

Authorization to Proceed (ATP)
Harveyton Refuse AML HP Project High Priority (HP)
Abandoned Mine Land (AML) Reclamation Project
based on Categorical Exclusion (CX)
Perry County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the July 1, 2011, request for ATP with construction activity on the Harveyton Refuse HP AML Reclamation project, prepared by the Division of Abandoned Mine Lands (DAML) of the Kentucky Department for Natural Resources. OSM found that the appropriate request documents were submitted and appear to support the need for the proposed construction activity. OSM confirmed that the required information for this project has been included in the AML Inventory System.

OSM reviewed the categorical exclusion (CX) certification prepared by DAML for this project. OSM determined that the construction activity requested under this project conforms to the 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 environmental review.

Please ensure compliance with the following provisions in the ATP request documents noted here for emphasis or the authorization of this project is further conditioned as follows:

- The DAML project request notes that no tree removal is proposed. Please note that tree removal restrictions pertain to the purposeful removal of standing trees larger than 5 inches diameter at breast height or standing snags with loose bark that are 9 inch or greater diameter at breast height and at least 10 feet in height.

The current trees within the waste area are to be avoided, or only removed between October November 15 and March 31, unless an Indiana bat survey is documented by a qualified biologist and approved by the USFWS.

- Due to the need to act on this high priority project there was insufficient time to complete consultation with the Office of State Archaeology (OSA). The DAML request correspondence noted that they do not anticipate negative impacts on archaeological resources, since the project site is in a residentially maintained yards and roadways, falls within the "exempt project" provisions of the programmatic agreement with the Kentucky Heritage Council (KHC), and will from past consultation most probably result in a response from OSA that they "found that their records did not indicate 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." DAML must consider and employ as appropriate any comments or suggestions provided by OSA.

- Please ensure compliance with the U.S. Army Corps of Engineers (COE) 404 Nationwide 37 permit and the Kentucky Division of Water 401 WQC for this nationwide permit, and implement any changes deemed necessary by the 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 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.



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

7/6/2011

Date

Cassel, Steven R. "Steve"

From: Cassel, Steven R. "Steve"
Sent: Friday, July 01, 2011 3:55 PM
To: 'Steve Hohmann (steve.hohmann@ky.gov)'
Cc: 'carl.campbell@ky.gov'; 'mark.meade@ky.gov'; 'Bill.Overman@ky.gov'; 'Howell, Ryan (EEC)'; 'Train, Shannon (EEC)'; Rickwa, Vanna (EEC); Blackburn, Joseph L. "Joe"; Smith, Gail; Turner, Samuel R. "Sam"; Francis, Gary D.; Edwards, Chester L. "Chet"; Holliday, James "Jim"; Miller, Corey T.; Estes, Loren A.
Subject: ATP Transmittal: Harveyton Refuse High Priority ATP, Perry County
Attachments: AR-M550N_20110701_154812.pdf

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of your July 1, 2011, request for ATP with construction activity on the Harveyton Refuse High Priority AML Reclamation project, prepared by the Division of Abandoned Mine Lands (DAML). The request does not designate a funding source for the construction work under the Project Costs (Non-Water Supply) of any of Kentucky's Annual AML Construction Grant. OSM requests to be notified of the final funding source and State account number for our records.

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 2011 Oversight Agreement.

It is OSM's recommendation that appropriate consideration be given to the general recommendations and comments provided in the response from the agencies consulted in the National Environmental Policy Act (NEPA) environmental review documented in the Environmental Assessment (EA) prepared by DAML. Please give special attention to the following NEPA consultation recommendation(s)/conditions and ensure compliance with the following provisions in the ATP request documents noted here for emphasis, and/or the authorization of this project is further conditioned as follows:

- The DAML project request notes that no tree removal is proposed. Please note that tree removal restrictions pertain to the purposeful removal of standing trees larger than 5 inches diameter at breast height or standing snags with loose bark that are 9 inch or greater diameter at breast height and at least 10 feet in height.

The current trees within the waste area are to be avoided, or only removed between October November 15 and March 31, unless an Indiana bat survey is documented by a qualified biologist and approved by the USFWS.

- Due to the need to act on this high priority project there was insufficient time to complete consultation with the Office of State Archaeology (OSA). The DAML request correspondence noted that they do not anticipate negative impacts on archaeological resources, since the project site is in a residentially maintained yards and roadways, falls within the "exempt project" provisions of the programmatic agreement with the Kentucky Heritage Council (KHC), and will from past consultation most probably result in a response from OSA that they "found that their records did not indicate 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." DAML must consider and employ as appropriate any comments or suggestions provided by OSA.
- Please ensure compliance with the U.S. Army Corps of Engineers (COE) 404 Nationwide 37 permit and the Kentucky Division of Water 401 WQC for this nationwide permit, and implement any changes deemed necessary by the agencies.
- OSM requests copies of any applications for permits/certifications and approval documents required for the construction of this project that were not submitted with the original ATP. This information is needed by OSM to perform oversight and monitor compliance with the NEPA.

