Decatur, AL