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USFWS KYFO

Date: March 3, 2005

To: Charles H. Fox, Jr. Executive Director  
Southern Conservation Corporation  
6582 Gaines Ferry Road  
Flowery Branch, Georgia 30542

From: Richard "Rick" G. Gooch, Regional Safe Harbor/Candidate  
Conservation Coordinator, USFWS, 1875 Century Blvd, Suite 200,  
Atlanta, GA 30345  
Phone: 404/679-7124/ Fax: 404/679-7081

Subject: Issued Permit and Approved Agreement

Mr. Fox

Enclosed please find the original permit issued by the Service associated with our approval and signature of the Candidate Conservation Agreement with Assurances (CCAA) for the Greater Adams Cave Beetle and Lesser Adams Cave Beetle at Adams Cave, Madison County, Kentucky.

Please sign the CCAA and provide Mike Floyd with a copy of the signed page – you keeping the original. If any questions, please contact Mike at 502/695-0468.

THANKS!

A handwritten signature in black ink, appearing to read "Rick Gooch", with a long horizontal line extending to the right.

**CANDIDATE CONSERVATION AGREEMENT WITH ASSURANCES**  
**FOR THE GREATER ADAMS CAVE BEETLE AND**  
**LESSER ADAMS CAVE BEETLE AT ADAMS CAVE,**  
**MADISON COUNTY, KENTUCKY**

This Candidate Conservation Agreement with Assurances (“CCAA”), effective and binding on the date of last signature below, is between Southern Conservation Corporation (“Cooperator”) and the U.S. Fish and Wildlife Service (“Service”) (hereinafter referred to as “the Parties”):

**Cooperator:** Southern Conservation Corporation  
6582 Gaines Ferry Road  
Flowery Branch, Georgia 30542  
Phone – (770) 967-1208  
Fax – (770) 967-3755

**Service:** U.S. Fish and Wildlife Service  
Kentucky Field Office  
3761 Georgetown Road  
Frankfort, Kentucky 40601  
Phone - (502) 695-0468  
Fax - (502) 695-1024

**Agreement/Tracking Number:** TE-088168-0

**1. Authority and Purpose**

Sections 2, 7, and 10 of the Endangered Species Act (Act) of 1973, as amended, allow the Service to enter into this CCAA. Section 2 of the Act states that encouraging interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs is a key to safeguarding the Nation’s heritage in fish, wildlife, and plants. Section 7 of the Act requires the Service to review programs that it administers and to utilize such programs in furtherance of the purposes of the Act. By entering into this CCAA, the Service is utilizing its authority to enter into CCAAs to further the conservation of the Nation’s fish and wildlife resources. Lastly, section 10(a)(1)(A) of the Act authorizes the issuance of permits to “enhance the survival” of a listed species.

The purpose of this CCAA is for the Service to join with Southern Conservation Corporation to implement conservation measures for the greater Adams Cave beetle (*Pseudanophthalmus pholeter*) and lesser Adams Cave beetle (*Pseudanophthalmus cataryctos*) by removing the threats to the survival of these species and protecting their habitat. These species are considered the “covered species” as defined in the Service’s final CCAA Policy (64 *Federal Register* 32726). In 2001, the Service elevated these species to candidate species status (64 *Federal Register* 54808-54832). These two species are only known to occur in Adams Cave in Madison County, Kentucky. Information pertaining to the life histories, taxonomy, conservation status, and threats of these species is contained in the Service’s Candidate and Listing Priority Assignment Form

(Candidate Form). The most recent Candidate Form for these species is incorporated into this CCAA as Appendix C.

## **2. Enrolled Lands**

The CCAA covers an approximately 1-acre parcel land that is known as lot 3 of Adams Place subdivision in Madison County, Kentucky (Appendix A). A land survey that accurately depicts the property is incorporated into this CCAA as Appendix B. This property is considered the “enrolled property” as defined in the Service’s CCAA Policy. The enrolled property is owned by Southern Conservation Corporation and contains the entrance to Adams Cave and a portion of the subterranean area of Adams Cave.

## **3. Description of Existing Conditions**

The enrolled property is in the Bluegrass Region of central Kentucky, near the city of Richmond, Madison County. The area surrounding the enrolled property is largely rural but is developing rapidly due to its close proximity to the cities of Richmond and Lexington, Kentucky. The enrolled property lies within a platted residential subdivision, and construction is occurring on many of the building lots in the subdivision. The terrestrial habitat surrounding Adams Cave is dominated by abandoned pasture containing scattered groups of trees, including black walnut (*Juglans nigra*) and Kentucky coffee tree (*Gymnocladus dioica*), and small clumps of cane (*Arundinaria* sp.).

The enrolled property is under threat from a variety of sources. These threats could result in significant and irreversible habitat alterations to Adams Cave and the area surrounding the cave. The Service’s Candidate Form (Appendix C) for the covered species identifies four primary threats that would be applicable to the enrolled property:

- The species’ limited distributions make them vulnerable to isolated events, such as toxic chemical spills, discharges of large amounts of polluted water, or cave entrance closures or alterations that would only have a minimal effect on the more wide-ranging members of the genus. Since the covered species are only known to occur in Adams Cave, the Parties believe that it will be important to implement conservation measures that will control or eliminate the probability that these isolated events will occur.
- Alteration of the cave food chain can affect populations of the covered species, because they are completely dependent upon energy from outside of the cave. This energy can come from bat guano, large or small woody debris washed or blown into the cave, or tiny bits of organic matter that is carried into the cave by water through small cracks in the rocks overlaying the cave. The Parties believe that the cave food chain can be maintained by ensuring conservation measures that would maintain the cave entrance and allow the passage of energy are implemented.
- Activities such as industrial, residential, commercial, or highway construction can, if not planned in a manner to protect caves, directly destroy caves or result in severe modification of the natural processes that maintain the cave’s sensitive biological systems. The Parties believe that, by restricting development of the enrolled property and implementing conservation measures to protect Adams Cave and habitat surrounding the

cave, the cave's natural processes and biological integrity can be maintained to the extent possible.

- Vandalism and trash dumping can affect the cave and historically has occurred at a high level in Adams Cave. The Parties believe that maintenance of the metal gate at the entrance to Adams Cave and controlling access into Adams Cave and the enrolled property will eliminate this threat.

Addressing these threats is the primary objective of this CCAA. The Cooperator's contributions to this CCAA are expected to alleviate these threats by controlling the identifiable, potential sources of those threats and are important for the conservation of the covered species.

#### **4. Conservation Measures**

The conservation measures that will be implemented were chosen based on an analysis of the threats to the covered species and the Service's knowledge of conservation measures that could reasonably be expected to reduce and/or eliminate those threats.

Specifically, the Cooperator will:

##### **A. Maintain the enrolled property in a natural state**

The Cooperator will ensure that: (1) the enrolled property is maintained in vegetative condition that promotes native vegetation; (2) no residential or commercial development of the property is allowed; (3) no mechanical land clearing or timber harvesting is conducted on the enrolled property unless such disturbance is necessary to improve the habitat surrounding Adams Cave; (4) no pesticides are used within the enrolled property; (5) the enrolled property is not used as a chemical, waste, or debris storage site or facility; and (6) no dumping of debris or potential contaminants occurs on the enrolled property. These activities will alleviate the potential effects of the threats of isolation and habitat conversion or destruction and help address threats to the covered species' food chain by ensuring that the habitat immediately surrounding Adams Cave is maintained in a natural/semi-natural state to promote energy transfer into Adams Cave and that the enrolled property is not developed. The Cooperator will be authorized to restore native vegetation, selectively use herbicides to control exotic plants and maintain native vegetation, cut trees or other vegetation to protect public safety or on-site facilities, and construct a small parking area for no more than three vehicles at the east side of the enrolled property and as far from the entrance and underground portions of Adams Cave as possible.

##### **B. Maintain the metal gate at the entrance to Adams Cave**

If the gate needs repair, the Cooperator will take the necessary steps to repair the gate as soon as possible after the need for repair is identified. Further, the Cooperator will ensure that the gate does not become blocked with rock or other debris that would block access to the cave for native bats or other species or prevent organic matter from entering the cave. This organic matter degrades into food for cave invertebrates and serves as the basis of the food chain for most

obligate cave species. The covered species are predatory beetles that feed on other cave invertebrates. These activities will alleviate the threats to the covered species' food chain and those relating to vandalism and trash dumping.