The OSM Lexington Field Office Director has signed an ATP notice and the Categorical Exclusion Determination. A copy of each of these documents and the LFO review memorandum are scanned into the attachment to this email for your information and use. Mr. Carl Campbell, Commissioner, Department for Natural Resources has been notified of this authorization by receiving a copy of this email.

Any questions concerning this ATP or the procedures can be addressed to Steve Cassel at 859-260-3912 or Gail Smith at (859) 260-3908.

Thank you, and have a great 4th of July Holliday.

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 2167 SGA
Project Name: Harveyton Refuse HP AML Reclamation Project
Project Description: Remove coal refuse from creek and yards, replace culverts, and repair road.

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 Yes

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

A significant adverse effect on public health or safety? No Yes

An adverse effect on any of the following unique geographic characteristics? If 'yes,' check the ones that apply: No Yes

- | | |
|---|--|
| <input type="checkbox"/> Parks (state, local or National) | <input type="checkbox"/> Wild or Scenic Rivers |
| <input type="checkbox"/> Recreation or Refuge Lands | <input type="checkbox"/> Wetlands |
| <input type="checkbox"/> Wilderness Areas | <input type="checkbox"/> Floodplains |
| <input type="checkbox"/> Ecologically Significant or Critical Areas | <input type="checkbox"/> Sole or Principal Drinking Water Aquifers |
| <input type="checkbox"/> Prime Farmlands | |

Highly controversial environmental effects? No Yes

Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks? No Yes

A precedent for future action or a decision in principle about future actions with potentially significant environmental effects? No Yes

Directly related to other actions with individually insignificant but cumulatively significant environmental effects? No Yes

Adverse effects on properties listed or eligible for listing on the National Register of Historic Places? No 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 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 []

- | | |
|---|---|
| <input type="checkbox"/> Topography | <input type="checkbox"/> Historic and Cultural |
| <input type="checkbox"/> Land Use (includes prime farmland) | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Soils | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Vegetation (includes wetlands) | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Hydrology | <input type="checkbox"/> Other (includes socio-economics) |
| <input type="checkbox"/> Fish and Wildlife | |

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: Steve Hohmann Date: 7/1/11

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

VI. OSM DETERMINATION

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: Joseph L. Blackburn Date: 7/01/2011

Name and Title: JOSEPH L. BLACKBURN, OSM LFO DIRECTOR

Memorandum

Date: July 1, 2011

To: Harveyton Refuse High Priority (HP) Abandoned Mine Land (AML)
Reclamation Project File

From: Steve Cassel, Sr., AML Program Specialist *SC 7-1-11*
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 Harveyton Refuse High Priority (HP) AML Reclamation Project. The Branch prepared an ATP notice for the FOD review. The Branch recommends that the FOD sign the Categorical Exclusion Determination (CX) and ATP notice in the space provided on each document. The original signed ATP notice will be filed in the LFO AML project construction files and a copy will be sent to the Division of Abandoned Mine Lands (DAML) Director attached to a transmittal email, with an attachment of associated approval documents, consisting of a copy of the LFO review memorandum and CX. Additionally, the transmittal email will be copied to the Department for Natural Resources (DNR) Commissioner.

The Kentucky DAML ATP request dated July 1, 2011, was received at LFO on July 1, 2011. The ATP was processed same day; therefore, the customer service target of 14 working days to process an ATP has been met and the Federal employee performance appraisal standard of 30 calendar days to process an ATP has been met.

The project area may be centrally located on the Hazard North, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map at 37° 18' 46.6" North Latitude and 83° 11' 43.5" West Longitude near the community of Harveyton, Kentucky. The project location, AML problems to be addressed and proposed reclamation activity/cost are also available at <http://www.osmre.gov> in the AMLIS under PA# KY-002162-SGA. The project involves reclamation of AML conditions consisting cleaning refuse out of the stream channel and out of residential yards, installation of new culverts as needed, and repair of road ways.

DAML did not designate a funding source for the construction work under the budget category entitled Project Costs (Non-Water Supply) of any of Kentucky's AML Annual Construction Grants (AG). In previous discussions, DNR indicated they would assign projects to a grant before they go to construction. The LFO Project/Site ID # 99.114400000 was assigned to the project file for LFO tracking purposes until actual AG and Location Code numbers are assigned by DAML and can be inserted in the appropriate positions at the beginning and end of the LFO Project #. No specific proposed bid advertisement, bid opening, or construction completion dates were provided by DAML in the ATP request letter, therefore I inserted dates in the database

based on the ATP request letter stating that these activities will occur as soon as possible and this is a high priority project. The following proposed dates were assigned and entered by LFO for database tracking purposes: proposed and actual Bid Advertisement and Contract Award Dates were entered as July 6, 2011, and Contract/Construction Completion was entered as September 1, 2011.

An office review of the request documents was conducted. The documents consisted of; a project description, location maps, a National Environmental Policy Act (NEPA) review documented in a CX with agency consultation documentation; and reference to Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms, with engineer cost estimates for PA# KY-002162-SGA.

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 2011 Oversight Agreement.

The CX submitted for the construction activity at the site was reviewed and found to adequately document the environmental review of the 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 Environmental Assessment.

