



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

1208-B Main Street  
Daphne, Alabama 36526

SEP 08 2010

IN REPLY REFER TO:  
2010-I-0698

Dr. William E. Puckett, State Conservationist  
Natural Resources Conservation Service  
P.O. Box 311  
Auburn, Alabama 36831-0311

Dear Dr. Puckett:

Thank you for your letter of August 16, 2010, requesting that the U.S. Fish and Wildlife Service (Service) review and provide Endangered Species Act (ESA) Section 7 concurrence with the Natural Resources Conservation Service's (NRCS) effect determinations contained within the: "NRCS Conservation Practice Effects on Federal Threatened & Endangered Species: USFWS-NRCS Interagency Consultation Matrix", for ESA listed species in Alabama.

This programmatic consultation results from numerous interagency meetings, site visits, and teleconference calls, beginning in December 2009, between the staffs of the NRCS, the Service, and the Alabama Department of Conservation and Natural Resources (ADCNR). The consultation matrix specifically addresses the implementation of 132 conservation practice standards (CPS) on listed species in Alabama. The CPS are used by the NRCS in providing technical and financial assistance to private landowners to improve soil, water, air, plant, and animal resources on their lands. This programmatic consultation specifically outlines a proposed ESA compliance process that the NRCS would utilize to determine effects to federally listed species that may occur as the result of implementation of these practice standards in the state of Alabama. We have reviewed this document and are providing the following comments in accordance with the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

### Threatened and Endangered Species

The following federally listed species are currently listed in the state of Alabama; as such the following species were evaluated during this programmatic consultation. Species may be listed, delisted, or listing status may change in the future, so this consultation will periodically need to be revisited and consultation reinitiated to address these changes.

	<b>Common Name</b>	<b>Scientific Name</b>	<b>Status*</b>
<b>Birds</b>	Plover, piping	<i>Charadrius melodus</i>	T, CH
	Stork, wood	<i>Mycteria americana</i>	E
	Woodpecker, red-cockaded	<i>Picoides borealis</i>	E

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<b>Mammals</b>	Bat, gray	<i>Myotis grisescens</i>	E
	Bat, Indiana	<i>Myotis sodalis</i>	E
	Manatee, West Indian (Florida)	<i>Trichuchus manatus</i>	E
	Mouse, Alabama beach	<i>Peromyscus polionotus ammobates</i>	E, CH
	Mouse, Perdido Key beach	<i>Peromyscus polionotus trissyllepsis</i>	E, CH
<b>Herptiles</b>	Salamander, flatwoods	<i>Ambystoma cingulatum</i>	T
	Salamander, Red Hills	<i>Phaeohnathus hubrichti</i>	T
	Sea turtle, green	<i>Chelonia mydas</i>	T
	Sea turtle, hawksbill	<i>Eretmochelys imbricata</i>	E
	Sea turtle, Kemp's ridley	<i>Lepidochelys kempii</i>	E
	Sea turtle, leatherback	<i>Dermochelys coriacea</i>	E
	Sea turtle, loggerhead	<i>Caretta caretta</i>	T
	Snake, eastern indigo	<i>Drymarchon corais couperi</i>	T
	Tortoise, gopher	<i>Gopherus polyphemus</i>	T
	Turtle, Alabama red-belly	<i>Pseudemys alabamensis</i>	E
Turtle, flattened musk	<i>Sternotherus depressus</i>	T	
<b>Fish</b>	Cavefish, Alabama	<i>Speoplatyrhinus poulsoni</i>	E, CH
	Chub, spotfin	<i>Erimonax monachus</i>	T
	Darter, boulder	<i>Etheostoma wapiti</i>	E
	Darter, goldline	<i>Percina aurolineata</i>	T
	Darter, slackwater	<i>Etheostoma boschungii</i>	T, CH
	Darter, snail	<i>Percina tanasi</i>	T
	Darter, vermilion	<i>Etheostoma chermocki</i>	E
	Darter, watercress	<i>Etheostoma nuchale</i>	E
	Sculpin, pygmy	<i>Cottus paulus (=pygmaeus)</i>	T
	Shiner, blue	<i>Cyprinella caerulea</i>	T
	Shiner, Cahaba	<i>Notropis cahabae</i>	E
	Shiner, palezone	<i>Notropis albizonatus</i>	E
	Sturgeon, Alabama	<i>Scaphirhynchus suttkusi</i>	E, CH
	Sturgeon, Gulf	<i>Acipenser oxyrinchus desotoi</i>	T, CH
<b>Inverts</b>	Acornshell, southern	<i>Epioblasma othcaloogensis</i>	E, CH
	Bankclimber, purple	<i>Elliptoideus sloatianus</i>	T, CH
	Bean, Cumberland	<i>Villosa trabalis</i>	E
	Blossom, turbercle	<i>Epioblasma torulosa torulosa</i>	E
	Blossom, turgid	<i>Epioblasma turgidula</i>	E
	Blossom, yellow	<i>Epioblasma florentina florentina</i>	E
	Campeloma, slender (snail)	<i>Campeloma decampi</i>	E
	Clubshell	<i>Pleurobema clava</i>	E
	Clubshell, black	<i>Pleurobema curtum</i>	E
	Clubshell, ovate	<i>Pleurobema perovatam</i>	E, CH
	Clubshell, southern	<i>Pleurobema decisum</i>	E, CH