C. Control and limit access to Adams Cave and the Enrolled Property

The Cooperator will ensure that access into Adams Cave is limited to no more than one entry per month; however, more than one entry per month may occur if for monitoring, scientific, and/or educational purposes and if first approved by the Service in writing. If necessary, the Cooperator will mark a trail within Adams Cave that will be used to minimize the effects of authorized access and require persons that are granted access to the cave to stay on this trail to the maximum extent possible. Further, the Cooperator will ensure that no person who is not affiliated with the Cooperator will hold a key to the gate, except for the key that will be held by the Service's Kentucky Field Office Supervisor. The Cooperator will also erect signs at all access points and fencing, as may be necessary to protect the enrolled property. Collectively, these measures are necessary to alleviate the threats of vandalism, unrestricted access, and trash dumping.

5. Expected Benefits

Implementation of this CCAA is expected to protect and conserve habitat for the covered species, eliminate unauthorized human disturbances within Adams Cave that are believed to impact the covered species, and provide important monitoring data that can be used to develop and/or improve management strategies for the covered species and other cave-dependent species. These benefits will be obtained through restoration and protection of the above- and below-ground habitats on the enrolled property.

6. Responsibilities of the Parties

A. The Cooperator shall:

- Adhere to the terms and provisions of this CCAA and the enhancement of survival permit (Permit) and to provide sufficient funding and other resources necessary to implement the CCAA.
- Allow Service personnel, or other properly permitted and qualified persons designated by the Service, to enter both the enrolled property and Adams Cave, with reasonable advance written notice, at reasonable hours and times for the general purposes specified in 50 CFR 13.21(e)(2).
- Provide the Service with a key to the metal gate at the entrance to Adams Cave, which shall be held by the Service's Kentucky Field Office Supervisor.
- Meet with the Service if any listed species other than the covered species may potentially be impacted by an activity covered by this CCAA to discuss ways to avoid take of that species and/or to develop an alternative course of action to cover the potential take of that species.

- Notify the Service, via certified letter, at least 60 days in advance of any activity that may result in the destruction of any federally-listed, proposed, or candidate plant species known to occur on the enrolled property and shall provide the Service with an opportunity to remove the affected plants to sites that are outside of the enrolled property or, with the Cooperator's permission, to other sites within the enrolled property.
- Implement the conservation measures as stated in the "Conservation Measures" section of this CCAA.

B. The Service shall:

- Inspect the enrolled property at least annually to evaluate the Cooperator's activities and to inspect Adams Cave and the metal gate.
- Ensure that the Cooperator has properly implemented the CCAA and the Conservation Measures identified below.
- Have sole approval for access to Adams Cave when such access is requested by the Cooperator or another party and when such access would exceed the one entry into the cave per month specified in the Conservation Measures section above.

C. The Parties mutually agree to:

- Ensure that the CCAA and the actions covered by the CCAA are consistent with applicable Federal, State, and Tribal laws and regulations.
- Inspect the enrolled property not less than annually, or earlier if the opportunity presents itself, for the duration of the CCAA in order to visually inspect the gate, determine if any repairs are necessary, and determine if any unauthorized access has or could occur due to failure of the gate.
- Ensure that the terms of the CCAA will not be in conflict with any on-going conservation or recovery programs for the covered species.
- Ensure that nothing in this CCAA will be construed to limit or constrain any Party or any other entity from taking additional actions at its own expense to protect or conserve the covered species.
- Ensure that nothing in this CCAA shall limit the ability of Federal and State conservation authorities to conduct investigations on the enrolled property and in Adams Cave.
- Ensure that each Party shall have all remedies otherwise available to enforce the terms of the CCAA and the Permit.

- Work together in good faith to resolve any disputes, using dispute resolution procedures agreed upon by the Parties. The Service will engage in such procedures if funding is available as specified in section 22 of this CCAA (Availability of Funds).
- Share information relating to this CCAA if disclosure of such information is not protected by the Privacy Act, the Freedom of Information Act, or other applicable privileges.

#### **7. Level/Type of Take/Impacts**

Since the covered species only occur within Adams Cave, the Service expects that the only activities undertaken by the Cooperator that could result in incidental take of the covered species are those that would occur within the underground portions of Adams Cave (i.e., those that are protected by the gate) and/or those that could reasonably be expected to occur that would result in degradation of the covered species' habitat within Adams Cave. Activities within Adams Cave that could result in take include any activities associated with inspection and/or maintenance of the metal gate and activities associated with approved access into Adams Cave, including monitoring, scientific, and/or educational purposes.

The Service expects that take of the covered species may occur when humans access the cave to inspect and/or maintain the metal gate or conduct monitoring, scientific, and/or educational activities. This take is expected to come in the form of harm, harassment, and/or mortality. Harm and harassment are likely to occur, because human access to the cave is likely to result in disturbances that the covered species would not experience naturally. This may cause temporary habitat alterations or result in modifications of the covered species' behavior patterns. However, the expected level of human disturbance in Adams Cave will likely be less than historic levels of disturbance. As a result, the Service does not expect the take from harm and harassment to have negative effects on the covered species' population levels, because the covered species have persisted under higher levels of disturbance. Mortality may occur if individuals of the covered species are stepped-on or crushed/injured by equipment or rocks dislodged by human activities.

The level of take that will be authorized by the Permit will be all of the individuals of the covered species that are harmed, harassed, or killed in association with activities authorized by this CCAA. The Service recognizes that this level of take, which is comprised of all individuals of the covered species that are harmed, harassed, or killed in association with activities authorized by this CCAA, is consistent with the overall goal of precluding the need to list the species, and that if the Conservation Measures were implemented on other necessary properties, there would be no need to list the covered species.

#### **8. Assurances Provided**

Through this CCAA, the Service provides Southern Conservation Corporation assurances that no additional conservation measures or additional land, water, or resource use restrictions, beyond those voluntarily agreed to and described in the Conservation Measures section of this CCAA, will be required should the greater Adams Cave beetle and/or lesser Adams Cave beetle become listed as a threatened or endangered species in the future. Unless otherwise stated, these assurances will be authorized with the issuance of an enhancement of survival permit under

section 10(a)(1)(A) of the Endangered Species Act. The application for the enhancement of survival permit is included as Appendix D to this CCAA.

**9. Assurances Provided to the Cooperator in Case of Changed or Unforeseen Circumstances**

The assurances listed below apply to the Cooperator. The assurances apply only where the Permit associated with the CCAA and the CCAA itself are being properly implemented, and only with respect to species adequately covered by the CCAA.

A. Changed circumstances provided for in the CCAA.

If additional conservation measures are necessary to respond to changed circumstances and the measures were set forth in the CCAA's operating conservation program, the Cooperator will implement the measures specified in the CCAA.

B. Changed circumstances not provided for in the CCAA.

If additional conservation measures not provided for in the CCAA's operating conservation program are necessary to respond to changed circumstances, the Service will not require any conservation measures in addition to those provided for in the CCAA without the consent of the Cooperator.

C. Unforeseen circumstances.

(i) If additional conservation measures are necessary to respond to unforeseen circumstances, the Service may require additional measures of the Cooperator only if such measures are limited to modifications within the CCAAs conservation strategy for the affected species, and only if those measures maintain the original terms of the CCAA to the maximum extent possible. Additional conservation measures will not involve the commitment of additional land, water, or financial compensation, or additional restrictions on the use of land, water, or other natural resources available for development or use under the original terms of the CCAA without the consent of the Cooperator.