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. The waste area was previously disturbed for residential and farm use and as waste area for previous State and Federal reclamation projects, and is also currently proposed to be used for the Victor Arnett Drainage and Landslide High Priority AML Reclamation Project authorized on June 29, 2011. 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 the Office of Surface Mining Reclamation and Enforcement

(OSM) accept the CX submitted by the Kentucky DAML. The State's ATP request correspondence and attachments summarized the responses from agencies consulted for the NEPA review and discussed appropriate resolution of all their concerns and recommendations. The responses from agencies consulted for the NEPA review include the following comments and/or recommendations:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) identified no (known federally threatened/endorsed fish and wildlife within a 10 mile radius of the project area. They recommended that proposed sediment control be installed and maintained through life of the project.

The designated DAML biological review staff reviewed the Kentucky State Nature Preserves Commission's (KSNPC) endangered, threatened and special concern reference databases in lieu of direct consultation. The findings are noted in the ATP request correspondence and an attached biological review memorandum. DAML found that KSNPC data indicated one federally listed threatened or endangered species, the Indiana bat, within a 10-mile radius and one species of State concern known to occur within a 1-mile radius of the project. DAML listed and discussed each species in the biological review memorandum, finding that the noted species will not be impacted, since the project will not result in a significant negative impact to their critical habitat and/or suitable habitat does not exist within the project area to support the species. No reason was identified to dispute their determination.

In a meeting held in February 2010 between the OSM Lexington Field Office (LFO) LFO, Kentucky Field Office (KFO) in Frankfort, Kentucky, of the U.S. Fish and Wildlife Service (USFWS) and DAML; Steve Hohmann, Director of DAML, offered to coordinate NEPA consultation with the KFO, utilizing the agreements in the September 18, 2009, Memorandum of Agreement (MOA) signed by the OSM, LFO and USFWS KFO. This document outlined the acceptable conditions that the projects potential impacts can have where the KFO will not need to be further contacted for comment. When the conditions within the agreement are present, processing of the ATP may proceed with the confidence that the biological environment is being protected and provisions of Section 7 of the Endangered Species Act have been fulfilled. It was agreed to by all parties, acknowledging that LFO would retain the final review to determine if the NEPA documentation is complete.

After review of the ATP documents for this project DAML determined that additional 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.)

The project activities meet the following conditions noted in the MOA to ensure protection of federally listed species; specifically the Indiana bat, Gray bat, and freshwater fishes and mussels:

- With the exception of trees directly impacted by the AML problem, the project does not include the purposeful removal of standing trees larger than 5 inches diameter at breast height or standing snags with loose bark that are 9 inch or greater diameter at breast height and at least 10 feet in height, during the period of April 1 to October 15 (in this project no trees are proposed be removed in the main project area or the waste area; DAML noted that there are a few trees within the waste area, but there is enough room for project activity and the trees will be avoided);
- The project activity does not occur in "Known Indiana Bat Habitat" identified on the map attached to the MOA and the GIS files provided by USFWS KFO on November 2, 2009, used to generate the map (a copy of a section of the MOA GIS layer map on which the project coordinates are located is attached to the DAML biological review memorandum as proof of this determination);
- No caves or clifflines will be disturbed;
- No mine portal/shaft closures are proposed;
- No purposeful filling or crossing of streams using heavy equipment or the removal of riparian vegetation using heavy equipment within the Tradewater, lower Ohio, upper Cumberland, Green, and Licking River basins;
- In order to avoid/reduce indirect impacts, erosion and sediment control plans will be implemented and monitored until permanent vegetation has become established in the above listed watersheds and all other watersheds as may be appropriate.

The OSM ATP will be conditioned that if any removal of trees not directly impacted by the AML problem is later found to be necessary during the period April 1 to October 15, a habitat assessment or presence/absence survey will be required by qualified DAML staff.

With the specifics of the proposal meeting the criteria set out in the MOA, OSM agrees with DAML's determination that the proposed project would not adversely impact the species if these conditions are present. With this information, they found the requirements of Section 7 of the Endangered Species Act have been fulfilled.

The Office of State Archaeology (OSA) was sent a consultation notification; however, a response had not been received prior to needing to request ATP for the high priority project. The DAML request correspondence noted that they do not anticipate negative

impacts on archaeological resources, since the project site is in a residentially maintained yards and roadways, as noted below falls within the "exempt project" provisions of the programmatic agreement with the Kentucky Heritage Council (KHC), and will from past consultation most probably result in a response from OSA that they "found that their records did not indicate 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."

The Kentucky Heritage Council (KHC) and State Historic Preservation Officer (SHPO) were not consulted further for the current construction activity, since this project activity falls under the "exempt projects" provisions in the Programmatic Agreement that DAML signed on January 3, 2011, with the KHC. Exempt projects are "Routine and recurring projects whose impacts [under Section 106 of the National Historic Preservation Act] are "foreseeable and cause little or no ground disturbance or that have a low probability of affecting known or unknown historic properties..." Under the agreement KHC requires no consultation beyond DAML's determination that the project is an exempt project.