Combshell, Cumberlandian	<i>Epioblasma brevidens</i>	E, CH
Combshell, southern	<i>Epioblasma penita</i>	E
Combshell, upland	<i>Epioblasma metastriata</i>	E, CH
Elimia, lacy (snail)	<i>Elimia crenatella</i>	T
Fanshell	<i>Cyprogenia stegaria</i>	E
Heelsplitter, Alabama (=inflated)	<i>Potamilus inflatus</i>	T
Kidneyshell, triangular	<i>Ptychobranhus greenii</i>	E, CH
Lampmussel, Alabama	<i>Lampsilis virescens</i>	E
Lilliput, pale	<i>Toxolasma cylindrellus</i>	E
Lioplax, cylindrical (snail)	<i>Lioplax cyclostomaformis</i>	E
Moccasinshell, Alabama	<i>Medionidus accutissimus</i>	T, CH
Moccasinshell, Coosa	<i>Medionidus parvulus</i>	E, CH
Moccasinshell, Gulf	<i>Medionidus penicillatus</i>	E, CH
Monkeyface, Cumberland	<i>Quadrula intermedia</i>	E
Mucket, orangenacre	<i>Hamiota (=Lampsilis) perovalis</i>	T, CH
Mucket, pink	<i>Lampsilis abrupta</i>	E
Mussel, oyster	<i>Epioblasma capsaeformis</i>	E, CH
Pearlymussel, dromedary	<i>Dromus dromas</i>	E
Pearlymussel, littlewing	<i>Pegias fabula</i>	E
Pebblesnail, flat	<i>Lepyrium showalteri</i>	E
Pigtoe, dark	<i>Pleurobema furvum</i>	E, CH
Pigtoe, finerayed	<i>Fusconaia cuneolus</i>	E
Pigtoe, flat	<i>Pleurobema marshalli</i>	E
Pigtoe, heavy	<i>Pleurobema taitianum</i>	E
Pigtoe, oval	<i>Pleurobema pyriforme</i>	E, CH
Pigtoe, rough	<i>Pleurobema plenum</i>	E
Pigtoe, shiny	<i>Fusconaia cor</i>	E
Pigtoe, southern	<i>Pleurobema georgianum</i>	E, CH
Pimpleback, orangefoot	<i>Plethobasus cooperianus</i>	E
Pocketbook, finelined	<i>Hamiota (=Lampsilis) altilis</i>	T, CH
Pocketbook, shinyrayed	<i>Hamiota (=Lampsilis) subangulata</i>	E, CH
Purple cat's paw	<i>Epioblasma obliquata obliquata</i>	E
Riffleshell, tan	<i>Epioblasma florentina walkeri</i>	E
Ring pink	<i>Obovaria retusa</i>	E
Riversnail, Anthony's	<i>Athearnia anthonyi</i>	E
Rocksnailed, painted	<i>Leptoxis taeniata</i>	T
Rocksnailed, plicate	<i>Leptoxis plicata</i>	E
Rocksnailed, round	<i>Leptoxis ampla</i>	T
Shrimp, Alabama cave	<i>Palaemonias alabamae</i>	E
Slabshell, Chipola	<i>Elliptio chipolaensis</i>	T, CH
Snail, armored	<i>Pyrgulopsis (=Marstonia) pachyta</i>	E
Snail, tulotoma	<i>Tulotoma magnifica</i>	E
Stirrupshell	<i>Quadrula stapes</i>	E
Wartyback, white	<i>Plethobasus cicatricosus</i>	E