(ii) The Service will have the burden of demonstrating that unforeseen circumstances exist, using the best scientific and commercial data available. These findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species. The Service will consider, but not be limited to, the following factors:

- Size of the current range of the affected species;
- Percentage of range adversely affected by the CCAA;
- Percentage of range conserved by the CCAA;
- Ecological significance of that portion of the range affected by the CCAA;
- Level of knowledge about the affected species and the degree of specificity of the species' conservation program under the CCAA; and
- Whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

#### **10. Reporting Provisions**

The Cooperator will provide a report of biological and compliance monitoring efforts to the Service on or before December 31 of each year monitoring is required. The annual report will provide and include:

- a summary of any monitoring activities that were undertaken by the Cooperator or authorized by the Cooperator within the enrolled property, which will include the date the monitoring activities were undertaken, the person or persons involved, the results of the monitoring, and copies of any data and/or reports that were prepared, including the reports containing the results of the monitoring conducted by the Kentucky State Nature Preserves Commission;
- a summary of any conservation measures that were implemented by the Cooperator or authorized by the Cooperator within the enrolled property, which will include the date the conservation measures were implemented, the person or persons involved, and the results of the implementation;
- a summary of the dates and times that entry into Adams Cave by the Cooperator or the Cooperator's designee(s) occurred during the reporting period; and
- a summary of the dates and times that of any known entry into Adams Cave that is proposed for the next reporting period by the Cooperator or the Cooperator's designee(s).

#### **11. Compliance Monitoring**

The Cooperator will be responsible for the compliance monitoring and reporting specified herein related to implementation of the CCAA and fulfillment of its provisions, including implementation of the agreed-upon Conservation Measures, and take authorized by the Permit. The Service, after reasonable prior notice to the Cooperator, may enter the enrolled property and Adams Cave to ascertain compliance with the CCAA.

#### **12. Biological Monitoring**

The Cooperator will allow the Kentucky State Nature Preserves Commission (KSNPC), or any other organization or individual approved by the Parties, to conduct periodic surveys for the covered species to determine their habitat use and population levels. Survey methodologies will be determined by the KSNPC and the Service. These periodic surveys shall be conducted in 2004, 2005, and 2006. After these initial monitoring periods, additional habitat use and population monitoring will be conducted on a minimum 5-year interval if determined necessary by the Service based on the results of the initial monitoring efforts. These biological monitoring efforts are included in the allowable monitoring specified in section 4(C) above.

#### **13. Notification of Take Requirement**

By signature of this CCAA, the Cooperator agrees to provide the Service with an opportunity to rescue individuals of the covered species before any authorized take occurs (i.e., before each authorized entry into Adams Cave), thereby minimizing the authorized take. Notification that take will occur must be provided by the Cooperator in writing to the Service at least 60 days in

advance of the action. If the Service does not respond to the Cooperator's notification within 7 working days of receipt of the notification, the Cooperator is authorized to proceed with the proposed activity. This notification requirement shall apply to all situations, except for emergency situations, which shall be defined as a natural disaster, insect infestation, or other significant and uncontrollable event that causes the unplanned alteration of habitat within the enrolled property that is occupied by the covered species. In an emergency situation in which a 60-day notification cannot be given, the Cooperator shall notify the Service as soon as possible but no less than 5 days prior to implementation of the unplanned habitat alteration and shall provide the Service an opportunity of no less than 5 days to translocate affected individuals of the covered species to other sites within the enrolled property. Further, the Cooperator shall not initiate the emergency habitat alteration any sooner than 10 days after the initial notification to the Service has been provided or upon the Service's approval to proceed, whichever occurs first. The Parties acknowledge that survey and translocation efforts may be precluded by certain urgent or emergency situations.

#### **14. Agreement Duration**

The CCAA will be in effect for a duration of 30 years following its approval and signing by the Parties. The section 10(a)(1)(A) permit authorizing take of the covered species will become effective on the date of the final rule listing a covered species is published in the Federal Register and will expire when this CCAA expires or is otherwise suspended or terminated. The permit and CCAA may be extended beyond the specified terms prior to permit expiration through the permit renewal process and with the agreement of the parties.

#### **15. Modifications**

After approval of the CCAA, the Service may not impose any new requirements or conditions on, or modify any existing requirements or conditions applicable to, the Cooperator or successor in interest to the Cooperator, to compensate for changes in the conditions or circumstances of any species or ecosystem, natural community, or habitat covered by the CCAA except as stipulated in 50 CFR 17.22(d)(5) and 17.32(d)(5).

A Party may propose modifications or amendments to this CCAA by providing written notice to the other Party. Such notice shall include a statement of the proposed modification, the reason for it, and its expected results. The Parties will use their best efforts to respond to proposed modifications within 60 days of receipt of such notice. Proposed modifications or amendments will become effective upon the other Party's written concurrence.

#### **16. Amendment of the Permit**

The Permit may be amended to accommodate changed circumstances in accordance with all applicable legal requirements, including but not limited to the Endangered Species Act, the National Environmental Policy Act, and the Service's permit regulations at 50 CFR 13 and 50 CFR 17. The Party proposing the amendment shall provide a statement describing the proposed amendment and the reasons for it.

#### **17. Termination of the CCAA**

As provided in the Service's CCAA Policy (64 *Federal Register* 32726), the Cooperator may, for good cause, terminate implementation of the CCAA's voluntary management actions prior to the

CCAA's expiration date, even if the expected benefits have not been realized. If the CCAA is terminated without good cause, however, the Cooperator is required to surrender the Permit at termination, thus relinquishing his or her take authority (if the species has become listed) and the assurances granted by the permit. The Cooperator must give 60 days written notice to the Service of its intent to terminate the CCAA and must give the Service an opportunity to relocate individuals of the covered species within 30 days of the notice.

**18. Permit Suspension or Revocation**

The Service may suspend or revoke the Permit for cause in accordance with the laws and regulations in force at the time of such suspension or revocation (50 CFR 13.28(a)). The Service may also, as a last resort, revoke the permit if continuation of permitted activities would likely result in jeopardy to covered species (50 CFR 17.22/32(d)(7)). The Service will revoke because of jeopardy concerns only after first implementing all practicable measures to remedy the situation.

**19. Remedies**

Each Party shall have all remedies otherwise available to enforce the terms of the CCAA and Permit.

**20. Dispute Resolution**

The Parties agree to work together in good faith to resolve any disputes, using dispute resolution procedures agreed upon by all Parties. The Service will engage in such activities if funding is available as specified in section 23 of this CCAA.

**21. Succession and Transfer**

This CCAA shall be binding on and shall inure to the benefit of the Parties and their respective successors and transferees, (i.e., new owners) in accordance with applicable regulations (50 CFR 13.24 and 13.25). The rights and obligations under this CCAA shall run with the ownership of the enrolled property and are transferable to subsequent non-Federal property owners pursuant to 50 CFR 13.25. The Permit issued to the Cooperator is also transferable to the new owner(s) pursuant to 50 CFR 13.25. If the CCAA and Permit are transferred, the new owner(s) will have the same rights and obligations with respect to the enrolled property as the original owner (i.e., the Cooperator). The new owner(s) also will have the option of receiving CCAA assurances by signing a new CCAA and receiving a new Permit. The Cooperator shall notify the Service in writing of any transfer of ownership within 90 days of any transfer, so that the Service can attempt to contact the new owner, explain the responsibilities applicable to the enrolled property, and seek to interest the new owner in signing the existing CCAA or a new CCAA that would benefit the covered species on the enrolled property. Assignment or transfer of the Permit shall be governed by Service regulations in force at the time.

**22. Availability of Funds**

Implementation of this CCAA is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this CCAA will be construed by the Parties to require the obligation, appropriation, or expenditure of any funds from the U.S. Treasury. The Parties acknowledge that the Service will not be required under this CCAA to expend any

Federal agency's appropriated funds unless and until an authorized agency official affirmatively acts to commit to such expenditures as evidenced in writing.

**23. Relationship to Other Agreements**

The metal gate that protects the entrance to Adams Cave was installed via a separate 10-year agreement between the Service and the previous owner of the enrolled property under the Service's Partners for Fish and Wildlife Program. The Cooperator agrees to adhere to terms and conditions of the previous agreement with the Partners for Fish and Wildlife Program and will ensure that the metal gate is maintained for the duration of the separate, 10-year agreement.

