Authorization to Proceed (ATP)

Bobby Sturgill (Herman West Site) Maintenance
Abandoned Mine Land (AML) Reclamation Project
based on Categorical Exclusion Determination (CX)
LFO Project # 30.09041041A
Pike County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the January 21, 2011, request for ATP with construction activity on the Bobby Sturgill (Herman West Site) Maintenance AML Reclamation project, prepared by the Division of Abandoned Mine Lands (DAML). OSM found that the appropriate request documents were submitted and/or referenced in the ATP documents of the previously approved Bobby Sturgill AML Reclamation 25th Annual Construction Grant project (previously authorized on December 13, 2005, with a final State inspection on September 25, 2007) and appear to support the need for the proposed maintenance construction activity. OSM confirmed that the required information for this project has previously been included in the AML Inventory System, and no current update is needed at this time. A pre-approval field inspection of the proposed project was deemed unnecessary since no unique characteristics warranting special field verification were noted and it was not selected for field verification under the EY 2011Performance Agreement.

OSM reviewed the Categorical Exclusion Determination (CX) National Environmental Policy Act (NEPA) environmental review document prepared by the (DAML) for the previous AML reclamation project, which OSM signed on December 15, 2005. We have determined that the currently proposed maintenance activity requested is adequately considered in the previously approved CX. In addition, the proposed maintenance activity conforms with exclusion criteria in 516 DM 2 and 13, does not involve any of the general exceptions in 516 DM 13.5(A)(33) or extraordinary circumstances listed in 516 DM 2, Appendix 2, and is excluded from further NEPA compliance. We recommend that appropriate consideration be given to the recommendations and comments provided in the response from the consultation agencies.

Accordingly, pursuant to Section 5-11-20D.3 of the Federal Assistance Manual and my signature on this ATP notification document, DAML is authorized to proceed with construction activity for this maintenance project as described in the ATP request documents submitted by DAML for this project and further conditioned in this notification, and expend Federal funds in accordance with AML grant terms and conditions.

Acting

Joseph L. Blackburn, Field Office Director
OSM Lexington Field Office

2/2/11
Date

Memorandum

Date: February 2, 2011

To: Bobby Sturgill (Herman West Site) Maintenance Abandoned Mine Land (AML) Reclamation Project File # 30.09041041A

From: Steve Cassel, Sr., AML Program Specialist 2-2-11
Lexington Field Office (LFO), Program Support Branch (PSB)

Subject: Review of "Authorization to Proceed" (ATP) Request

The Branch recommends that the Field Office Director (FOD) authorize the State of Kentucky to proceed with the construction activity proposed on the Bobby Sturgill (Herman West Site) AML Reclamation Project. The Branch prepared an ATP letter for FOD review. The Branch recommends that the FOD sign the ATP for this maintenance project in the space provided. The original signed ATP letter will be sent to the Division of Abandoned Mine Lands (DAML) Director, along with associated approval documents consisting of a copy of the LFO review memorandum. A scanned copy of these authorization documents will be attached to an email to the Department for Natural Resources (DNR) Commissioner.

The Kentucky DAML ATP request dated January 21, 2011, was received at LFO attached to an email on January 21, 2011. The ATP was processed within 7 working days; therefore, the customer service target of 14 working days to process an ATP was met. The ATP was processed in 11calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP was met.

DAML designated funding under the Maintenance Subaccount of the budget category Project Costs (Non-Water Supply) of Kentucky's (FY 2011) 30th AML Annual Construction Grant (ACG). The project is located in Pike County. The maintenance project addresses conditions on the 25th ACG Bobby Sturgill Landslide AML Reclamation Project (Project# 25.216030600) authorized previously on December 15, 2005, of which a State final inspection was conducted on September 25, 2007. Bid advertisement, bid opening, and construction completion dates were generally provided by DAML in the ATP request; therefore I inserted the following dates in the LFO State Project database for this project: Bid Advertisement Date was entered as March 1, 2011, Contract Award was entered as March 1, 2011, and Contract/Construction Completion was entered as May 1, 2011.

