Authorization to Proceed (ATP)
Little Fork Mine Blowout High Priority
Abandoned Mine Land (AML) Reclamation Project
based on Categorical Exclusion (CX)
Pike County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the April 19, 2011, request for ATP with construction activity on the Little Fork Mine Blowout High Priority 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/or referenced in the ATP documents of the previously approved Ernest Mcown Slides project; and appear to support the need for the proposed construction activity. The information to enter new AMLIS Problem Area (PA) #KY-004127-SGA was submitted by DAML for OSM review and approval with the ATP request package. The AMLIS system is not operative at this time for input of new data by DAML or the OSM LFO. DAML must input this new PA data when the AMLIS is once again operative. I have signed an approval form for the PA in accordance with OSM Directive AML-1-2 (June 22, 2007).

OSM reviewed the categorical exclusion (CX) certification prepared by DAML for this project and the reference to the CX approved for the previously authorized Ernest McCown Slides 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. As a result, I have signed the Categorical Exclusion Determination (CX) Finding of No Significant Impact (FONSI) for this project. Please ensure compliance with the following provisions in the ATP request documents noted here for emphasis, that excavated materials will be placed in the waste area "no closer than 10 feet of a blue line stream."

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. This authorization is effective April 19, 2011, confirming authorization to proceed indicated in my email dated April 19, 2011 at 4:41 PM EST.

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

4/21/2011
Date

Cassel, Steven R. "Steve"

From: Cassel, Steven R. "Steve"
Sent: Thursday, April 21, 2011 3:19 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: Little Fork Mine Blowout High Priority ATP, Pike County
Attachments: AR-M550N_20110421_153304.pdf

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of your April 19, 2011, request for ATP with construction activity on the Little Fork Mine Blowout High Priority ATP 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 conducted on April 19, 2011, and supported the project proposal.

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 for this project and the Ernest McCown Slides project, since this project will us that projects waste area. 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:

- Please ensure compliance with the following provisions in the ATP request documents noted here for emphasis, that excavated materials will be placed in the waste area "no closer than 10 feet of a blue line stream."

- 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 (confirming OSM's email effective authorization on April 19, 2011), AMLIS PAD approval 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.

Currently the AMLIS is not operational for data input. Please be sure to update the AMLIS with the information regarding Problem Area (PA) # KY-004127-SGA at a later date when the system is once again operational.

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.

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

State: KY PA: KY 4127-SGA
Project Name: Little Fork Mine Blowout High Priority AMLRP
Project Description: Clean up debris around residential homes from an AML-eligible mine blowout

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 Bill Owen Date: 4/19/11

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

VI. OSM DETERMINATION

4-20-11

[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: Joseph L. Pickett Date: 4/21/2011

Name and Title: FIELD OFFICE DIRECTOR

Memorandum

Date: April 21, 2011

To: Little Fork Mine Blowout High Priority Abandoned Mine Land (AML) Reclamation Project File ID# 99.103400000

From: Steve Cassel, Sr., AML Program Specialist 4-21-11
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) confirm the previous email authorization at 4:41 PM on April 19, 2011, given to the State of Kentucky to proceed with the construction activity proposed on the Little Fork Mine Blowout High Priority AML Reclamation Project resulting from the request to expedite processing of the ATP. On March 7, 2011, OSM LFO and DAML met to formulate general procedures for processing "high priority" projects. Kentucky and OSM agreed to a process to expedite the ATP and NEPA review, so that the public would be protected as expeditiously as possible, while still complying with the OSM and grants rules pertaining to State non-emergency AML programs.

The Branch prepared an ATP notice for the LFOD review. The Branch recommends that the FOD sign the Categorical Exclusion Determination (CX), PA approval form, and ATP notice in the space provided on each document for confirmation of the email authorization to proceed on this project. 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, PA approval form, and signed CX. Additionally, the transmittal email will be copied to the Department for Natural Resources (DNR) Commissioner.

DAML Director Steve Hohmann called mid-day on April 19, 2011 from Little Fork, and spoke with Steve Cassel about the site and proposed project. Director Hohmann requested a verbal ATP at that time to proceed with construction bidding, award, and initiation of abatement work. The LFO Director and Program Branch Chief were out of the office, and Program Specialist Cassel had been authorized by the LFO Director to authorize high priority abatement projects verbally for good cause. DAML Director Hohmann characterized the project as debri and heavy sedimentation cleanup work at three to four residences. He noted DAML was not proposing to work in any streams to alleviate any clogging resulting from the mine blowout and did not indicate addressing any serious threat from clogged streams. He did indicate he felt severe weather was approaching and additional sedimentation and possible flooding were possible.