**24. Notices and Reports**

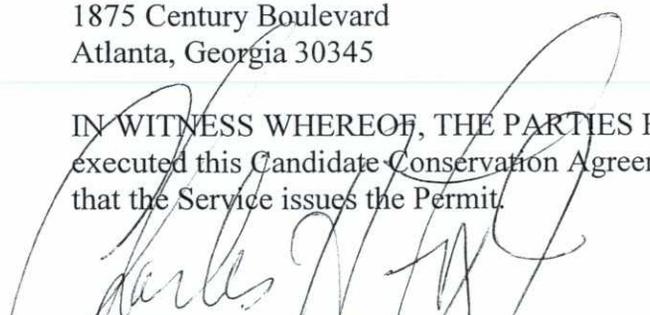
Any notices and reports, including monitoring and annual reports, required by this CCAA shall be delivered to the persons listed below, as appropriate:

Executive Director  
Southern Conservation Corporation  
6582 Gaines Ferry Road  
Flowery Branch, Georgia 30542

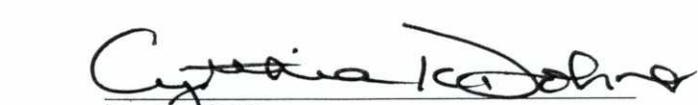
Field Supervisor  
U.S. Fish and Wildlife Service  
3761 Georgetown Road  
Frankfort, Kentucky 40601

CCAA Permit Coordinator  
U.S. Fish and Wildlife Service  
1875 Century Boulevard  
Atlanta, Georgia 30345

IN WITNESS WHEREOF, THE PARTIES HERETO have, as of the last signature below, executed this Candidate Conservation Agreement with Assurances to be in effect as of the date that the Service issues the Permit.

  
\_\_\_\_\_  
Charles H. Fox, Jr.  
Executive Director  
Southern Conservation Corporation

Date 4 March 2005

  
\_\_\_\_\_  
for Regional Director  
U.S. Fish and Wildlife Service, Southeast Region

Date MAR 01 2005

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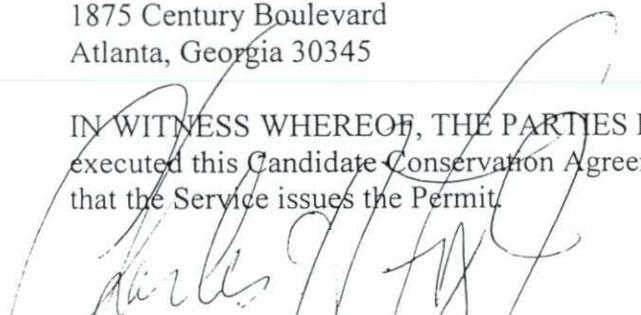
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Flowery Branch, Georgia 30542

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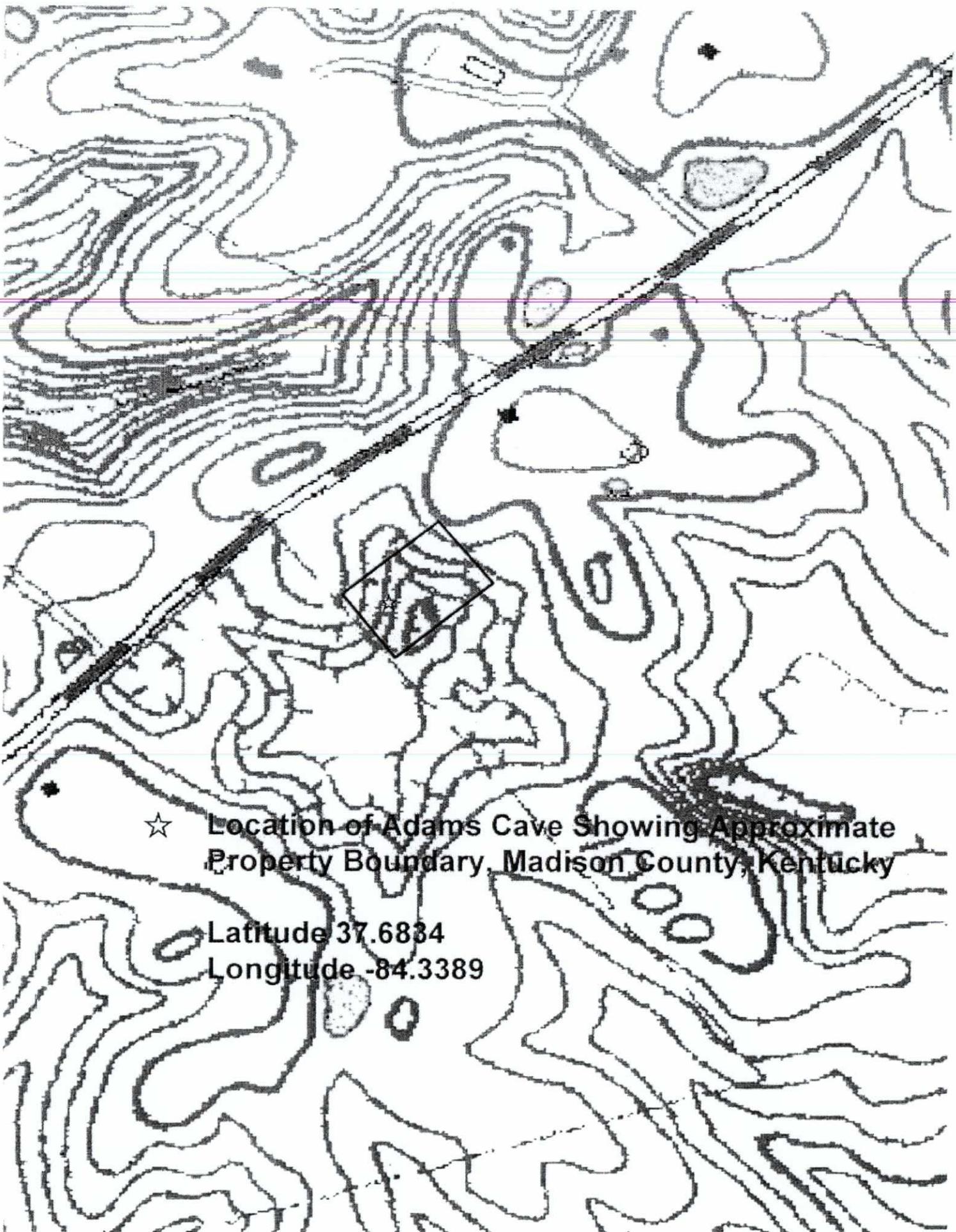
  
\_\_\_\_\_  
Charles H. Fox, Jr.  
Executive Director  
Southern Conservation Corporation

Date 4 March 2005

  
\_\_\_\_\_  
for Regional Director  
U.S. Fish and Wildlife Service, Southeast Region

Date MAR 01 2005

**Appendix A**  
**Site Location Map**



☆ Location of Adams Cave Showing Approximate Property Boundary, Madison County, Kentucky

Latitude 37.6834  
Longitude -84.3389



CERTIFICATE OF SEWAGE DISPOSAL SYSTEM

I hereby certify that the lot size and on-site conditions for the plot entitled Adams Place meet with the minimum requirements of the Kentucky on-site sewage disposal systems regulations and the Madison County lot and subdivision regulations. WITH THE EXCEPTION (S) NOTED BELOW, if any, and is hereby approved as per on-site evaluation #'s listed below

Attn: mike

and noted exceptions: listed below  
Date 11-21-00 Morgan Dinger  
Madison County Health Department

MADISON COUNTY BOARD OF EDUCATION (DB. 481, PG. 648) (DB. 484, PG. 67)

UNAPPROVED LOTS ARE: 2, 3, 4, 5, 6, 7, 8, 50, 51, 52, 57, 58, 72 & 73  
APPROVED LOTS ARE: (1)00-8254-125 (1)00-8285-126 (1)00-8277-127 (1)00-8315-128 thru (1)00-8318-129 (1)00-8321-182 thru (1)00-8333-184

The foregoing certification is made with regard to the requirements of existing law, as modified or amended by applicable statute, regulation or ordinance and continued compliance with minimum requirements should be evaluated in light of any modifications or amendments to such existing law.

Each lot or tract to be conveyed by owner shall be of a size adequate to accommodate an on-site disposal system with a minimum lot size of not less than 43,560 square feet (1 Ac) or shall be for the purpose of adjusting existing lot lines having a certain border so as to not create any new building lot.

THERE WILL BE NO CONSTRUCTION ON LOT NO. 3. IT WILL BE GIVEN TO THE PUBLIC OR WILL BE CONSOLIDATED WITH AN ADJOINING LOT.

