

Encls

CF:

Mr. Zachary H. Turner
Garver, LLC
5125A Research Drive
Huntsville, AL 35805

✓ Ms. Samantha Strickland
Tennessee Valley Authority
Reservoir Land Use and Permitting
1010 Reservation Road
Muscle Shoals, AL 35662-1010

Mr. Anthony Ford
US Fish and Wildlife Service
1208-B Main Street
Daphne, AL 36526



**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NASHVILLE DISTRICT
WESTERN REGULATORY FIELD OFFICE
2042 BELTLINE ROAD SW
BUILDING C SUITE 415
DECATUR AL 35601-9990**

April 29, 2011

Regulatory Branch

SUBJECT: File No. LRN-2011-00100; Proposed Aerial Sanitary Sewer Line Crossing at Limestone Creek Mile 16.9, a Tributary to Tennessee River Mile 310.7, Right Bank, Limestone County, AL

Mr. Shane Davis
City Engineer
320 Fountain Circle
Huntsville, Alabama 35801

Dear Mr. Davis:

This is in further regard to your Public Notice 11-12, which expired on April 15, 2011.

Enclosed are copies of the comments we received. It is the policy of the Department of the Army to refer the comments to the applicant to afford an opportunity to resolve or rebut them. The first letter is from the U.S. Fish and Wildlife Service. This letter requests certain information (surveys) regarding the potential impact to particular species of concern. Please coordinate any plan(s) to survey through my office prior to commencing. We need to verify that it would be sufficient to assess the issues brought forward.

We would appreciate receiving your specific comments on the various points raised within 45 days from the date of this letter. If you require more time to gather and submit this information, you should contact us as soon as possible. You may voluntarily elect to contact any commenting party to discuss issues that have been raised or to attempt to resolve any objections, but you are not required to do so.

If you have any questions regarding this matter or any of the letters or comments enclosed, please contact me at the above address, telephone (256) 350-5620.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary L. Davis".

Gary L. Davis
Project Manager
Operations Division



United States Department of the Interior

FISH AND WILDLIFE SERVICE
1208-B Main Street
Daphne, Alabama 36526

Received

22 APR 2011

CELRN-OP-F/W

APR 20 2011

IN REPLY REFER TO:
2011-CPA-0121

Nashville District Corps of Engineers
Western Regulatory Field Office
2042 Beltline Road SW
Building C, Suite 415
Decatur, Alabama 35601

ATTN: Mr. Gary L. Davis

Dear Sir:

This is the report of the U.S. Fish and Wildlife Service (Service) concerning public notice (PN) No. 11-12, application No. 2011-00100, joint public notice between the U.S. Army Corps of Engineers (Corps), Tennessee Valley Authority (TVA), and the State of Alabama, Department of Environmental Management (ADEM). The applicant, City of Huntsville, is requesting authorization to discharge fill material into Limestone Creek approximately 40 feet south of the Alabama State Highway 72 bridge, Limestone County, Alabama. The proposed work consists of the construction of an aerial sanitary sewer line across Limestone Creek in order to extend sanitary sewer service to recently annexed property.

We understand that the pipe (12" ductile iron pipe) would span the creek approximately 86 linear feet and be supported by two concrete piers within the stream, spaced 46 feet on center. Sheet piling would be used to construct a cofferdam during pier construction to provide a dry work area. In order to protect the piers and creek banks, approximately 15 cubic yards of Class 2 size riprap would be placed around the two piers and would extend to the top of bank on each side of the creek.

This report is prepared in accordance with the requirements of the Fish and Wildlife Coordination Act (16 U.S.C. 661-667e) and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.)(ESA), 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.

Endangered Species Act

Our records indicate that the following endangered freshwater snails may occur within or near to the project area:

www.fws.gov

PHONE: 251-441-5181



FAX: 251-441-6222

Armored snail (*Marstonia pachyta*) – Endangered
Slender campeloma (*Campeloma decampi*) – Endangered
Anthony's riversnail (*Athearnia anthonyi*) – Endangered.