An office review of the current maintenance ATP proposal and previously submitted and accepted ATP request documents was conducted. The documents consisted of a project description and a location map, reference to a National Environmental Policy Act (NEPA) review documented in a Categorical Exclusion Determination (CX) for the previous project, with agency consultation response letters attached, and reference to a previously processed Abandoned Mine Land Inventory System (AMLIS) Problem Area

Description (PAD) summary and appropriate Priority Documentation Forms for PA# KY-002460-SGA. In addition, I have included a copy of the LFO review and recommendation memorandum dated December 13, 2005 that includes the environmental review analysis as part of the NEPA documentation in the database file of this maintenance project.

A pre-approval field inspection of the proposed project was deemed unnecessary, since no unique characteristics warranting special field verification were noted and it wasn't selected for field verification under the EY 2011Oversight Agreement.

The CX previously submitted for the construction activity at the site for the authorized project was reviewed and found to adequately evaluate the environmental concerns and impacts of the currently proposed maintenance construction activity within the current NEPA review guidance. The use of a CX is acceptable for the construction activity proposed in this project because all items on the CX have a response of "No." The project type does not meet any of the ten general exceptions, in 516 DM 13.5(B)(33), that would require preparation of an EA.

The project involves: no more than 100 acres; no hazardous wastes; no explosives; no hazardous or explosive gases; no dangerous impoundments; no mine fires and refuse fires; no undisturbed, noncommercial borrow or disposal sites; no dangerous slides where abatement has the potential for damaging inhabited property; no subsidences involving the placement of material into underground mine voids through drilled holes to address more than one structure; and no unresolved issues with agencies, persons, or groups or adverse effects requiring specialized mitigation.

In addition, none of the twelve extraordinary circumstances listed in 516 DM 2, Appendix 2, exist on the project. All access is via existing roads. All waste areas were previously disturbed as mine benches, abandoned farm land, and residential yards. All other areas were previously disturbed by mining, residential/business development, and road construction. There are no unresolved issues or adverse effects requiring specialized mitigation.

No significant impacts have been reported to this office or identified by the Branch. The Branch recommends that OSM accept the CX previously submitted by the Kentucky DAML, as adequate NEPA consideration for the proposed maintenance activity. The responses from agencies consulted for the NEPA review are summarized in the LFO review and recommendation memorandum dated December 13, 2005. We have determined that the currently proposed maintenance activity requested is adequately considered in the previously approved CX.

The comments from the Kentucky State Clearinghouse, Kentucky's "Single Point of Contact" (SPOC) pertaining to AML Non-Water Supply projects included no comments

that affect this proposal. The information to update PA #' KY-002460-SGA was directly input into the AMLIS by the DAML and the PA was initially established in the AMLIS on 11/01/2005 based on the AMLIS 2006 3rd Quarter database. This information reflects the changes in units and costs based upon the design and classification of the funded category. This was confirmed by LFO's review of the AMLIS data and a PAD summary printout from the OSM HDQ AMLIS database under the previous AML reclamation project and accepted by OSM. No new AML problems are to be addressed under this maintenance project. PA #KY-002460-SGA submitted for this ATP does not represent a "new Problem Area" after December 20, 2006, requiring FOD approval under OSM Directive AML-1-2 (signed June 22, 2007); therefore, no FOD approval form was prepared for FOD signature.

The Area Office AML staff will be notified of this project authorization by cc'd copy of the email notifying DAML of this ATP or email of an updated State AML Project List after the authorization of this project and availability of the project documents on the LFO State AML reclamation project tracking database.