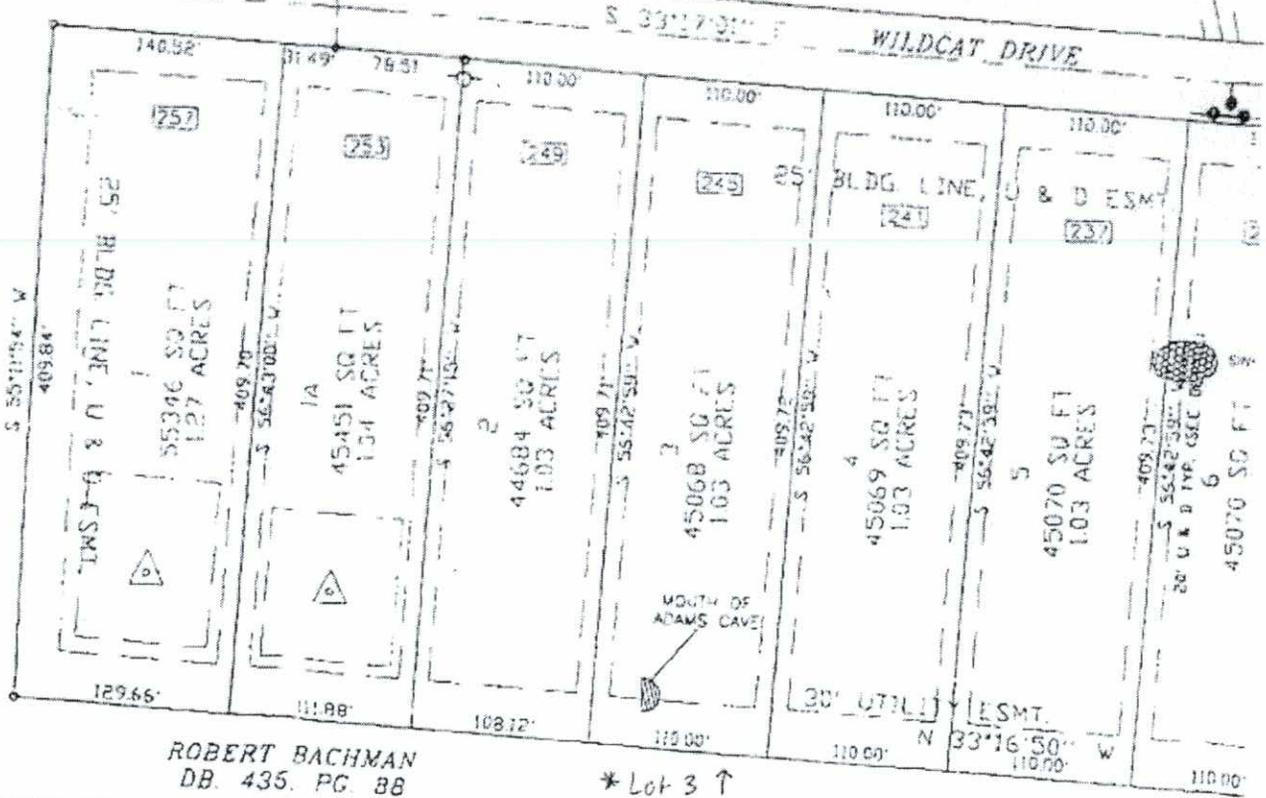
Owner shall not convey any lot or tract from the property if such conveyance will result in there being any remaining tract or tracts of less than one acre upon which there has already been installed an on-site sewage disposal system.



Designated "On-Site Sewage Disposal Area" not to be disturbed or for storage of any materials or placement of overburden.

LOT NO. 1 WILL ACCESS WILDCAT DRIVE ONLY

LOT NO. 3 WILL BE USED FOR THE PRESERVATION AND SEMI-PUBLIC USE OF THE ADAMS CAVE



ROBERT BACHMAN DB. 435, PG. 88

\* Lot 3 ↑

KY. HWY. 52 (LANCASTER ROAD)

- L4
- L5
- L6
- L7
- L8
- L9
- L10
- L11
- L12
- L13
- L14
- L15
- L16
- L17
- L18
- L19
- L20
- L21
- L22
- L23
- L24
- L25

**Appendix C**

**U.S. Fish and Wildlife Service  
Species Assessment and Listing Priority Assignment Form**

U.S. FISH AND WILDLIFE SERVICE  
SPECIES ASSESSMENT AND LISTING PRIORITY ASSIGNMENT FORM

SCIENTIFIC NAMES:

Pseudanophthalmus colemanensis Barr  
Pseudanophthalmus fowlerae Barr  
Pseudanophthalmus insularis Barr  
Pseudanophthalmus tiresias Barr  
Pseudanophthalmus paulus Barr

COMMON NAMES:

Coleman Cave beetle  
Fowler's Cave beetle  
Insular (=Baker Station) Cave beetle  
Soothsayer Cave (=Indian Grave Point) beetle  
Noblett's cave beetle

LEAD REGION: 4

INFORMATION CURRENT AS OF: June 10, 2004

STATUS/ACTION:

- Initial 12-month Petition Finding:  not warranted  
 warranted  
 warranted but precluded (also complete (c) and (d) in section on petitioned candidate species- why action is precluded)
- Species assessment - determined species did not meet the definition of endangered or threatened under the Act and, therefore, was not elevated to Candidate status
- New candidate
- Continuing candidate
- Non-petitioned
- Petitioned - Date petition received: May 11, 2004  
 90-day positive - FR date:  
 12-month warranted but precluded - FR date:  
 Is the petition requesting a reclassification of a listed species?
- Listing priority change  
Former LP:   
New LP:   
Latest Date species became a Candidate: May 11, 2004
- Candidate removal: Former LP:   
 A - Taxon is more abundant or widespread than previously believed or not subject to the degree of threats sufficient to warrant issuance of a proposed listing or continuance of candidate status.  
 F - Range is no longer a U.S. territory.

- I - Insufficient information exists on biological vulnerability and threats to support listing.
- M - Taxon mistakenly included in past notice of review.
- N - Taxon may not meet the Act's definition of "species."
- X - Taxon believed to be extinct.

ANIMAL/PLANT GROUP AND FAMILY: Insects Carabidae

HISTORICAL STATES/TERRITORIES/COUNTRIES OF OCCURRENCE:

Pseudanophthalmus colemanensis, Coleman Cave beetle, Montgomery County, TN  
Pseudanophthalmus fowlerae, Fowler's Cave beetle, Clay County, TN  
Pseudanophthalmus insularis, Insular (=Baker Station) Cave beetle, Davidson County, TN  
Pseudanophthalmus tiresias, Soothsayer Cave (=Indian Grave Point) beetle, DeKalb County, TN  
Pseudanophthalmus paulus, Noblett's cave beetle, Monroe County, TN

CURRENT STATES/ COUNTIES/TERRITORIES/COUNTRIES OF OCCURRENCE:

Pseudanophthalmus colemanensis, Coleman Cave beetle, Montgomery County, TN  
Pseudanophthalmus fowlerae, Fowler's Cave beetle, Clay County, TN  
Pseudanophthalmus insularis, Insular (=Baker Station) Cave beetle, Davidson County, TN  
Pseudanophthalmus tiresias, Soothsayer Cave (=Indian Grave Point) beetle, DeKalb County, TN  
Pseudanophthalmus paulus, Noblett's cave beetle, Monroe County, TN

LEAD REGION CONTACT: Richard Gooch, 404/679-7124

LEAD FIELD OFFICE CONTACT: Asheville, North Carolina Field Office, Robert R. Currie, 828/258-3939, extension 224

BIOLOGICAL INFORMATION:

Cave beetles in the genus Pseudanophthalmus are fairly small, eyeless, reddish-brown insects. Like most other insects, they have six legs and a body that consists of a head, thorax, and abdomen. Body length is generally from 3.0 to 8.0 millimeters (mm) (0.12 to 0.32 inches), depending upon the species. The different species within the genus are differentiated by differences in the shape and size of the various body parts, especially the shape of the male appendages used during reproduction. Barr (1996) states that there are approximately 255 species in the genus Pseudanophthalmus. The insect genus Pseudanophthalmus is in the predatory ground beetle family Carabidae. Most members of this genus are cave dependent (troglobites) and are not found outside the cave environment. All are predatory and feed upon small cave invertebrates such as spiders, mites, millipedes, and diplurans, while the larger Pseudanophthalmus species also feed on

cave cricket eggs (Barr 1996). Members of this genus vary in rarity from fairly common, widespread species that are found in many caves to species that are extremely rare and restricted to only one cave or, at most, two caves.