Species status surveys were conducted by Jeff Garner of the Alabama Department of Conservation and Natural Resources and Dr. Tom Haggerty of the University of North Alabama at bridge crossings within Limestone Creek during 2006 for all three of the above listed snails. Alabama State Highway 72 bridge was not a survey site, however surveys were conducted at crossings both upstream and downstream of the proposed project site. The armored snail and slender campeloma were collected both upstream of the proposed project site at the Capshaw Road bridge crossing and downstream at the County Road 24/Peets Corner Road bridge crossing. The Anthony's riversnail has been collected downstream near Salem Corner/Anderson Cemetery (RM 12.3) and during the 2006 survey at the Old Highway 20 bridge crossing.

If a boring method such as push bore or directional drill can be utilized as a construction alternative to avoid impacts the stream bottom, or if the project could aerially span the creek without the aid of instream construction activity, we agree that the project will not likely adversely affect the above listed species. Therefore, no further endangered species consultation will be required for the project unless: 1) the identified action is subsequently modified in a manner that causes an effect on a listed species or on proposed or 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 a critical habitat is designated under the ESA that may be affected by the identified action.

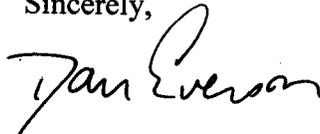
However, if construction disturbance cannot be altered from what is currently proposed, we would recommend that a survey for these species and their habitats be conducted within the proposed project area beginning 100 yards upstream of the proposed project site to 300 yards downstream of the proposed project site. If surveys indicate that listed snails occur within the proposed project area and proposed work cannot be altered to avoid **take** as defined by the ESA, formal consultation would be recommended. Take as defined in the ESA is: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct.

Prior experience with each of these species is strongly recommended for the consultant(s) undertaking the survey, and valid state and federal collection permits for work with these species are required. If the qualitative survey documents the presence of listed species in the project area, we recommend that a subsequent quantitative survey be performed to quantify densities of listed snails within the proposed impacted area, as it is likely that formal consultation will be necessary. The survey report should include a detailed description of the site including species and substrates present, survey methods, and surveyor(s) credentials. We also recommend the report include a description of stream habitat and water quality conditions using physical and biological indicators, including depths, substrates, flow, and any evidence of sedimentation or algal cover at multiple sample points. We request a chance to review the consultant's proposed survey design prior to the survey being conducted.

We recommend that best management practices (BMPs) be implemented to minimize erosion and sedimentation into streams. We also recommend developing an erosion control plan tailored to the proposed project. All erosion controls should be inspected routinely, especially during and immediately following significant rain events, to insure no impacts to nearby surface waters and aquatic habitat. Immediate corrective action should be taken if erosion or sedimentation is observed. Maintenance of vegetated buffers (preferably 100 feet or greater) adjacent to streams and any ditches or drainages is also recommended to reduce erosion, as is immediate revegetation of disturbed areas with a native species or an annual grass.

Due to our concerns, we cannot conclude our ESA review and request that this application be held in abeyance pending receipt and review of requested information by the Service and until ESA concerns are satisfied. Please keep us informed of your decision. For further discussion, please contact Mr. Anthony Ford of my staff at (251) 441-5838.

Sincerely,



Dan Everson
Deputy Field Supervisor
Alabama Ecological Services Field Office

cc: Mr. Shane Davis, City Engineer, Huntsville, AL
ADEM, Field Operations Division, Montgomery, AL
Tennessee Valley Authority, Pickwick-Wheeler Watershed Office, Muscle Shoals, AL



STATE OF ALABAMA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
64 NORTH UNION STREET, SUITE 464
MONTGOMERY, ALABAMA 36130

Received
14 APR 2011
CELNRN-OP-F/W

ROBERT BENTLEY
GOVERNOR

N. GUNTER GUY, JR.
COMMISSIONER

CURTIS JONES
ASSISTANT COMMISSIONER

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

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

April 11, 2011

Nashville District Corps of Engineers
Western Regulatory Field Office,
Gary L. Davis
2042 Beltline Road SW
Building C, Suite 415
Decatur, AL 35601

Re: Public Notice No. 11-12
City of Huntsville, Limestone County

Dear Mr. Davis:

The Alabama Department of Conservation and Natural Resources has reviewed the above referenced public notice and submits the following comments:

- The Division of Wildlife and Freshwater Fisheries personnel has determined that this project may impact several state- and federally-protected species. The armored marstonia *Pyrgulopsis pachyta*, Anthony's riversnail *Athearnia anthonyi*, and slender campeloma *Campeloma decampi* are restricted to a few isolated locations in Alabama and are known to inhabit Limestone Creek. Siltation, poor land use practices, and water quality degradation have contributed to their decline. In addition, Tennessee pigtoe *Pleuroaia barnesiana*, a rare freshwater aquatic mussel, may be present at this location. This species is designated as a greatest conservation need (GCN) species in Alabama's Comprehensive Wildlife Conservation Strategy (<http://www.outdooralabama.com/research-mgmt/cwcs/>). GCN is conservation planning rather than a regulatory designation intended to identify species that are declining and in need of active conservation, with the intent of avoiding the need for regulatory protection. Due to the potential for adverse impacts to state- or federally-protected species, a sensitive species survey and habitat assessments by a qualified biologist is strongly recommended. We request the opportunity to review any surveys conducted at the project site. Please contact the U.S. Fish and Wildlife Service regarding potential impacts to federally-protected species (251-441-5181).
- We encourage the proper installation and implementation of best management practices as outlined in the Alabama Handbook for Erosion Control in order to

minimize erosion and migration of sediments into wetland and stream areas. Appropriate siltation barriers include: green zones, sod strips, silt fences, erosion eels or other superior means of erosion control that will minimize siltation area authorized in the finalize permit.

- The State Lands Division personnel has determined that this project will impact state-owned submerged lands. The applicant must coordinate with the State Lands Division to obtain the proper permits for these impacts. Please contact Mr. Will Brantley at (334)242-3484.

Sincerely,



N. Gunter Guy, Jr.
Commissioner
NGGJ/dd

Cc: State Lands Division (Doug Deaton, Will Brantley)
Wildlife and Freshwater Fisheries

91 7108 2133 3936 5740 1966

LANCE R. LEFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

Received

07 APR 2011

CELRN-OP-F/W

April 7, 2011

CERTIFIED MAIL

CITY OF HUNTSVILLE
ATTN SHANE DAVIS
320 FOUNTAIN CIRCLE
HUNTSVILLE AL 35801

Re: FEE NOTICE AND INFORMATION REQUEST
Clean Water Act (CWA) Section 401 Water Quality Certification
Corps of Engineers (COE) JPN# AL11-12 Issued March 15, 2011
Proposed waterbottom fill for the purpose of construction of an aerial sanitary sewer line
Limestone County (083)

Dear Mr. Davis:

By adoption of the Environmental Management Commission, the Alabama Department of Environmental Management charges processing fees for its permit and certification actions. The enclosed schedule describes project types requiring water quality and coastal certifications and their associated processing fees.

As stated on the 404 application form that you filed with the Corps, please be advised that a fee of **\$1,980** is required prior to ADEM processing of the permit application. Our records indicate that the application fee for water quality certification of the above-referenced project has not been received.

Please include a cover letter with any check submitted or write the proposed project's COE Permit # on the check. You are requested to submit this processing fee to the Department within **fourteen (14)** days of receipt of this letter, unless extended in writing by the Department. **The check should be made payable to the Alabama Department of Environmental Management (ADEM)** and submitted to:

Alabama Department of Environmental Management
Attn: **Office of Field Services**
Field Operations Division
PO Box 301463
Montgomery, Alabama 36130-1463

Also, please submit the following information regarding the proposed project:

1. Please submit to the Department a copy of the **ADEM Form 166 11-06** ADEM-COE Joint 404-401 application (www.adem.state.al.us/DeptForms/Formpdf.htm) titled "Joint Application and Notification, U.S. Department of Army, Corps of Engineers, and Alabama Department of Environmental Management", that you filed with the Nashville District Corps, or complete and return the attached application directly to the Department.
2. Please submit to the Department a copy of the Department of the Army/TVA Joint Application Form that you filed with the Nashville District Corps of Engineers.
3. Color map(s) indicating where the impacts will occur.