When asked, DAML Director Hohmann indicated the mine that had blown out was now free flowing, therefore I felt there was no additional potential for mine pool blow out to

impact the streams. As for the weather, the forecast for the Dorton, Kentucky area was for a 50% chance of rain from early morning on April 20th to about noon, otherwise the forecast for the period till Friday April 22 was from 10 to 20% chance of rain. There did not appear to be a serious potential for severe rainfall, and the DAML project proposal did not include addressing clogged streams anyway.

I explained to Director Hohmann, that it would be LFO office policy that verbal ATP for a high priority project would be reserved to only those situations where there was imminent threat from an AML problem to occupants of a residential or public structure, where occupants or public are routinely present for periods of time, and will be assessed on a case by case basis. The verbal decision and reasoning will be documented and confirmed in follow-up written ATP notice that documents and confirms the verbal ATP. Otherwise, the processing of an ATP request will follow normal OSM rules, guidelines, and office procedures, however, an effort will be made to expedite the processing as possible when good cause warrants.

I informed DAML Director Hohmann that the current project proposal did not warrant verbal ATP, as I could not identify an imminent threat to occupants of a residential or public structure at this time. I suggested that he have his office prepare and send LFO a normal ATP project proposal, however, I did note that if the project met the current conditions in LFO's MOA with the USFWS and the DAML MOA with the SHPO, that we would not hold up the processing of the ATP for consultation responses from the Kentucky DFWS or the State Office of Archaeology. I did note that since the DAML Design Branch now assesses the need for a 401 WQC, COE 404 Permit, and floodplain permit, that this analysis should be performed.

The Kentucky DAML ATP written request dated April 19, 2011, was received at LFO on April 19, 2011 at about 4:23 PM, however the proposal did not include a NEPA document or AMLIS PAD. These documents were submitted to LFO on April 20, 2011, at 2:34 PM. After LFO review of the initial ATP request documents, the LFO Director Joe Blackburn gave initial authorization to proceed with construction activity in an email dated 4:36 PM on April 19, 2011, noting that more formal confirmation would follow. The receipt of this email was confirmed by a return email from DAML Director Steve Hohmann dated 4:41 PM on April 19, 2001. Forma confirmation ATP was finalized on April 21, 2011. The ATP was fully processed within 3 working days; therefore, the customer service target of 14 working days to process an ATP has been met. The ATP was processed in 3 calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP has been met.

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 # 99.103400000 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 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 fact that DAML indicated the project would be bid on April 20, 2011. The following proposed dates were assigned and entered by LFO for database tracking purposes: Bid Advertisement Date was entered as April 20, 2011, Contract Award was entered as April 20, 2011, and Contract/Construction Completion was entered as December 31, 2011; in addition I entered the Actual Bid Advertisement and Actual Contract Award as April 20, 2011.

An office review of the previously submitted and accepted Ernest McCown Slides AMLR project authorized on August 21, 2008, since the waste area authorized under that project is proposed to be used for this project, and the currently submitted request documents for the Little Fork Mine Blowout project was conducted. The current documents consisted of; a project description, a location map, National Environmental Policy Act (NEPA) review documented in a CX with agency consultation response letters attached, AML Inquiry Response Report; and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms for new PA# KY-004127-SGA.

A pre-approval field inspection of the proposed project was conducted on April 19, 2011, 2011, for field verification under the EY 2011 Oversight Agreement. The proposal was recommended for approval with no concerns or recommendations. Refer to report findings and photos in the LFO State AML Project Database.

The CX previously submitted for the waste area of the Ernest McCown Slides AMLR project and the current CX for the construction activity at the Little Fork Mine Blowout project site were 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 authorized for use under an AMLR project. All other areas were previously disturbed by residential 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 for the current project. The State's ATP request email's 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 or considered for the NEPA review include the following comments and/or recommendations:

There was insufficient time for normal consultation with the Kentucky Department of Fish and Wildlife Resources (KDFWR) for the current project. However, consultation with KDFWR for the previously authorized Ernest McCown Slides AMLR project indicated no known federally threatened/endangered fish and wildlife within a 10 mile radius of the project area and no comment of state listed species of concern.

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 email attachment and the biological review memorandum for the CX prepared for the Ernest McCown Slides AMLR project. DAML found that KSNPC data indicated no federally listed threatened or endangered species within a 10-mile radius and two species of State concern known to occur within a 1-mile radius of the project. DAML listed and discussed each species noted in the biological review memorandum and their ATP request letter, finding that the noted species will not be impacted. No reason was identified to dispute their previous determination and its relevance to the current Little Fork Mine Blowout project.

The DAML biological review memorandum for the Ernest McCown project and an email dated April 19 for the current project, also noted that the federally listed endangered Indiana bat, although not indicated to exist in the project vicinity by DAML and the KDFWR reviews and for which the U.S. Fish and Wildlife Service has declared the entire state of Kentucky as potential habitat, would not be disturbed by the project.

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:

- 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, specifically no tree removal is anticipated at all, work will be in residential yards and the waste area has not trees;

- 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 email dated April 19, 2011, 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.