Little detailed life history information is available for the rarest of the cave beetles that are considered here, but the generalized summary that follows is accurate for the more common and more easily studied species and is believed to also apply to the rarer species (Barr 1998). Cave beetles copulate in the fall, and the eggs are deposited in the cave soil during late fall. The eggs hatch and larvae appear in late fall through early winter. Pupation occurs in late winter to early summer with the adult beetles emerging in early summer (Barr 1996).

The limestone caves in which these cave beetles are found provide a unique and fragile environment that supports a variety of species that have evolved to survive and reproduce under the demanding conditions found in cave ecosystems. No photosynthesis takes place within the dark zone of a cave. Therefore, all organisms that are adapted to life within a cave are dependent upon energy from the surface. This energy can be in the form of leaf litter, woody debris or small bits of organic matter that is washed or falls into the cave, or guano deposited by cave-dependent bats that feed on the surface and return to the cave to roost (Barr 1996).

Pseudanophthalmus colemanensis, the Coleman Cave beetle, was described by Barr (1959) based upon a few specimens collected by Barr in 1957, from Coleman Cave, Montgomery County, Tennessee. Until 2004 this was the only known site for the species. During a 1999 visit to the cave one specimen was observed by Barr and others (Barr 2001). A new location for the species was discovered by David Withers, Tennessee Department of Conservation, during a biological inventory of Foster Cave. One specimen of the species was found during the survey. Foster Cave is on a preserve owned by The Nature Conservancy and is located only a short distance from Coleman Cave (H. Garland, The Nature Conservancy, Personal Communication, 2004).

Pseudanophthalmus fowlerae, Fowler's cave beetle, was described by Barr (1980) from 11 specimens collected from 1959 through 1965 from Sheals Cave, Clay County, Tennessee. The species is not known from any other caves. During a 1997 survey of the cave, Barr (1998) observed 3 specimens of P. inquistor, the inquirer cave beetle, however, Fowler's cave beetle has not been observed or collected since 1965. Barr (2001) believes that it probably still exists in low numbers. The inquirer cave beetle is included in the 2002 Candidate Notice of Review.

Pseudanophthalmus insularis, the Insular (=Baker Station) cave beetle, was described by Barr (1980) from 8 specimens collected in 1956 and 1957 from Baker Station Cave, Davidson County, Tennessee. Barr (2001) reports that the cave was searched in 1998 for this species and no additional specimens were found. Although the species has not been observed since 1957, Barr (2001) believes that it probably still exists in low numbers.

Pseudanophthalmus tireias, the Soothsayer Cave (=Indian Grave Point) beetle, was described in 1959. At the time of the original description, this species was considered one of seven subspecies within a variable species complex. After further study of the group Barr (1980) elevated all seven of these subspecies to full species. This is the currently accepted taxonomic treatment of this group. The original description of this taxon was based upon six specimens collected from Indian Grave Point Cave, DeKalb County, Tennessee, in 1956. These specimens were collected near the cave's entrance sink in an area that had high humidity, stable temperatures and a few fragments of rotten wood that had fallen into the sink (Barr 2001.) Four specimens were later collected from nearby Fox Cave (Barr, in lit. 1993). Three searches were conducted between 1997 and 1999, but no additional specimens of this species have been found. Despite the recent failures to find the species, Barr (2001) believes that the Soothsayer Cave (=Indian Grave Point) beetle is still present in Indian Grave Point and Fox caves, in at least very low numbers.

Pseudanophthalmus paulus, Noblett's Cave beetle, was described by Barr (1981) from two specimens collected in 1967, from Noblett's Cave, Monroe County, Tennessee. Despite several searches conducted in this cave by Wallace (Barr 2001, Wallace 1989) and in other caves in the vicinity by Barr (2001), no additional specimens have been found. Barr (2001) believes that it probably still exists in low numbers. Noblett's Cave is a small (about 500 feet long) muddy cave with a stream flowing through it.

#### THREATS:

##### A. The present or threatened destruction, modification, or curtailment of its habitat or range.

Three of these five cave beetles (Fowler's Cave beetle, Insular (=Baker Station) cave beetle and Noblett's Cave beetle) are currently known from only one cave. Only one, the Soothsayer cave beetle and the Coleman Cave beetle are known to occur in two caves.

Their limited distributions make these species vulnerable to isolated events that would only have a minimal effect on the more wide-ranging members of the genus. Events such as toxic chemical spills, discharges of large amounts of polluted water, closure of entrances, alteration of entrances, or the creation of new entrances can have serious adverse impacts on these cave beetles and could result in their extinction (Barr 1996). Caves and the species that are completely dependent upon them (troglodytes) receive the energy that forms the basis of the cave food chain from outside the cave. This energy can be in the form of bat guano deposited by cave-dependent bats, large or small woody debris washed or blown into the cave, or tiny bits of organic matter that is carried into the cave by water through small cracks in the rocks overlaying the cave (Barr 1996). Activities such as industrial, residential, commercial, or highway construction can, if not planned in a manner to protect caves, directly destroy caves or result in severe modification of the natural processes that maintain the sensitive biological systems they support. Examples of these types of threats can be seen with two current candidates (P. caecus, the Clifton Cave beetle, and P. troglodytes, the Louisville cave beetle), which

have both had one of their two known caves destroyed due to construction-related activities. Pollution and chemical contamination can, under certain circumstances, result in the complete destruction of the unique life found within a cave impacted by these factors. Vandalism and trash dumping have affected some of the sites and all but Foster's Cave and Coleman's Cave are vulnerable to these activities. Loss or reduction of the supply of energy, such as may be occurring to the Coleman Cave beetle due to the alteration of an upper sinkhole cave entrance by past dumping and debris disposal can result in the loss or severe reduction of cave beetle populations (Barr 1996).

Many of these fragile caves have been adversely impacted. In 1957, Coleman Cave supported an endangered gray bat maternity colony. Either because of human disturbance of the colony during the maternity season or because of changes in cave microclimate caused by the closure of an upper level entrance to the cave, Coleman Cave no longer supports a maternity colony. The Nature Conservancy has developed a Cooperative Management Agreement with the owner of this cave and has taken active steps to protect the site from human disturbance. This action should reduce human disturbance at the cave and should benefit the gray bat. However, the blocked upper entrance to the cave may have changed cave temperatures and moisture levels in a manner that makes the site unsuitable for gray bat use. It may be necessary to restore this upper entrance before Coleman Cave will once again support a gray bat maternity colony. Guano deposited in caves by cave dependent bats, such as the endangered gray bat, often forms the basis of the food chain within cave. As noted above, higher trophic level species, like the Coleman Cave beetle and other predatory cave species, are indirectly dependent upon outside sources of organic matter such as bat guano. Until a dependable source of organic matter is provided to the Coleman Cave beetle population, either by reestablishment of the gray bat colony or from some other sources this species is vulnerable to extinction. At Sheals Cave the site is in a rapidly expanding urban area and indirect impacts, such as chemical or other pollution, could significantly impact both the cave and the species the cave supports. A sinkhole that drains into the cave system is located away from the protected entrance and is near a highway. Chemical and other spills could easily enter the cave system through this sinkhole entrance. Alterations in the landscape associated with an expanding urban area are expected and could negatively affect the cave system that contains the inquirer cave beetle (Barr 1998, 2001). Baker Station Cave was once used as a domestic water supply but a nearby landfill and pollution from other sources has contaminated the water to the point that it is no longer potable. During the 1998 visit, severe pollution of springs and creeks in the vicinity of the cave was observed. Noblett's Cave may suffer due to its proximity to an Interstate highway interchange. Dependence upon the surface makes caves and the life that is found within them vulnerable to actions that take place well outside and away from the cave. Protection of caves and cave dependent species must include both the physical environment in which the species are found and the surface components that provide the energy and clean water needed for survival.

B. Overutilization for commercial, recreational, scientific, or educational purposes.

All of these cave beetles occur at only one or two locations. Most populations are extremely small and careless collecting, whether for scientific or other purposes, could adversely affect them. These species have no known commercial value, however, the caves in which these species occur may be used for recreational purposes by spelunkers and by other recreationists.