<b>Plants</b>	Amphianthus, little	<i>Amphianthus pusillus</i>	T
	Bladderpod, lyrate	<i>Lesquerella, lyrata</i>	T
	Button, Mohr's Barbara	<i>Marshallia mohrii</i>	T
	Chaffseed, American	<i>Schwalbea americana</i>	E
	Fern, Alabama streak-sorus	<i>Thelypteris pilosa var. alabamensis</i>	T
	Fern, American hart's-tongue	<i>Asplenium scolopendrium</i> <i>var. americanum</i>	T
	Grass, Tennessee yellow-eyed	<i>Xyris tennesseensis</i>	E
	Harperella	<i>Ptilimnium nodosum</i>	E
	Leather flower, Alabama	<i>Clematis socialis</i>	E
	Leather flower, Morefield's	<i>Clematis morefieldii</i>	E
	Pinkroot, gentian	<i>Spigelia gentianoides</i>	E
	Pitcher-plant, Alabama canebreak	<i>Sarracenia rubra alabamensis</i>	E
	Pitcher-plant, green	<i>Sarracenia oreophila</i>	E
	Pondberry	<i>Lindera melissifolia</i>	E
	Potato-bean, Price's	<i>Apios priceana</i>	T
	Prairie-clover, leafy	<i>Dalea foliosa</i>	E
	Quillwort, Louisiana	<i>Isoetes louisianensis</i>	E
	Trillium, relict	<i>Trillium reliquum</i>	E
	Water-plantain, Kral's	<i>Sagittaria secundifolia</i>	T

\*E = Endangered, T = Threatened, CH = Critical Habitat

### **Consultation Results** (see attached matrix specific CPS determinations)

As the federal action agency, you have determined that no effect (NE) will result from any of the 132 reviewed conservation practices on the following federally listed species or their critical habitats: Alabama beach mouse, Alabama streak-sorus fern, American hart's tongue fern, West Indian manatee, green sea turtle, Kemp's ridley sea turtle, loggerhead sea turtle, Perdido Key beach mouse, piping plover, and pygmy sculpin. You have also determined that a NE determination will result for the Alabama cave fish and the wood stork, except for when conservation practices result in water quality improvements to the recharge area for the habitat of the Alabama cave fish or except for when wetland restoration is implemented in wood stork habitat. When these habitat improvements result from the implementation of CPS, then a not likely to adversely affect – beneficial effect (NLAA-B) determination will result, rather than a NE.

You have also determined that 33 of the reviewed CPS will have NE on listed species, while another 14 practices will result in either a NE or a NLAA-B determination, depending upon site specific conditions as noted in the comments section of the matrix. It was also determined that 14 CPS may adversely affect listed species and would require further coordination with the Service prior to implementation on a case-by-case basis. It was determined that the remaining practices (71 CPS) may affect, but are NLAA or NLAA-B listed species. Of the 132 conservation practices, at least 54 have potential to have beneficial effects upon listed species.

## **Concurrence**

Based on the information provided during the consultation, and contained within your letter and consultation matrix, we concur with your ESA determinations, summarized above and detailed within the consultation matrix.

In view of this, we believe that your consultation requirements of section 7 of the ESA have been fulfilled. However, if: 1) the CPS is subsequently modified in a manner not previously considered that causes an effect on a listed species or on proposed or designated critical habitat; 2) new information reveals the CPS 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 implementing the CPS, NRCS should reinitiate consultation. We anticipate such issues will be addressed at our annual coordination meeting regarding this programmatic consultation.

## **Additional Comments**

We understand and share your interest in protecting your clients' personal identifiable information (PII) as mandated to all federal agencies by the Privacy Act of 1974 (88 Stat. 1896, as amended; 16 U.S.C. 552a *et seq.*). We also understand that you would like to protect the specific location of a species or a species habitat, unless given specific written permission from the clients to release this type of information. As a practice, we do not make available specific locations of listed species to the public. However, as trust resource, we may not be able to fully protect information related to the specific location of an endangered or threatened species or a species habitat under the Freedom of Information Act of 1966 (FOIA) (80 Stat. 383, as amended; 5 U.S.C. 552). However, should we receive a request for any information under the FOIA for any information generated under this or resulting consultations, we will protect PII of the landowner under the authority of the Privacy Act.

## **Conclusion**

With a majority wildlife habitats in Alabama maintained in private ownership, the NRCS has a unique opportunity to assist in the conservation and recovery of listed and candidate species in Alabama through direct contact with private landowner and with conservation programs and technical assistance efforts. Many of the CPS that are covered in this programmatic consultation could directly benefit these species by controlling erosion and sedimentation, creating new habitats, or buffering, improving, or protecting existing habitats. We would be happy to provide assistance to you during your efforts to train field personnel and District Conservationists on the implementation of this consultation matrix, as well as, help them recognize potential endangered species habitats and opportunities for conservation and/or listed species recovery.

Thank you for the opportunity to work with you and your staff on this project. We appreciate your efforts to further the conservation of federally listed species and look forward to working

with you in the future. Please contact Anthony Ford of my staff at (251) 441-5838 regarding future coordination on this programmatic consultation.

Sincerely,



William J. Pearson  
Field Supervisor  
Alabama Ecological Services Field Office

Attachment (matrix)

cc: M. N. "Corky" Pugh, Director, Wildlife and Freshwater Fisheries, ADCNR  
Mark Sasser, Nongame Wildlife Program Coordinator, ADCNR