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, and no further consultation with the Kentucky DFWR is necessary.

There was insufficient time for normal consultation response from the Office of State Archaeology (OSA) and archaeological consultation was accomplished as described below. 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 provision in Programmatic Agreement that DAML signed on January 3, 2011, with the KHC of "exempt projects." Exempt projects are "Routine and recurring projects whose impacts [under Section 106 of the Natural 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. In addition the archaeological consultation with the OSA and SHPO identified no impacts or concerns by these agencies.

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 neither the Ernest McCown Slides project nor the current Little Fork Mine Blowout project, need a 401 WQC or a 404 CWA permit.

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 the project is not within the base floodplain and no floodplain permits are 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 enter PA # KY-004127-SGA was prepared by DAML for OSM review with the ATP request. Currently the AMLIS is not operational for data input. DAML will be notified in the ATP that they will need input this information

at a later date in the future when the AMLIS is once again operational. PA # KY-004127-SGA represents a "new Problem Area" requiring FOD approval under OSM

Directive AML-1-2 (signed June 22, 2007). A FOD approval form was prepared for the PA and submitted for FOD signature. The signed form will be kept on file at LFO and a copy will be transmitted to DAML as an enclosure with the ATP letter.

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.

Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Tuesday, April 19, 2011 3:41 PM
To: Cassel, Steven R. "Steve"; Miller, Corey T.
Cc: Overman, Bill (EEC); Rickwa, Vanna (EEC); Hohmann, Steve (EEC); Howard, Corey Ann (EEC)
Subject: ATP request for Little Fork Mine Blowout HP AMLRP
Attachments: Erenst McCown - project desc. and map.pdf; Views of waste area - Bing aerial.pdf; Little Fork Mine Blowout High Priority.pdf; Site FEMA Floodplain map; Little Fork Mine Blowout Complaint.pdf; SF# 07963-4_1973.pdf; Little Fork; Little Fork Mine Blowout

Steve and/or Corey,

A blowout recently occurred on Little Fork in Pike County, and cleanup is needed (investigation report attached). This site has been deemed a high priority, so an expedited ATP is being requested. The problem remaining at the site involves a large amount of mud and debris that has been deposited around 4 residences, and in the Greg Bowling garage. AML is proposing to remove debris out of the residential yards and the debris and mud out of the Greg Bowling garage. Attached is a project description and aerial map with the project limits. The waste material will be taken to the waste area used during the Ernest McCown Slides AMLRP that was issued an ATP on 8/21/08. Attached are a project description and map of the Ernest McCown project, and a recent Bing map of the waste area that shows the area to still be void of trees.

Because, the proposed work is located within the residential yards and involves the unstable material that has washed down, KHC will not need to be contacted as the site and waste area are exempt under the Programmatic Agreement between KHC and AML. OSA has been sent a description and map of the site, but because of the reasons previously stated, it appears that there should be no negative impacts to any archaeological resources. AML will forward comments made by OSA when we receive them.

AML personnel were asked to review the site for potential water issues involving permits/certifications. Attached is a map that lists the site as a “No special Flood Hazard Area.” Material will also not be placed within the residential yards, and no work is proposed within any creeks or waterways. An additional review of floodplain issues is included in the attached “Little Fork” email that also shows the project limits.

A memo from Ed Boone, concerning the KSNPC database search results indicates that the site is not in any of the critical bat habitat areas (see attached). An additional search of the KSNPC database will be performed and a memo forwarded when it is completed. KDFWR has been sent a description and map of the proposed work, and their comments will be forwarded to OSM when we receive them. However, it is unlikely that any endangered species will be negatively impacted, since no trees will be removed, no openings or cave-like structures will be closed, no work will take place in any streams, the waste area was recently used and is maintained, and the project work site is located in residentially-maintained yards.

Please accept this email as a formal ATP request.

Your expedited response is greatly appreciated

Thanks,
Ryan Howell

Cassel, Steven R. "Steve"

From: Boone, Edwin (EEC) [Edwin.Boone@ky.gov]
Sent: Tuesday, April 19, 2011 3:38 PM
To: Overman, Bill (EEC); Howell, Ryan (EEC)
Subject: Little Fork Mine Blowout
Attachments: Little Fork Mine Blowout Bats.pdf

Bill and Ryan:

A check of the USFWS *Myotis sodalis* range-circle map and the KSNPC database shows no "Known Habitat" for the Indiana bat at the site of the Little Fork Mine Blowout. Please see the attached map.