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

4. List indicating the type and amount of impacts to streams (i.e. pipe, road culvert, earthen fill).
5. Linear feet of water-bottom impacted by culvert.
6. Linear feet of water-bottom impacted by fill.
7. Amount of wetland dredge in cubic yards.
8. Amount of water-bottom dredge in cubic yards.
9. Amount of wetland fill in cubic yards.
10. Amount of water-bottom fill in cubic yards.
11. Wetland area impacted in sq. ft. or acres.
12. Water-bottom area impacted in sq. ft. or acres.
13. A plan including illustrations detailing how the pipe(s)/culvert(s) will be designed/implemented/constructed with a base flow channel or configuration to ensure adequate concentrated and unobstructed flow of water during periods of low flow, including burying the bottom of any culvert/structure at a sufficient depth considering the hydraulic gradient of the existing channel to provide for a stable sediment streambed through the culvert/structure, or a bottomless culvert can be installed where the stream bottom is bedrock or as otherwise determined suitable by the design engineer.
14. Submit a schedule detailing the timing and sequencing/phasing of events, activities, and practices during construction/implementation of the project.

Unless extended in writing by the Department, the requested technical information and a copy of the 404 application filed with the Corps of Engineers should be submitted within **fourteen (14) days** of receipt of this letter to:

Aaron Peters
Office of Field Services
Alabama Department of Environmental Management
PO Box 301463
Montgomery, Alabama 36130-1463

The Corps issues a Joint Public Notice (JPN) for proposed CWA §404 individual permit coverage once the Corps has made a preliminary decision that the applicant has met applicable Corps technical and administrative requirements. This JPN serves as the applicant's request for ADEM CWA §401 State water quality certification. The applicant is contacted by ADEM to request that the appropriate processing fee and any needed technical information be submitted in order that State water quality review can be completed.

If the required water quality certification fee and requested project information are not submitted, the Department will have no choice but to inactivate your application for water quality certification, and notify the Corps that water quality certification is denied because the required water quality certification processing fee has not been submitted or certification has not been properly requested. Denial of water quality certification may result in denial, suspension, or revocation by the Corps of any pending applications or approvals related to this project.

In addition, once the public comment period ends, the Corps will provide ADEM copy(s) of all correspondence/comments received along with applicable responses to the comments by the Corps and/or the applicant. The Corps will then make a formal request to ADEM for a decision relative to water quality certification. Please be advised that ADEM will be unable to make a final decision relative to CWA §401 State water quality

City of Huntsville
April 7, 2011
Page 3 of 3

certification until the Corps provides ADEM with a formal request for certification, including copy(s) of any comments received and any responses from the Corps and/or the applicant.

If you have any questions regarding this matter, please contact **Aaron Peters, Office of Field Services**, by email at **dapeters@adem.state.al.us** or by phone at **(334) 394-4310**.

Sincerely,



Richard Hulcher, Chief
Office of Field Services
Field Operations Division

RFH/DAP

Enclosure: **Fee Schedule**
 ADEM Form 166 11-06

File: FEEL

c: Nashville COE
 Permits & Services Division, ADEM
 Wetlands Section, EPA Region IV



STATE OF ALABAMA
ALABAMA HISTORICAL COMMISSION
468 SOUTH PERRY STREET
MONTGOMERY, ALABAMA 36130-0900

FRANK W. WHITE
EXECUTIVE DIRECTOR

April 1, 2011

TEL: 334-242-3184
FAX: 334-240-3477

Gary L. Davis
USACE Nashville District
2042 Beltline Road SW
Building C, Suite 415
Decatur, Alabama 35601

Re: AHC 11-0460
COE-T Public Notice 11-12
Aerial Sewer Line Crossing
Limestone County, Alabama

Dear Mr. Davis:

Upon review of the above referenced project, we have determined that the project activities will have no effect on any known cultural resources listed on or eligible for the National Register of Historic Places. Therefore, we concur with the proposed project activities.

However, should artifacts or archaeological features be encountered during project activities, work shall cease and our office shall be consulted immediately. Artifacts are objects made, used or modified by humans. These include but are not limited to arrowheads, broken pieces of pottery or glass, stone implements, metal fasteners or tools, etc. Archaeological features are stains in the soil that indicate disturbance by human activity. Some examples are postholes, building foundations, trash pits and even human burials. This stipulation shall be placed on the construction plans to insure contractors are aware of it.

We appreciate your efforts on this project. Should you have any questions, please contact Greg Rhinehart at (334) 230-2662. Please have the AHC tracking number referenced above available and include it with any correspondence.

Truly yours,

Elizabeth Ann Brown
Deputy State Historic Preservation Officer

EAB/GCR/gcr

Received

11 APR 2011

CELRN-OP-F/W