Environmental and Public Protection Cabinet (EPPC) (changed to the Environment and Energy Cabinet (EEC) in July 2008) Secretary order dated December 12, 2006, transferred authority for issuance of Clean Water Act (CWA) Section 401 Water Quality Certifications (WQC) associated with surface coal mine operations, to include any reclamation projects proposed by the DAML, to the Kentucky Department for Natural Resources (DNR). DNR assigned this responsibility to the DAML Design Branch. In a meeting held in February 2010 between the OSM Lexington Field Office (LFO), Kentucky Field Office (KFO) in Frankfort, Kentucky, of the U.S. Fish and Wildlife Service (USFWS) and DAML to primarily discuss fish and wildlife issues; Steve Hohmann, Director of DAML, offered to coordinate NEPA consultation with the U.S. Army Corps of Engineers (COE) to assess the need for and compliance with the permit requirements of Section 404 of the Clean Water Act (CWA) by application of criteria provided by the COE. This was beneficial to both offices since these issues are inter-related. The DAML Design Branch determined that the 1200 feet of stream work proposed in the project is covered by the COE 404 Nationwide 37 permit and the DOW 401 WQC for this nationwide permit, DAML has sent pre-construction notices to these agencies, and DAML will implement any changes deemed necessary by the agencies.

Under a 2005 agreement with the Kentucky Division of Water (DOW) Floodplain Management Section (FMS) of the Water Resources Branch, DOW authorized DAML to apply DOW floodplain standards in lieu of a DOW review. In this agreement, DAML will directly consult with DOW if it appears a permit may be required. DAML has acquired a set of Federal Emergency Management Agency (FEMA) floodplain maps that include

the project area. DAML's Design Branch personnel researched these maps and have determined that no floodplain permits are required the project since the drainage area is less than one square mile.

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-002162-SGA was directly input into the AMLIS by the 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 summary/documentation printout from the OSM HDQ AMLIS database. PA #KY-002162-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 forms were prepared for FOD signature and /or the PA was not further approved by OSM in the e-AMLIS.

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.

Attachments:

AMLIS PA #KY-002162-SGA

Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Friday, July 01, 2011 8:33 AM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Overman, Bill (EEC); Rickwa, Vanna (EEC); Hohmann, Steve (EEC)
Subject: Harveyton Refuse HP AMLRP ATP request
Attachments: Harveyton Refuse HP AMLRP description.doc; Harveyton Refuse HP overview map.pdf; Harveyton Planview Overall Layout.pdf; Harveyton Refuse HP AMLRP CX.pdf

Steve and/or Corey,

On June 20, 2011 a rainfall event in the community of Harveyton, in Perry County, dislodged a large amount of coal refuse that, along with sediment, deposited into First Creek. This resulted in damage to drainage controls that were previously put in place during the 5AG Clemons Slide AML Reclamation Project and the Harveyton Refuse Fire (KY-86-029), that was worked by OSM. Material has also washed into residential yards and under residences. If the deposited material is not removed, future rain events will likely cause additional flooding and damage to residences, culverts, yards, and the county road. The clogged stream threatens the safety of all individuals that may be in the area during a rain event, and the material that is in residential yards and up against homes is a fire hazard and an environmental hazard. Because of these reasons, the site has been deemed a high priority, and an expedited ATP is being requested.

Attached are a project description, overview map, and close-up map of the site, which includes the waste area. These documents are being sent to OSA and KDFWR for their comments.

Access for the project sites will be through driveways and residentially maintained yards. The refuse pile has been previously worked by the 5 AG Clemons Slide AML Project, and is the location of the OSM emergency Harveyton Refuse Fire Project (KY-86-029). The waste area was used during the previous AML project, and the attached planview map indicates this area is a maintained area that is mostly void of trees. This waste area has also been recently approved for the Victor Arnett Drainage & Landslide HP AMLRP. The creek has also been disturbed by heavy drainage, road construction, the placement of culverts, AML and OSM construction, coal mining operations, and houseseat development. Because of these disturbances, it is unlikely there are any archaeological resources that may be negatively impacted within the project work boundaries. For these reasons, KHC was not contacted, as the project is exempt under the Programmatic Agreement between KHC and AML. We will forward any comments that we receive from OSA when we receive them.

A search of the KSNPC database was performed by Ed Boone on June 29, 2011, and the memo will be sent in a second email, due to size restrictions. The memo indicates no species of concern should be negatively impacted. Although the entire state of Kentucky has been determined to be potential Indiana Bat habitat, the project will not be closing any cave-like structures, and no trees are proposed to be cut, so project construction should not negatively impact the Indiana Bat. As seen on the attached planview map, several trees are located within the project limits near the waste area; however, there is enough room to avoid having to cut these trees. Sediment controls will also be in place to control any runoff from the waste area. We will forward any comments we receive from KDFWR when we receive them, however it is unlikely that any species of concern would be negatively impacted due to the project location and scope of work.

A review of water issues was performed for this project to determine if any permits/certificates will be required. An email that indicates that no floodplain permits, WQC, or COE permits will be required will be sent in a follow-up email, due to size limitations.

The PAD KY 2162 SGA has been prepared and entered into the e-AMLIS by this division. This problem has been entered as a Priority 1 CSL problem, and the project is estimated to cost approximately \$115,448.00.