Edwin A. Boone, Jr.
Environmental Scientist II
(AMD Set-Aside Coordinator and Division Biologist)
Project Management Branch
Division of Abandoned Mine Lands
2521 Lawrenceburg Road
Frankfort, KY 40601
Phone: 502-564-2141
FAX: 502-564-6544

Little Fork Mine Blowout

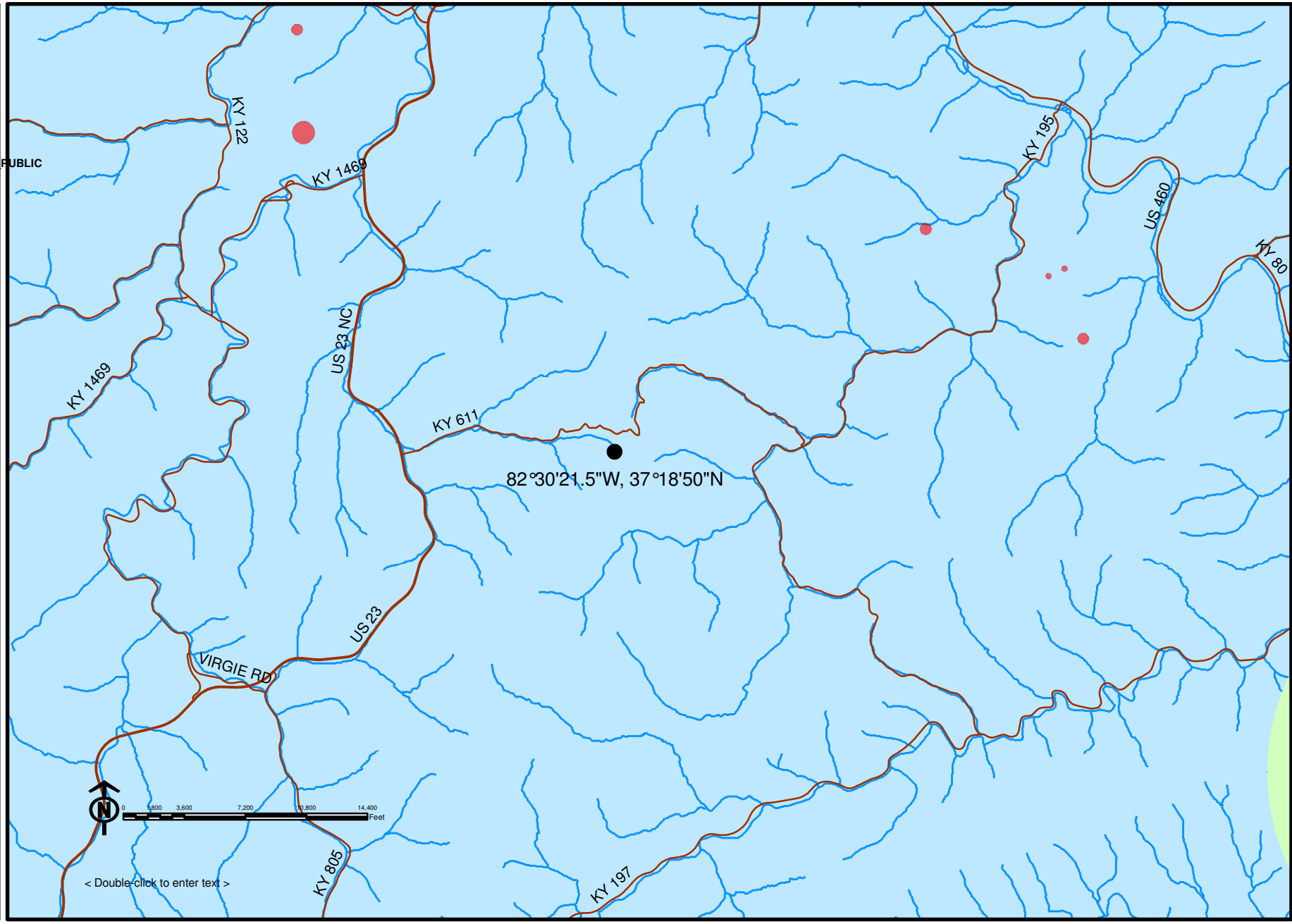
Legend

kytc_state_roads

JAN2011_known_MYSO_habitat_PUBLIC

RECORD_TYP

- SENSITIVE
- P1_P2+MATERNITY
- P3_P4+MATERNITY
- P1_P2+NONMATERNITY
- P3_P4+NONMATERNITY
- P1_P2
- P3_P4
- MATERNITY
- NON-MATERNITY SUMMER
- KSNPC Bat EORs
- NHD Flowline Features



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United States Department of the Interior

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

AUG 21 2008

Categorical Exclusion (CX)
Authorization to Proceed (ATP)
Ernest McCown Slides
Abandoned Mine Land (AML) Reclamation Project
Pike County, Kentucky

Mr. Carl Campbell, Commissioner
Department for Natural Resources
#2 Hudson Hollow Complex
Frankfort, Kentucky 40601

Dear Mr. Campbell:

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of your August 18, 2008,request for ATP with construction activity on the Ernest McCown Slides 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 Please notify this office of the final funding source and State Subaccount number for our records.