C. Disease or predation.

Disease or predation is not known to be a significant problem for any of these species. However, since each species appears to exist with low numbers of individuals, mortality via either of these two factors may have a significant, negative impact on recruitment and long-term survival.

D. The inadequacy of existing regulatory mechanisms.

None of these species receives any official State or Federal protection. Coleman Cave is under a cooperative management agreement with the landowner and Foster Cave is owned by The Nature Conservancy. These species are not protected under Tennessee state law.

E. Other natural or manmade factors affecting its continued existence.

None are known at this time.

SUMMARY OF REASONS FOR ADDITION, REMOVAL OR LISTING PRIORITY CHANGE: N/A

FOR PETITIONED CANDIDATE SPECIES

- a. Is listing warranted? Yes
- b. To date, has publication of a proposal to list been precluded by other higher priority listing actions? Yes
- c. Is a proposal to list the species as threatened or endangered in preparation? No
- d. If the answer to c. above is no, provide an explanation of why the action is precluded.

We find that the immediate issuance of a proposed rule and timely promulgation of a final rule for this species has been, for the preceding 12 months, and continues to be, precluded by higher priority listing actions (including candidate species with lower LPNs). During the past 12 months, almost our entire national listing budget has been consumed by work on various listing actions to comply with court orders and court-approved settlement agreements, emergency listings, and essential litigation-related, administrative, and program management functions. We will continue to monitor the status of this species as new information becomes available. This review will determine if a change in status is

warranted, including the need to make prompt use of emergency listing procedures. For information on listing actions taken over the 12 months, see the discussion of "Progress on Revising the Lists," in the current CNOR which can be viewed on our Internet website (<http://endangered.fws.gov/>)

LAND OWNERSHIP: All of the caves supporting these species are privately owned.

#### PRELISTING:

In 1989 the Service developed a Volunteer Service Agreement with Richard Wallace, Knoxville, Tennessee, to conduct surveys for six rare cave beetles found in Eastern Tennessee and adjacent portions of Southwestern Virginia. Noblett's Cave beetle was one of the beetles examined by Mr. Wallace (Wallace 1989). Based upon the information provided in this report, the Service sent formal notification (July 1990) of a status review of five of these species to 51 individuals or organizations. Two letters were received in response to our notice. One was from the Tennessee Valley Authority's Natural Heritage Program stating that they had no new information on these species and the other was from Dr. Thomas Barr stating that there were at least 50 beetles within the genus Pseudanophthalmus that needed to be included in the status review. In response to this information the Service in cooperation with Kentucky Department of Fish and Wildlife Resources (KDFWR) funded a survey of 21 cave beetles. After completion of the surveys in Kentucky, the Service in cooperation with the Tennessee Wildlife Resources Agency funded a status survey for 27 rare cave beetles that occur in Tennessee or adjacent portions of Alabama or Georgia. Dr. Barr provided a final report on the Kentucky species in 1996 and a final report for the Tennessee project in 2001. In 1999, nine of the beetles included in the Kentucky report were elevated to candidate status.

While gathering the land ownership information needed for the final reports on these cooperatively funded projects (Barr 1996, 1998 and 2001), the landowners, when they could be contacted, were made aware of the presence of the rare cave beetles within caves on their land. Most owners were pleased to learn of the presence of a rare species within their caves and are expected to be willing to assist with any protection activities needed to protect and recover these cave beetles. The KDFWR and TWRA both actively participated in gathering the information presented in Barr (1996, 1998 and 2001) on the status of these species. It is anticipated that they will continue to support and participate in rare cave beetle protection. In 2001, the owners of Coleman Cave, The Nature Conservancy, TWRA, the Service and others entered into a Cooperative Management Agreement for the cave. Foster Cave is owned by The Nature Conservancy. Sheals Cave is currently protected by the landowner from any physical alterations that could adversely affect the species.

#### DESCRIPTION OF MONITORING:

The Nature Conservancy regularly monitors the sites for which they have obtained Cooperative Management Agreements and the site that they currently own. This

monitoring of Foster Cave, which is part of a preserve established for other species revealed the presence of a previously unknown population of the Coleman's Cave beetle. Other sites are monitored by The Nature Conservancy as opportunity permits.

#### REFERENCES:

- Barr, Thomas C. 1959. New cave beetles (Carabidae, Trechini) from Tennessee and Kentucky. *Journal Tennessee Academy of Science* 34:5-30.
- Barr, Thomas C. 1980. New species groups of *Pseudanophthalmus* from the Central Basin of Tennessee (Coleoptera: Carabidae: Trechini). *Brimleyana* (3): 85-96.
- Barr, Thomas C. 1981. *Pseudanophthalmus* from Appalachian Caves (Coleoptera: Carabidae): The Engelhardt Complex. *Brimleyana* 5: 37-94.
- Barr, Thomas C. 1995. Kentucky Cave Beetles: Progress Report II. Unpublished Report to Kentucky Department of Fish and Wildlife Resources. Frankfort, Kentucky. 20 pp.
- Barr, Thomas C., 1996. Cave Beetle Status Survey and Prelisting Recovery Project. Unpublished Report to Kentucky Department of Fish and Wildlife Resources, Frankfort, Kentucky, and the U.S. Fish and Wildlife Service, Asheville, North Carolina. 63 pp.
- Barr, Thomas C. 1998. Study of Potentially Threatened or Endangered Species of Cave Beetles in Tennessee, Alabama and Georgia. Interim Progress Report to the Tennessee Wildlife Resources Commission. 11 pp.
- Barr, Thomas C. 2001. Cave Beetles in Tennessee, Alabama and Georgia, Potentially Threatened or Endangered Species of *Pseudanophthalmus* (Coleoptera: Carabidae). Final Report to U.S. DOI, Office of Endangered Species, and the Tennessee Wildlife Resources. 36 pp.
- Krekeler, C. H. 1973. Cave Beetles of the Genus *Pseudanophthalmus* (Coleoptera, Carabidae) from the Kentucky Bluegrass and Vicinity. *Feildiana* 62(4):35-83.
- Wallace, Richard L. 1989. Report on a Carabid Beetle Survey. Unpublished report to the U.S. Fish and Wildlife Service, Asheville, NC. 6 pp.

LISTING PRIORITY

THREAT				
Magnitude	Immediacy	Taxonomy	Priority	
<b>High</b>	Imminent	Monotypic genus	1	
		Species	2	
		Subspecies/population	3	
	<b>Non-imminent</b>		Monotypic genus	4
			<b>Species</b>	<b>5*</b>
			Subspecies/population	6
<b>Moderate to Low</b>	Imminent	Monotypic genus	7	
		Species	8	
		Subspecies/population	9	
	<b>Non-imminent</b>		Monotypic genus	10
			<b>Species</b>	<b>11**</b>
			Subspecies/population	12

\* **Fowler's Cave beetle, Insular (=Baker's Station) Cave beetle, Soothsayer Cave (=Indian Grave Point) beetle and Noblett's cave beetle**

\*\* **Coleman Cave beetle**

\_\_\_ Have you promptly reviewed all of the information received regarding the species for the purpose of determining whether emergency listing is needed? Yes

**Rationale for listing priority number:**

*Magnitude:* All of these cave beetles are currently known from only one or two caves. Their limited distributions make these species vulnerable to isolated events that would only have a minimal effect on the more wide-ranging members of the genus. Events such as toxic chemical spills, discharges of large amounts of polluted water, closure of entrances, alteration of entrances, or the creation of new entrances can have serious adverse impacts on these cave beetles and could result in their extinction. No formal protection is currently provided to four of these five cave beetles and the magnitude of the threats they face is high. The fifth species (Coleman Cave beetle) currently receives some protection under a formal Cooperative Management Agreement, for Coleman Cave and Foster Cave is owned by The Nature Conservancy, consequently, the threats it faces are more moderate.

*Imminence:* The treats faced by these species are significant, however, it is not anticipated that they will be subject to these threats in the immediate future (next 1-2 years).

Is Emergency Listing Warranted? No. Given the current status and the magnitude and imminence of the threats to these species, emergency listing is not warranted at this time.