An eligibility determination that finds the proposed project eligible for AML funding has been reviewed and signed by the Office of Legal Services.

Also, attached is a Categorical Exclusion.

Please accept this email as a formal ATP request.

Your expedited response is greatly appreciated.

Thanks,
Ryan Howell

HARVEYTON REFUSE AML RECLAMATION PROJECT

PERRY COUNTY

HIGH PRIORITY

The Harveyton Refuse High Priority AML Reclamation Project (approximately 5.0 acres) is located in the community of Harveyton, in Perry County. The project is in the Hazard North Quadrangle at N 37° 18' 46.6" & W 83° 11' 43.5". The project is mostly along Harveyton Road and First Creek, which are off of KY 267.

During early June, heavy rains inflicted severe damage to an old refuse dump located in the headwaters of First Creek that was previously reclaimed under two projects, Clemons Slide AML Reclamation Project (5AG) and the Harveyton Refuse Fire, KY-86-029 (OSM Emergency Project). The result of the heavy rainfall caused refuse to be deposited into First Creek, thus filling up the stream channel and washing into yards and under residences. The event damaged the drainage controls constructed under the previous reclamation projects, such as the gabion channels and culverts.

The proposed reclamation will focus on cleaning the refuse out of the channel and out of the yards. New culverts will be installed where it is evident that the refuse has caused damage. Roadways that have been compromised will be restored. Gabion Silt checks will be installed in the upper reaches of the channel, in the event future storms may cause more refuse to be deposited into the streams. A utility allowance is included in the event that some utilities were damaged during the storm.

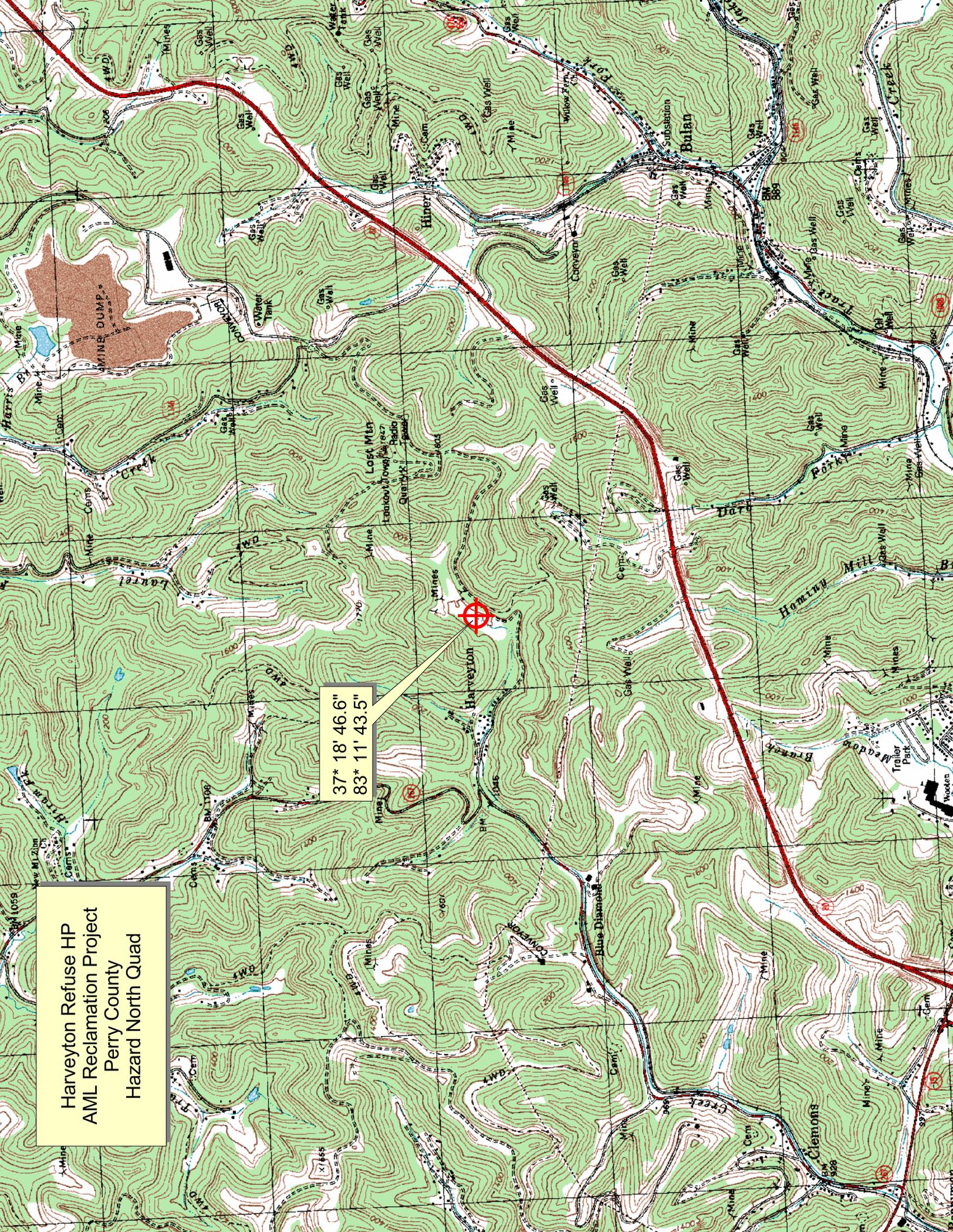
The refuse cleaned out of the streams will be wasted on a flat area at the previously reclaimed old refuse dump. Before the material is to be wasted, it will be stripped and stockpiled for cover material. Appropriate silt controls will be placed around the waste area.