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. 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 2009 Performance Agreement.

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 requested their comments and/or recommendations for the project. They concurred in an email dated August 6, 2008.

TAKE PRIDE® IN AMERICA

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 compliance. We recommend that appropriate consideration be given to the general recommendations and 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 by OSM to perform oversight and monitor compliance with the NEPA.

I have signed the CX and enclosed a copy, along with the USFWS response, to Steve Hohmann, Director, DAML under copy of this letter. Accordingly, pursuant to Section 5-11-20D.3 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 concerning this ATP or the procedures, please contact Steve Cassel at (859) 260-3912 or Gail Smith at (859) 260-3908.

Sincerely,

Joseph L. Blackburn
Field Office Director

cc: Steve Hohmann, DAML

Memorandum

Date: August 21, 2008

To: Ernest McCown Slide Abandoned Mine Land (AML) Reclamation Project File

Through: Steve Cassel, Sr., AML Program Specialist 8-21-08
Lexington Field Office (LFO), Program Support Branch (PSB)

From: Corey Miller, Regulatory Program Specialist
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 Ernest McCown Slide AML Reclamation Project. The Branch prepared an ATP letter for the FOD review. The Branch recommends that the FOD sign the Categorical Exclusion Determination (CX) and ATP in the space provided on each document. The original ATP letter will be sent to the Department for Natural Resources (DNR) Commissioner and a copy will be sent to the Division of Abandoned Mine Lands (DAML) Director with a copy of the CX.

The Kentucky DAML ATP request dated July 22, 2008, was received at LFO on July 24, 2008. The ATP was processed within 20 working days; therefore, the customer service target of 14 working days to process an ATP has not been met. The ATP was processed in 28 calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP has been met.

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 previous discussions, DNR indicated they would assign the project to a grant before it goes to construction. The temporary Subaccount# 99.080722001 was assigned to the project file for LFO tracking purposes until an actual subaccount number is assigned by DAML. No 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 their comment that these activities will occur as soon as possible after the beginning of the States 2008 FY.

An office review of the request documents was conducted. The documents consisted of; a project description, a location map a National Environmental Policy Act (NEPA) review documented in a CX with agency consultation response letters attached; and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms with engineer cost estimates for PA# KY-002749-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 2009 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, non-commercial 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. All other areas were previously disturbed by mining, residential use, 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 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) identified no known federally threatened/endangered fish and wildlife within a 10 mile radius of the project area.

The DAML staff biologist reviewed the Kentucky State Nature Preserves Commission's (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 indicated no federally listed threatened or endangered species within a 10-mile radius and 2 species of State concern within a 1-mile radius of the project. The species of state concern identified are the Rock Skullcap and the Squarrose Goldenrod. DAML listed and discussed the each species noted above in the biologist's

memorandum and 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. Also, maintenance actions associated with residential yards such as mowing , pesticide and herbicide application and ice removal severely limit the chances of these plants occurring. No reason was identified to dispute their determination.

The DAML Biologist also noted that the federally listed endangered Indiana bat, although not indicated to exist in the project vicinity by his and the KDFWR reviews, would not be disturbed by the project. This is based only on the fact that the project does not propose to reclaim mine portals, disturb cliffs or caves, or disturb any forested areas or previously undisturbed areas.

The OSM Lexington Field Office (LFO) coordinated NEPA consultation with the Kentucky Field Office (KFO) of the U.S. Fish and Wildlife Service (USFWS) in Frankfort, Kentucky. After review of the ATP documents, which include formal consultation with the KSNPC and the 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 KFO an email on July 25, 2008, notifying them of this determination and requesting their comments or recommendations for the project prior to our ATP authorization target date of August 13, 2008.

The USFWS KFO responded in an email dated August 6, 2008. 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 Office of State Archaeology responded in an email that their records did not indicate any known archaeological sites directly in the project area and no systematic archaeological survey has been conducted in the immediate project area. The Kentucky Heritage Council and State Historic Preservation Officer (SHPO) determined that the proposed project will not impact any National Register Properties or sites, no properties currently listed in the National Register of Historic Places are within the project areas, and an archaeological survey will not be necessary, since all reclamation activities are restricted to previously disturbed areas. Neither agency recommended conducting archeological surveys/investigations or mitigation measures.

Environmental and Public Protection Cabinet (EPPC) 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 of Natural Resources (DNR). DNR assigned this responsibility to their Division of Mine

Permits (DMP). The DMP 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 DAML application of criteria provided by the U.S. Army Corps of Engineers (COE)

Under a 2005 agreement with the 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 the project is not within the base floodplain and no floodplain permits are 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 PA # KY-002749-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's review of the AMLIS data and a PAD summary printout from the OSM HDQ AMLIS database The PAD 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 Pikeville Area Office will be notified by specific email or email of an updated State AML Project List of the authorization of this project and availability of the project documents on the LFO State AML reclamation project tracking database.