**Appendix D**

**U.S. Fish and Wildlife Service  
Section 10(a)(1)(A) Enhancement of Survival Permit**



# FEDERAL FISH AND WILDLIFE PERMIT

2. AUTHORITY-STATUTES	
16 USC 1539(a) (1) (A) 16 USC 703-712 REGULATIONS (Attached)	
50 CFR §§ 13 & 17	
3. NUMBER	
TE088168-0	
4. RENEWABLE	5. MAY COPY
<input checked="" type="checkbox"/> YES	<input checked="" type="checkbox"/> YES
<input type="checkbox"/> NO	<input type="checkbox"/> NO
6. EFFECTIVE	7. EXPIRES
2/28/2005	2/28/2036

1. PERMITTEE

SOUTHERN CONSERVATION CORPORATION  
6582 GAINES FERRY ROAD  
FLOWERY BRANCH, GEORGIA 30542  
PHONE - (770) 967-1208  
FAX - (770) 967-3755

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)

CHARLES H. FOX, JR, EXECUTIVE DIRECTOR

9. TYPE OF PERMIT

ENHANCEMENT OF SURVIVAL  
CANDIDATE CONSERVATION AGREEMENT WITH  
ASSURANCES

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

REFER TO BLOCK 11.E BELOW.

11. CONDITIONS AND AUTHORIZATIONS:

- A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.
- B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.
- C. VALID FOR USE BY PERMITTEE NAMED ABOVE, AND AUTHORIZED AGENTS.
- D. ACCEPTANCE OF THIS PERMIT SERVES AS EVIDENCE THAT THE PERMITTEE AND ITS AUTHORIZED AGENTS UNDERSTAND AND AGREE TO ABIDE BY THE TERMS OF THIS PERMIT AND ALL SECTIONS OF TITLE 50 CODE OF FEDERAL REGULATIONS, PARTS 13 AND 17, PERTINENT TO ISSUED PERMITS. SECTION 11 OF THE ENDANGERED SPECIES ACT OF 1973, AS AMENDED, PROVIDES FOR CIVIL AND CRIMINAL PENALTIES FOR FAILURE TO COMPLY WITH PERMIT CONDITIONS.

XX BLOCK 11 OF THIS PERMIT CONSISTS OF ITEMS A - P (4 PAGES TOTAL).

12. REPORTING REQUIREMENTS

REPORTS WILL BE PROVIDED TO THE U.S. FISH AND WILDLIFE SERVICE OFFICES APPEARING IN CONDITIONS 11.O AND 11.P OF THIS PERMIT.

ISSUED BY

TITLE

DEPUTY REGIONAL DIRECTOR, FWS,  
SOUTHEAST REGION

DATE

MAR 01 2005

**TE 088168-0**

- E. The Permit Area (= Enrolled Property) consists of an approximate one (1) acre parcel of land that is known as lot 3 of Adams Place subdivision in Madison County, Kentucky. A land survey that accurately depicts the property can be found in Appendix B of the document entitled, “Candidate Conservation Agreement with Assurances for the Great Adams Cave Beetle and Lesser Adams Cave Beetle at Adam’s Cave, Madison County, Kentucky” (= CCAA). The Enrolled Property is owned by Southern Conservation Corporation and contains the entrance to Adams Cave and a portion of the subterranean area of Adams Cave.
- F. This Permit’s continued validity is contingent upon the full and complete compliance of the Permittee and any participating landowner(s) with the terms and conditions established herein and in the CCAA. This CCAA and any future modifications and amendments are incorporated into this Permit. The CCAA is Attachment 1 to this permit.
- G. The authorizations granted by this Permit become effective and valid for a covered species (*Pseudanophthalmus pholeter* and *Pseudanophthalmus cataryctos*) upon its being listed as threatened or endangered under the Endangered Species Act of 1973, as amended, through the date on which this Permit expires or is otherwise terminated.
- H. This Permit provides authority for the incidental take of all *Pseudanophthalmus pholeter* and all *Pseudanophthalmus cataryctos* resulting from implementation of the conservation measures as outlined in sections 4 and 7 of the CCAA. In addition to the incidental take authority vested herein, subject to the performance of the CCAA, the Permittee shall have the regulatory assurances for this incidental take authority as outlined in sections 8 and 9 of the CCAA.
- I. The Permittee and the U.S. Fish and Wildlife Service agree that termination, modification, and/or amendments to the CCAA and/or this Permit may occur through the effective term of the Permit. The Permittee and the U.S. Fish and Wildlife Service shall use the procedures outlined in sections 14, 15, 16, 17, 18, 19, 20 and/or 21 of the CCAA, as appropriate.
- J. Neither this Permit nor the CCAA authorizes incidental take of any other federally listed plant and/or animal species. In the event other federally listed plant and/or animal species are found to occur in the Permit Area and are found to be adversely affected by the Permittee’s activities and actions associated with implementation of this Permit and the CCAA, the Permittee agrees to meet with the U.S. Fish and Wildlife Service and to develop appropriate management measures to preclude the potential for unauthorized taking of such species.

CONTINUED...

- K. The Permittee shall provide monitoring reports to the U.S. Fish and Wildlife Service offices as identified in Condition 11.O and shall meet on an as-needed basis to review the information contained in these monitoring reports and performance of the CCAA. These meetings will provide an opportunity for resolutions of disputes regarding the Permit implementation and to discuss amendments, modifications, or adaptive management strategies related to this Permit and the CCAA. The dates and times of said meetings will be mutually-agreed upon, as will a list of potential attendees and potential discussion topics.
- L. Upon locating a dead, injured, or sick *P. pholeter* and/or *P. cataryctos*, or other species that may be covered in the future, in the course of administering this permit, initial notification must be made immediately to the U.S. Fish and Wildlife Service Law Enforcement Office, 3761 Georgetown Road, Frankfort, Kentucky 40601, 502-695-2722. Notification must also be made by the next work day to the U.S. Fish and Wildlife Service offices identified in Conditions 11.O and 11.P. If authorized by the U.S. Fish and Wildlife Service, care should be taken in handling sick, injured, or dead specimens to ensure effective treatment or to preserve biological materials for later analysis. In conjunction with the care of sick or injured endangered species or preservation of biological materials from a dead animal, the finder should take responsible steps to ensure that the site is not unnecessarily disturbed.
- M. Beginning in 2005, and continuing for the duration of this Permit and CCAA, the Permittee will submit an annual report to U.S. Fish and Wildlife Service Offices appearing in Conditions 11.O and 11.P of this Permit. The reports shall be due by December 31<sup>st</sup> of each year. The content of the annual report is outlined in section 10 of the CCAA. Additionally, each report shall contain the following:
1. A certification from a responsible official who supervised or directed the preparation of the report:  
  
“Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.”

N. The U.S. Fish and Wildlife Service agrees to use its best efforts to maintain the confidentiality of any information or data submitted by or on behalf of Permittee in the annual report required by Condition 11.M. In addition, the U.S. Fish and Wildlife Service agrees to use its best efforts to maintain the confidentiality of any information or data submitted by or on behalf of the Permittee pursuant to this Permit which the Permittee has designated as proprietary, commercially or financially sensitive, or confidential, to the maximum extent allowed by law. The U.S. Fish and Wildlife Service shall provide written notice to the Permittee upon receiving a request by any other agency or party for such information or data or a record including such information or data. In the event that the U.S. Fish and Wildlife Service determines that it may be required to disclose the information or data to the requesting agency or other party, it shall provide to the Permittee written notice thereof a minimum of twenty-one (21) working days prior to the anticipated date of disclosure, to allow the Permittee to object and to take appropriate action to seek to prevent the disclosure or assure that the requesting party will likewise maintain the confidentiality of the information or data with respect to further disclosure.

O. For purposes of monitoring compliance and administration of the terms and conditions of the CCAA and this Permit, the contact office of the U.S. Fish and Wildlife Service is:

Field Supervisor  
U.S. Fish and Wildlife Service  
3761 Georgetown Road  
Frankfort, Kentucky 40601  
Telephone: (502) 695-0468  
Facsimile: (502) 695-1024

P. Copies of reports and any other documentation submitted in response to the operation and management of the CCAA and this Permit shall also be provided to:

Endangered and Threatened Species Permits  
U.S. Fish and Wildlife Service (AES/TE/P)  
1875 Century Boulevard, Suite 200  
Atlanta, Georgia 30345  
Telephone: (404) 679-4000  
Facsimile: (404) 679-7081

**END**