12/13-05
ACTING 12-13-05

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
2675 Regency Road
Lexington, KY 40503-2922

DEC 15 2005

Categorical Exclusion
Authorization to Proceed
Bobby Sturgill Landslide AML Reclamation Project
Pike County, Kentucky

Ms. Susan C. Bush, Commissioner
Department for Natural Resources
#2 Hudson Hollow Complex
Frankfort, Kentucky 40601

Dear Ms. Bush:

The Office of Surface Mining (OSM) has completed a review of your November 22, 2005, request for Authorization to Proceed with Construction Activity (ATP) on the Bobby Sturgill Landslide Abandoned Mine Lands (AML) Reclamation Project prepared by the Division of Abandoned Mine Lands (DAML). Your request does not designate a funding source by assignment of a State Subaccount number under the Project Costs (Non-Water Supply) of any of Kentucky's Annual AML Construction Grants. In a previous email, DAML indicated they would assign the project to a grant before it goes to construction. Please notify this office of the final funding source and State Subaccount number for our records.

OSM finds that the appropriate request documents were submitted and appear to support the need for the proposed construction activity. We confirmed that the required information for this project has been included in the AML Inventory System. A pre-approval field inspection of the proposed project was deemed unnecessary since this site was previously investigated by OSM as an emergency complaint.

We conducted National Environmental Policy Act (NEPA) coordination with the Kentucky Field Office of the U.S. Fish and Wildlife Service (USFWS) in Frankfort, Kentucky. After review of the ATP documents, we determined that formal consultation with the USFWS is not required because the proposed project will not adversely affect a Federally listed species. However, we concurred/responded in an email dated December 7, 2005.

We also reviewed the Categorical Exclusion (CE) certification prepared by DAML for this project. OSM determined that the

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construction activity requested under this project conforms to exclusion criteria in 516 DM 6, Appendix 8, and is excluded from further NEPA compliance. We recommend that appropriate consideration be given to the recommendations and/or comments provided in the response from the consultation agencies.

Please send OSM copies of any additional applications for permits/certifications and approval documents needed for the construction of this project that were not submitted in your original ATP. This information is needed to perform oversight and monitor compliance with NEPA.

I have signed the CE and have enclosed a copy, along with the USFWS response, to Steve Hohmann under copy of this letter. Accordingly, pursuant to Section 5-11-20D3 of the Federal Assistance Manual, you are authorized to proceed with construction activity for this project and expend Federal funds in accordance with AML grant terms and conditions. If you have any questions regarding this authorization or the procedures, please contact Sherry Wilson at (859) 260-8405.

Sincerely,

Original signed by
William J. Kovacic

William J. Kovacic
Field Office Director

cc: Steve Hohmann, DAML

OSM Subject, Reading, PAO, FOD
PSB:Tar:SCassel:December 13, 2005:Bobby Sturgill atp.doc

UNITED STATES DEPARTMENT OF THE INTERIOR
Office Of Surface Mining Reclamation And Enforcement
ABANDONED MINE LANDS
CATEGORICAL EXCLUSION CERTIFICATION AND DETERMINATION

State: Kentucky PA: KY 2460
Project Name: Bobby Sturgill Landslide AML Reclamation Project
Project Description: Elimination of a landslide and associated drainage problems (DS); and reopening 6 collapsed mine portals for installation of drainage controls (P).

I. GENERAL EXCEPTIONS

Does the project type specifically require an EA in 516 DM 6, Appendix 8, as specified in Item I of the attached instructions?	No [x]	Yes [ ]

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

A significant adverse effect on public health or safety?	No [x]	Yes [ ]
An adverse effect on any of the following unique geographic characteristics? If 'yes,' check the ones that apply:	No [x]	Yes [ ]

[ ] Parks (state, local or National)
[ ] Recreation or Refuge Lands
[ ] Wilderness Areas
[ ] Ecologically Significant or Critical Areas
[ ] Prime Farmlands
[ ] Wild or Scenic Rivers
[ ] Wetlands
[ ] Floodplains
[ ] Sole or Principal Drinking Water Aquifers

Highly controversial environmental effects?	No [x]	Yes [ ]
Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks?	No [x]	Yes [ ]
A precedent for future action or a decision in principle about future actions with potentially significant environmental effects?	No [x]	Yes [ ]
Directly related to other actions with individually insignificant but cumulatively significant environmental effects?	No [x]	Yes [ ]
Adverse effects on properties listed or eligible for listing on the National Register of Historic Places?	No [x]	Yes [ ]
Adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species?	No [x]	Yes [ ]

Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Wetlands Protection) or The Fish and Wildlife Coordination Act?	No [x]	Yes [ ]
Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment?	No [x]	Yes [ ]

III. RESOURCE IMPACT EXCEPTIONS

Are there any unresolved issues or adverse effects requiring specialized mitigation for any of the following resources? If yes, check the ones that apply. No [x] Yes [ ]

[ ] Topography
[ ] Land Use (includes prime farmland)
[ ] Soils
[ ] Vegetation (includes wetlands)
[ ] Hydrology
[ ] Fish and Wildlife
[ ] Historic and Cultural
[ ] Recreation
[ ] Air Quality
[ ] Noise
[ ] Other (includes socio-economics)

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: Steve Hohmann by [illegible] Date: 11/22/05

Name and Title: Steve Hohmann, Director KY Division of Abandoned Mine Lands

VI. OSM DETERMINATION

12-13-05

[X] This project conforms with the exclusion criteria in 516 Dm 6, Appendix 8, and is excluded from further NEPA compliance.

[ ] This project does not conform with the exclusion criteria in 516 DM 6, Appendix 8, and requires an environmental assessment.

Signature: William J. Kovacic Date: 12/14/05

Name and Title: William J. Kovacic Field Office Director

Memorandum

Date: December 13, 2005

To: Bobby Sturgill Landslide AML Reclamation Project File

From: Steve Cassel, Sr., Program Specialist (AML) 12-13-05
Lexington Field Office (LFO), Program Support Branch (PSB)

Subject: Review of "Authorization to Proceed" (ATP) Request

The Branch recommends that the Field Office Director (FOD) authorize Kentucky to proceed with construction activity on the Bobby Sturgill Landslide AMLR Project. The Branch prepared an (ATP) letter for FOD review. The Branch recommended that the FOD sign the Categorical Exclusion Determination (CE and ATP in the space provided on each document. The original of the ATP letter will be sent to the Department for Natural Resources Commissioner and a copy will be sent to the Division of Abandoned Mine Lands (DAML) Director with a copy of the CE.

The Kentucky Division of Abandoned Mine Lands (DAML) ATP request is dated November 22, 2005 and was received at LFO on November 23, 2005. DAML did not designate a funding source under the budget category entitled Project Costs (Non-Water Supply) of any of Kentucky's AML Annual Construction Grant's (ACG). In a previous email they indicated they would assign the project to a grant before it goes to construction. An office review of the request documents was conducted. The documents consisted of a project description, a National Environmental Policy Act (NEPA) review documented in a Categorical Exclusion Determination (CE) with agency consultation response letters attached, a location map, and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Supplemental Form's, with engineer cost estimates for PA# KY002460SGA.

A pre-approval field inspection of the proposed project was deemed unnecessary since the project was previously investigated by OSM as emergency complaints Bobby Sturgill Slide L2004-131A on May 11, 2004 (referred to DAML as a high priority AML problem) and Bobby Sturgill Landslide II L2005-118A on April 29, 2005 (referred to OSM Federal Reclamation Program as a potential emergency project and subsequently referred to DAML on July 13, 2005 as not serious enough to meet emergency project criteria. In additions no unique characteristics warranting special field verification were noted.

The Categorical Exclusion (CE) submitted for the construction activity at the site was reviewed and found to adequately document the environmental review of the construction area within the current NEPA review guidance. The use of a CE is acceptable for the construction activity proposed in this project because all items on the CE have a response of "No." The project type does not meet any of the nine general exceptions, in 516 DM 6, Appendix 8, requiring preparation of an Environmental

Assessment. The project is not over 100 acres in size and does not include placement of material into underground mine voids, mine/refuse fires, hazardous or explosive gases, dangerous impoundments, abatement of dangerous slides that can result in damage to an inhabited property, hazardous wastes, use of explosives or undisturbed/non-commercial borrow or disposal/waste areas. The project area, including the waste area, have been previously disturbed by house seat construction, mining and road construction. The project does not meet any of the Department of Interior exceptions presented in 516 DM 2. There are no unresolved issues or adverse effects requiring specialized mitigation.