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 2749
Project Name: Ernest McCown Slides AML Reclamation Project
Project Description: (DS 1,2 - 0.6 acres) This project involves the construction of two retaining walls and the installation of associated drainage structures at two slides above and below the Will Adkins residence and above Little Fork Road, along Little Fork of Left Fork of Caney Creek, near Dorton, in southern Pike County.

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 Date: 7/22/08

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

VI. OSM DETERMINATION

8-18-08

[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: Joseph L. Blackburn Date: 08/21/08

Name and Title: Joseph L. Blackburn, Director, Lexington Field Office

COMMERCE CABINET
KENTUCKY HERITAGE COUNCIL

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Governor

The State Historic Preservation Office
300 Washington Street
Frankfort, Kentucky 40601
Phone (502) 564-7005
Fax (502) 564-5820
www.kentucky.gov

Marcheta Sparrow
Secretary

Donna M. Neary
Executive Director and
State Historic Preservation Officer

June 13, 2008

Mr. Steve Hohmann, Director
Division of Abandoned Lands
Department for Surface Mining
Reclamation & Enforcement
2521 Lawrenceburg Road
Frankfort, Kentucky 40601

Dear Mr. Hohmann:

Thank you for your letter of June 10, 2008 concerning the proposed **Ernest McCowan Slides AML Reclamation Project** in Pike County to be assisted by the Division of Abandoned Lands. Our review indicates that no previously recorded archaeological sites will be affected by the proposed project. Since all project activities will be restricted to previously disturbed areas, an archaeological survey will not be necessary for this project. In accordance with 36CFR Part 800.4 (d) of the Advisory Council's revised regulations our finding is that there are No Historic Properties Present within the undertaking's area of potential impact. Therefore, we have no further comments and the Agency Official's responsibility to consult with the State Historic Preservation Officer under the Section 106 review process is fulfilled.

Should you have any questions, feel free to contact Charles Hockensmith of my staff at (502) 564-7005.

Sincerely,

Donna M. Neary

Donna M. Neary, Executive Director
and State Historic Preservation Officer

DMN:cdh

Coleman, Keith (EEC)

From: O'Malley, Nancy [Nancy.OMalley@uky.edu]
Sent: Wednesday, July 16, 2008 11:23 AM
To: Coleman, Keith (EEC)
Cc: Crothers, George M
Subject: Ernest McCown Slides AML

There were no previously recorded sites or surveys within the project area for the Ernest McCown Slides AML.

Nancy O'Malley
Assistant Director
William S. Webb Museum of Anthropology and
Office of State Archaeology
1020A Export Street
University of Kentucky
Lexington, Kentucky 40506
Ph. 859-257-1944
FAX: 859-323-1968

7/16/08

Ahop

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR NATURAL RESOURCES

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Leonard K. Peters
Secretary

Carl E. Campbell
Commissioner

June 16, 2008

STEVE HOHMANN, DIRECTOR
DIVISION OF ABANDONED MINE LANDS
2521 LAWRENCEBURG ROAD
FRANKFORT KY 40601

RE: Ernest McCown Slides AML Reclamation Project
Pike County, KY

Dear Mr. Hohmann:

The Critical Resources Review Section of the Kentucky Division of Mine Permits received the information on the above-referenced project in your letter dated May 5, 2008. Based on the information provided, a Water Quality Certification (WQC) is **not** required at this time for the reclamation activities associated with this project.

Review of the provided narrative and map indicates there will be no stream impact resulting from placement of dredged or fill material within streams of the Commonwealth.

A decision by the US Army Corps of Engineers to require a 404 application will nullify the decision expressed in this letter. In that event, a WQC will also be required.

If you have any questions or concerns regarding the content of this letter or the Water Quality Certification process, please contact me or Danita LaSage at 502/564-2320. Please reference Ernest McCown Slides AML Reclamation Project, Floyd County, in any future correspondence.

Sincerely,

Susan M. Wind, Supervisor
Critical Resources Review Section/
Small Operator Assistance Program/
401 Water Quality Certification
Division of Mine Permits

smw/dml

Hays

KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES
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2008 JUN 24

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Governor

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Marcheta Sparrow
Secretary

Dr. Jonathan W. Gassett
Commissioner

June 20, 2008

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

RE: Earnest McCown Slides AML Reclamation Project (Pike County)

Dear Mr. Hohmann:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) have received your request for the above-referenced information. The Kentucky Fish and Wildlife Information System (KFWIS) indicate that no federally threatened and endangered species or state monitored species are found within ten miles and one mile, respectively, of the proposed project. Please be aware that our database system is a dynamic one that only represents our current knowledge of the various species distributions.

I hope this information proves helpful to you. If you have any questions or require additional information, please call me at (800) 852-0942 Extension 366.