The entire project work area slated for any excavation has been previously disturbed by any or all of the following: coal mining operations, including mine drainage, timber operations, gas/oil well development, residential development, road construction, and/or high velocity water flows associated with heavy rain events and flooding. These disturbances consist of significant upheaval, mixing, and removal of earthen material from deep excavation, grading, sub-surface drilling, fill material placement, and erosion. There should be no undisturbed earthen material to a depth of several feet at the areas slated for significant project-related construction activities.

The project will not affect any trees. Because the drainage area for the project is less than a square mile it will not require a DOW permit. The work will be coordinated with the Corps of Engineers but should be covered under a nationwide permit. Access through the project area is off of county roads and through residentially maintained yards.

Harveyton Refuse HP
AML Reclamation Project
Perry County
Hazard North Quad

37° 18' 46.6"
83° 11' 43.5"



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 2167 SGA
Project Name: Harveyton Refuse HP AML Reclamation Project
Project Description: Remove coal refuse from creek and yards, replace culverts, and repair road.

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 Yes

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

A significant adverse effect on public health or safety? No Yes

An adverse effect on any of the following unique geographic characteristics? If 'yes,' check the ones that apply: No Yes

- | | |
|---|--|
| <input type="checkbox"/> Parks (state, local or National) | <input type="checkbox"/> Wild or Scenic Rivers |
| <input type="checkbox"/> Recreation or Refuge Lands | <input type="checkbox"/> Wetlands |
| <input type="checkbox"/> Wilderness Areas | <input type="checkbox"/> Floodplains |
| <input type="checkbox"/> Ecologically Significant or Critical Areas | <input type="checkbox"/> Sole or Principal Drinking Water Aquifers |
| <input type="checkbox"/> Prime Farmlands | |

Highly controversial environmental effects? No Yes

Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks? No Yes

A precedent for future action or a decision in principle about future actions with potentially significant environmental effects? No Yes

Directly related to other actions with individually insignificant but cumulatively significant environmental effects? No Yes

Adverse effects on properties listed or eligible for listing on the National Register of Historic Places? No 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 Yes

Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Wetlands Protection) or The Fish and Wildlife Coordination Act?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>

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 Yes

<input type="checkbox"/> Topography	<input type="checkbox"/> Historic and Cultural
<input type="checkbox"/> Land Use (includes prime farmland)	<input type="checkbox"/> Recreation
<input type="checkbox"/> Soils	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Vegetation (includes wetlands)	<input type="checkbox"/> Noise
<input type="checkbox"/> Hydrology	<input type="checkbox"/> Other (includes socio-economics)
<input type="checkbox"/> Fish and Wildlife	

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: Steve Hohmann Date: 7/1/11

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

VI. OSM DETERMINATION

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: _____ Date: _____

Name and Title: _____

Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Friday, July 01, 2011 8:37 AM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Overman, Bill (EEC); Rickwa, Vanna (EEC); Hohmann, Steve (EEC)
Subject: Additional information for Harveyton Refuse HP AMLRP ATP request
Attachments: USFWS Known Ibat Habitat.pdf; Harveyton Road HPAMLRP.docx; Harveyton Refuse ; Harveyton Refuse - eligibility determination 6.29.11.pdf

Steve and/or Corey,

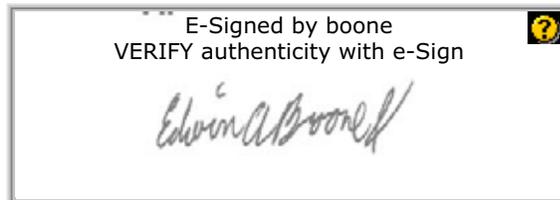
Attached are the KSNPC memo, a bat habitat map, comments concerning water issues, and the signed eligibility determination letter.

Thanks,
Ryan Howell

MEMORANDUM

To: Harveyton Road High Priority AML Reclamation Project file

From: Edwin A. Boone, Jr., Environmental Scientist II, Project Management Branch, Staff Biologist



Through: Bill Overman, Branch Manager, Program Development Branch

Re: Results of Kentucky State Nature Preserves Commission (KSNPC) database search

Date: June 29, 2011

On Wednesday, June 29, 2011, I conducted a search of the KSNPC database in order to determine if any species that are monitored by the KSNPC are known to occur within the near vicinity (a 1 mile radius) of any of the site to be disturbed by this project, and if any federally listed threatened and endangered species are known to occur within the general area (a 10 mile radius) of these sites. These searches revealed that one species of state concern that is monitored by the KSNPC occur within one mile, and that one federally listed threatened and endangered species is known to exist within ten miles of the project site. The species noted in the search are:

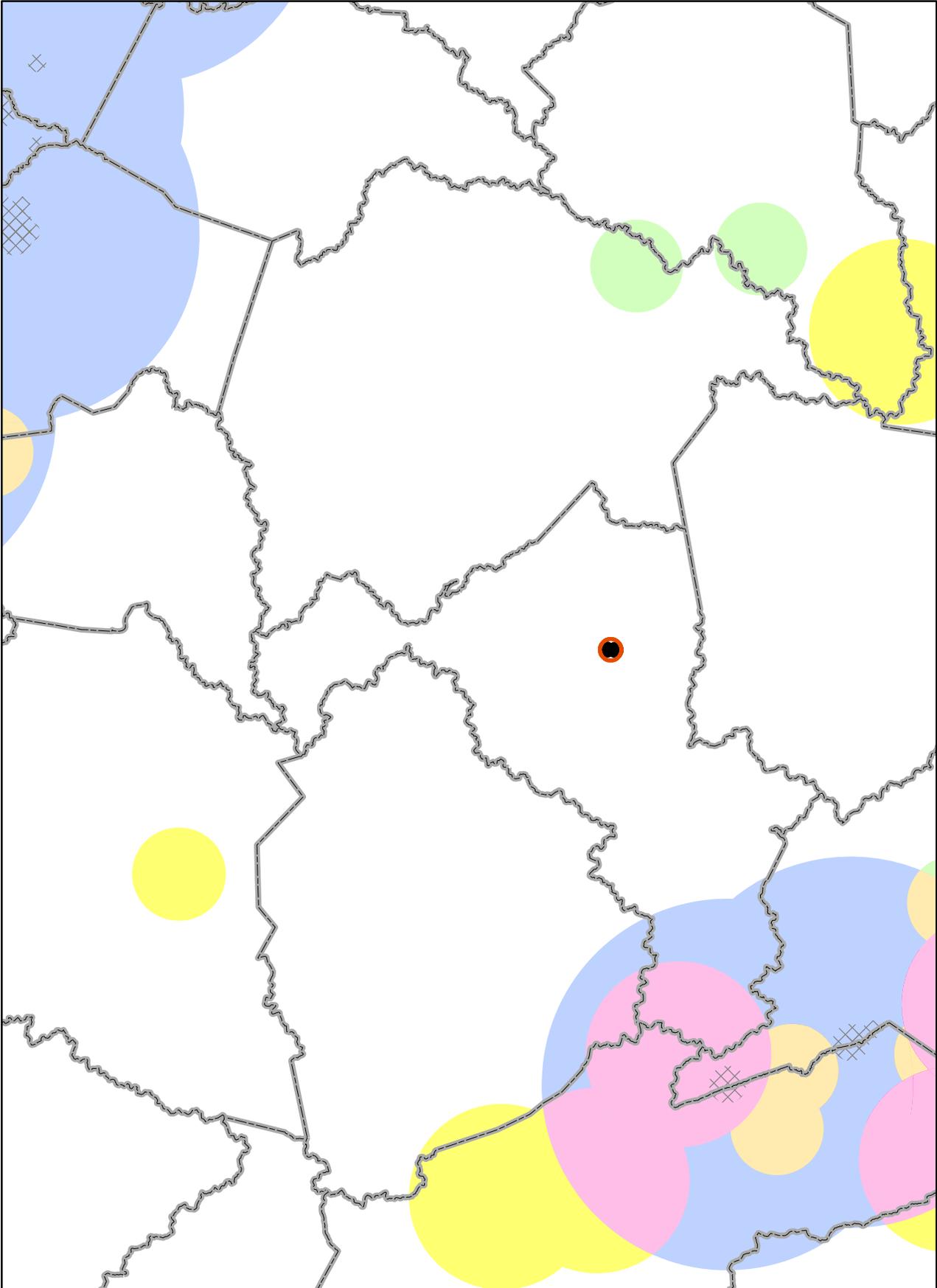
- Appalachian rosinweed (*Silphium wasiotense* – KSNPC Special Concern)
- Indiana bat (*Myotis sodalis* – USESA Listed Endangered)

This project is required in response to the sudden breakdown of an abandoned coal waste dump during and following a heavy rainfall event in early June, which resulted in the infiltration of a large amount of coarse coal waste material into First Creek. At this time, smaller amounts of the coal waste material are continuing to erode from the dump and flow into the stream. The work to be conducted at this project consists of the clearing of coal waste from the streambed and residential yards, replacement of culverts that were clogged or dislodged by the coal waste, and the placement of sediment and erosion control structures (gabion checks) in order to contain further coal waste material eroding from the dump. Roads damaged by the event will be repaired, as will any damaged utilities. This work will require that heavy equipment will be used to clear the coal waste material from the stream and to place gabion checks.