No significant impacts have been reported to this office or identified by the Branch. The Branch recommends that OSM accept the CE submitted by the Kentucky DAML. The States ATP request letter summarized the formal responses from agencies consulted for the NEPA review and discussed appropriate resolution of all their concerns and recommendations. The formal responses from agencies consulted for the NEPA review include the following comments and/or recommendations:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) did not indicate any known federally threatened/endangered fish and wildlife in the USGS quadrangle within which the project area is located KDFWR does not anticipate any significant impacts on wildlife.

The DAML staff biologist reviewed the Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database in lieu of formal consultation. The findings are noted in the ATP request letter and an attached memorandum. DAML found that KSNPC data shows no federally listed threatened or endangered species within a 10-mile radius and two species of State concern within a 1-mile radius of the project. DAML discussed the species noted above in their ATP request letter finding that the noted species will not be impacted since suitable habitat does not exist within the project area to support the species. No reason was identified to dispute their determination.

The OSM Lexington Field Office coordinated NEPA consultation with the Kentucky Field Office of the U.S. Fish and Wildlife Service (USFWS) located in Frankfort, KY. After review of the ATP documents, which include formal consultation with the Kentucky State Nature Preserves Commission (KSNPC) and Kentucky Department of Fish and Wildlife Resources (KDFWR), LFO determined that formal consultation with the USFWS is not required because the proposed project will not adversely affect a federally listed species (Federal Assistance Manual (FAM) Chapter 5-11-15, A. 3.). LFO sent the USFWS an email on December 2, 2005 notifying them of this determination and requesting their comments or recommendations for the project prior to our ATP authorization target date of December 14, 2005.

The USFWS responded in an email dated December 7, 2005. The USFWS found that the only federally listed threatened or endangered species known to occur within the proposed project area is the endangered Indiana bat. The USFWS concurred with OSM's determination that the proposed project would not likely adversely impact the

species. With this information, they found the requirements of Section 7 of the Endangered Species Act have been fulfilled.

The Kentucky Heritage Council and State Historic Preservation Officer (SHPO) stamped the consultation letter indicating they "Concur, No Effect on Historic Properties." The Office of State Archaeology found that their records do not show any known archaeological sites directly in the project area, no systematic archaeological survey has been conducted in the immediate project area, and past disturbance to the project area make it unlikely that archaeological sites will be preserved. Neither agency recommended conducting archeological surveys/investigations or mitigation measures.

The Kentucky Division of Water's (DOW) Water Quality Certification Section determined from the written description that the project does not impact a stream or wetland that requires a specific 401 Water Quality Certification. A specific 404 Clean Water Act (CWA) permit is not needed based upon DOW and DAML application of criteria provided by the U.S. Corp of Engineers (COE). The DOW Floodplain Management Section (FMS) of the Water Resources Branch determined that the project is not located within the base floodplain. Therefore a stream construction permit will not be required.

The comments from the Kentucky State Clearinghouse, Kentucky's "Single Point of Contact" (SPOC) pertaining to AML Non-Water Supply projects included no comments that affect this proposal. The information to update the AMLIS for PA # KY002460SGA was directly input into the AMLIS by the Commonwealth's DAML. This information reflects the changes in units and costs based upon the design and classification of the funded category. This was confirmed by LFO review of the AMLIS data and a PAD printout from the OSM HDQ AMLIS database.

cc: PAO *(w/copy of signed ATP letter, CE, and entire ATP request project file)*

Note to Clerk, Please attach the original signed CE and copy of the FOD signed ATP letter to the first flap of the project file, the AMLIS PAD to the fourth flap, any inspection report to the third flap, the DAML ATP request letter and remaining ATP documents to the second flap. Then enter the date of the ATP letter into the "Approval Date" field of the ATP tab screen, label the folder, and file. Thanks.