Sincerely,

Doug Dawson

Doug Dawson
Wildlife Biologist III

Cc: Environmental Section File

Memorandum

To: **Ernest McCown Slides AML Reclamation Project File**

From: *Keith B. Coleman* KC 7-11-08
Environmental Tech II

Through: *Edwin A. Boone, Jr.*
Environmental Control Supervisor, Staff Biologist

E-Signed by boone
VERIFY authenticity with ApproveIt

Carl B. Hays 7/11/08
Branch Manager, Program Development Branch

RE: Results of Kentucky State Nature Preserves Commission (KSNPC) Database Search

Date: July 11, 2008

On July 11, 2008, 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 (1 mile radius) 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 (10 mile radius) of this site. This search revealed that 2 species of state concern, monitored by the KSNPC, are known to occur within one mile, and that no species listed as Threatened or Endangered under the United States Endangered Species Act (USESA) are known to exist within ten miles of the project site. The species noted in the searches are:

- Rock Skullcap – Scutellaria saxatalis (KSNPC Threatened, Historical Record)
- Squarrose Goldenrod – Solidago squarrosa (KSNPC Historical Record)

This project consists of the construction of approximately 0.8 acres of reclamation work which addresses problems associated with deep mine drainage and landslides

induced by such drainage. Reclamation plans include the construction of two retaining walls and associated drainage ditches.

The rock skullcap prefers rich mesophytic ravines in eastern Kentucky. Additional habitat descriptions include the requirements for both the presence of significant canopy cover and rocky or sandstone substrates. The area around the draining mine portal and the drainage induced slides are not shaded by a significant canopy and the slide areas are not composed of rocky or sandstone substrates. Additionally, maintenance actions associated with residential yards and roads such as mowing, pesticide or herbicide application and ice removal severely limit any chances of occurrences within this project's boundaries. Therefore, this action should not negatively affect this species, even if it is present within the immediate vicinity.

The squarrose goldenrod, which is not currently known to exist within the eastern coalfields of Kentucky, prefers rich dry woods or woodland clearings (open canopy conditions). The area around the draining mine portal and the drainage induced slides are consistently wet and unstable. These wet conditions do not reflect the preferred habitat of the squarrose goldenrod. Additionally, maintenance actions associated with residential yards and roads such as mowing, pesticide or herbicide application and ice removal severely limit any chances of occurrences within this project's boundaries. Therefore, this action should not negatively affect this species, even if it is present within the immediate vicinity.

The US Fish and Wildlife Service (USFWS) has declared the entire of the state of Kentucky to be the habitat of the Indiana bat (*Myotis sodalis* – USESA Endangered). This species day roosts and establishes maternity colonies in trees with exfoliating bark or splits in their trunks and larger limbs, and hibernates in caves and other similar underground cavities. The above search of the KSNPC BIOTICS database revealed no records of this species nearer to the proposed project than 11 miles east of the project site. This single record of the Indiana Bat, within 20 miles of the project area, is a late summer mist net record. Also, no records of hibernacula or maternity colonies have been noted within 20 miles of the project area.

Construction activities are not anticipated to disturb any forested or previously undisturbed areas, therefore, this construction should not result in the destruction of any trees that could be utilized by day-roosting bats or maternity colonies, if such are located within the vicinity. If any areas of forest are to be disturbed, trees should be removed during the time in which the bats are secured within their hibernacula. As the reclamation sites are not within 10 miles of any hibernacula, it is not necessary to shorten the current safety window (October 15-March31).

The drainage system to be installed at this site consists of drainage ditches and pertains to previously closed portals, therefore, construction activities of this project are not anticipated to cause any impacts to any potential hibernacula, such as caves, cliffs, or underground mine openings. Construction activities of this project should not result in a negative impact to this species.

From: Corey Miller
Sent: Friday, July 25, 2008 11:27 AM
To: Carrie Lona
Subject: Ernest McCrown Slides -ATP- Pike County

Carrie Lona
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Kentucky Field Office-Frankfort
J.C. Watts Federal Building
330 W. Broadway, Room 265
Frankfort, Kentucky 41601
502-695-0468 X-116
502-695-1024 (fax)

Please accept this email as notification that this office received an "authorization to proceed with construction" (ATP) request from the Kentucky Division of Abandoned Mine Lands (DAML) for the City of Elkhorn Multi-Site Water Supply AML Reclamation Project located in Pike County. A copy of the ATP text documents is attached in a pdf file.

I have conducted an office review of the request documents. The ATP documents consist of a request letter, project description, AML Inventory Problem Description forms, a National Environmental Policy Act (NEPA) review documented in an Environmental Assessment with agency consultation response letters attached, which includes the findings of their staff biologist's review of the Kentucky State Nature Preserves Commission (KSNPC) database and formal consultation with Kentucky Department of Fish and Wildlife Resources (KDFWR).