The stream in this area has been severely impacted by the coal waste, and failure to remove the material will allow the impacts to propagate downstream. The stream in this area was also previously extensively modified by the placement of gabion revetments along the banks and gabion matting on the streambed as a result of a previous (Mid 1980's) project to stabilize the coal waste pile. Not conducting the proposed action will allow the current conditions to progress, resulting in expansion of and increasing severity of the deleterious effect upon aquatic organisms. The proposed project will abate the current impacts and limit potential problems in the future. All sediment and erosion control Best Management Practices will be followed in all applicable ways, including the use of such measures as silt fencing, hay bale silt checks in critical areas such as small drainways entering streams, and prompt revegetation of all areas disturbed by project-related activities. The gabion sediment checks to be placed in the stream will enhance these measures and provide long-term sediment control.

The Appalachian rosinweed is typically found as a forest understory species in dry to mesophytic deciduous forest. The entirety of the area to be disturbed by this project consists of a coal waste dump, stream bank, stream bed, and residential yards, almost all of which has been heavily impacted by the flow of coal waste from the dump area. None of these areas approximate the preferred habitat of this species. Therefore, the Appalachian rosinweed will not suffer a negative impact as a result of project-related activities.

The entirety of the Commonwealth of Kentucky has been determined, by the United States Fish and Wildlife Service, to be the potential habitat of the Indiana bat (*Myotis sodalis* – USESA Listed Endangered). The Indiana bat establishes summer day roosts and brood colonies in trees with exfoliating bark and/or splits in limbs. In winter, it is known to utilize caves, and occasionally underground mine voids, as hibernacula. The occurrence noted in the database is of an “Undetermined” type, approximately 7.4 miles to the NNW of the project site. No trees are to be disturbed by project-related activities. Therefore, construction of this project will not result in a negative impact to the Indiana bat. Further, this project site is not within any area held to be the “Known Habitat” of the Indiana bat by the United States Fish and Wildlife Service.



Cassel, Steven R. "Steve"

From: Robinson, Jason (EEC) [jason.robinson@ky.gov]
Sent: Thursday, June 30, 2011 1:04 PM
To: Howell, Ryan (EEC)
Cc: Rickwa, Vanna (EEC); Overman, Bill (EEC); Coleman, Keith (EEC)
Subject: Harveyton Refuse

Floodplain/Stream Construction Permit

This site has a drainage area less than 1-sq mile so a Floodplain Construction permit is not required. The stream is designated as having "no special flood hazard" on the FEMA FIRM maps.

US Army Corps of Engineers Permit (ACOE)

The work is covered under the ACOE Nationwide 37 permit. This permit allows work to begin prior to formal review by the ACOE. A pre-construction notice has been submitted to the Eastern KY field office. Per the requirements of this permit AML will implement any changes deemed necessary by the ACOE.

Water Quality Certification

The Division of Mine Permits stated in a meeting on June 29th that the project's scope meets the requirements for the general Water Quality Certification (WQC) approved for the Nationwide 37 permit.

*Jason Robinson
Project Management Branch
KY Division of Abandoned Mine Lands
2521 Lawrenceburg Rd
Frankfort, KY 40601
502-564-2141*

Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Friday, July 01, 2011 9:10 AM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Miller, Corey T.
Cc: Rickwa, Vanna (EEC); Overman, Bill (EEC)
Subject: FW: KDFWR comments ref. Harveyton Refuse HP AMLRP (Perry Co.)
Attachments: Comment Letter.pdf

Here's the KDFWR letter for the Harveyton Refuse HP AMLRP that we sent for an ATP request this morning.

Thanks,
Ryan

From: Stoelb, Daniel (FW)
Sent: Friday, July 01, 2011 9:07 AM
To: Overman, Bill (EEC); Moore, Jesse (EEC); Howell, Ryan (EEC); Rickwa, Vanna (EEC)
Subject: KDFWR comments ref. Harveyton Refuse HP AMLRP (Perry Co.)

Attached, please find the KDFWR comment letter regarding the subject project. Thanks,

Dan Stoelb
Wildlife Biologist
Fisheries Division - Environmental Section
KY Department of Fish and Wildlife Resources
#1 Sportsman's Lane
Frankfort, KY 40601
Phone: (502) 564-7109 ext. 4453
Fax: (502) 564-4519
www.fw.ky.gov

Did you know...Department of Fish and Wildlife receives NO state tax dollars and manages wildlife for all citizens?

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**KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES
TOURISM, ARTS, AND HERITAGE CABINET**

Steven L. Beshear
Governor

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Marcheta Sparrow
Secretary

Dr. Jonathan W. Gassett
Commissioner

1 July 2011

Steve Hohmann, Director
Division of Abandoned Mine Lands
2521 Lawrenceburg Road
Frankfort, KY 40601

RE: Harveyton Refuse HIGH PRIORITY AML Reclamation Project (Perry Co.)

Dear Mr. Hohmann:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) has received your request for information pertaining to the subject project. The Kentucky Fish and Wildlife Information System indicates that no federally or state-threatened/endangered species are known to occur within 10 miles and one mile, respectively, of the project site. Please be aware that our database system is a dynamic one that only represents our current knowledge of various species distributions.

Erosion control measures, as mentioned in the project description, will need to be installed prior to construction and should be inspected and repaired regularly as needed. I hope this information is helpful to you, and if you have questions or require additional information, please call me at (502) 564-7109 extension 4453.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dan Stoelb".

Dan Stoelb
Wildlife Biologist

Cc: Environmental Section File