The OSM Lexington Field Office is responsible for conducting State AML project NEPA coordination with your Kentucky Field Office of the U.S. Fish and Wildlife Service (USFWS) located in Frankfort, KY. After review of the ATP documents, we determined that formal consultation with the USFWS is not necessary because we have identified no evidence that the proposed project has the potential to adversely affect a federally listed species [OSM Directive GMT-10 "Federal Assistance Manual" (FAM) Chapter 5-11-15, A. 3.] or wetlands.

Please note that the project should not impact Indiana bats, in that there will be no disturbance of abandoned structures, caves/cliffs or mine portals and the project does not anticipate disturbing forested or previously undisturbed areas. In order to eliminate any potential for a negative impact on the Indiana bat, DAML has inserted a requirement in the project and EA

that tree removal will take place only between October 15 and March 31, while the bats are within their hibernacula.

If you disagree with our determination and feel that formal consultation is necessary, please notify this office and provide your reasons by phone or email prior to August 11, 2008, so your comments may be considered prior to our authorization of the project on August 13, 2008.

If you have any non-statutory (i.e. BMP's, general wildlife habitat considerations, reclamation species recommendations, etc.) comments or recommendations for consideration on the project, please forward them to this office at any time.

Thank you

McCrown.pdf
(2 MB)

Corey Miller
Regulatory Program Spec.
Office of Surface Mining
Lexington Field Office
2675 Regency Road
Lexington, Kentucky 40503

Phone: (859) 260-3916
Fax: (859) 260-8410

From: Carrie_Lona@fws.gov [mailto:Carrie_Lona@fws.gov]
Sent: Wednesday, August 06, 2008 10:38 AM
To: Corey Miller
Subject: FWS 2008-B-0865, Ernest McCrown Slides -ATP- Pike County

Dear Mr. Miller:

The Frankfort, KY Field Office of the U.S. Fish and Wildlife Service has reviewed the subject project in accordance with the Endangered Species Act (ESA) and Fish and Wildlife Coordination Act (FWCA). The only federally listed threatened or endangered species known to occur within the proposed project area is the endangered Indiana bat (*Myotis sodalis).* Your staff has determined that the proposed project would not likely adversely affect any federally listed species. The proposed project will not disturb any caves, rockshelters, or abandoned mine portals. Further, the project should not impact any forested habitat or previously undisturbed areas and if any trees are to be removed, it will occur between October 15 and March 31. Therefore, we concur with your determination that the proposed project would not likely adversely affect the Indiana bat. With this information, we believe the requirements of Section 7 of the ESA have been fulfilled. However, obligations under Section 7 of the Act must be reconsidered if (1) new information reveals impacts of the proposed action may affect listed species or critical habitat in a manner not previously considered, (2) the proposed action is subsequently modified to include activities which were not considered during this consultation, or (3) new species are listed or critical habitat designated that might be affected by the proposed action.

The comments provided above have been submitted electronically (e-mail) to expedite processing of the subject application(s). These comments have been discussed and approved by Mr. Virgil Lee Andrews, Jr., Field Supervisor and therefore should be considered the comments of the Service and Kentucky Field Office. We appreciate the opportunity to provide input on the proposed project(s). If you have any questions on this comment letter or its contents, please contact me at (502) 695-0468, Ext. 116.

Carrie L. Lona
U.S. Fish and Wildlife Service
330 W. Broadway, Rm. 265
Frankfort, KY 40601
502-695-0468 ext. 116

...><(((> ...><(((> ... ><(((> ... ><(((>
"Be the change you wish to see in the world."
~M. Gandhi

Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Monday, April 25, 2011 7:09 AM
To: Cassel, Steven R. "Steve"; Miller, Corey T.
Cc: Rickwa, Vanna (EEC); Overman, Bill (EEC)
Subject: FW: Little Fork Mine HP Blowout AMLRP (Pike County)
Attachments: Comment Letter.pdf

Here's the KDFWR letter for the Little Fork Mine Blowout HP AMLRP for your records.

Thanks,
Ryan

From: Stoelb, Daniel (FW)
Sent: Friday, April 22, 2011 10:54 AM
To: Overman, Bill (EEC); Howell, Ryan (EEC); Rickwa, Vanna (EEC)
Subject: Little Fork Mine HP Blowout AMLRP (Pike County)

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
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KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES
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Marcheta Sparrow
Secretary

Dr. Jonathan W. Gassett
Commissioner

22 April 2011

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

RE: Little Fork Mine Blowout High Priority (HP) AML Reclamation Project (Pike County)

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 the federally-endangered Blackside Dace *(Chrosomus cumberlandensis)*, Indiana bat *(Myotis sodalis)*, and Gray bat *(Myotis grisescens)* are known to occur within 10 miles of both the project site and the waste area. No state-listed species are known to occur within one mile 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,

Dan Stoelb
Wildlife Biologist

Cc: Environmental Section File