Authorization to Proceed (ATP)

Deane Area - Phase 1 Water Supply
Abandoned Mine Land (AML) Reclamation Project
based on Finding of No Significant Impact (FONSI)
Letcher County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the November 1, 2011, request for ATP with construction activity on the Deane Area - Phase 1 Water Supply 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 water supply construction activity. The information to enter new AMLIS Problem Area (PA) # KY-004173-SGA was submitted by DAML for OSM review prior to submission of the ATP request package and was approved on October 24, 2011.

OSM thoroughly reviewed the environmental assessment (EA) prepared by DAML for this project. OSM determined that the EA adequately discusses the environmental issues and impacts associated with the construction of the project. Based on the analysis in the EA, I have determined that reclamation of this abandoned mine site would not have significant effects on the quality of the human environment. Therefore, I conclude that no environmental impact statement is necessary. As a result, I have signed the Finding of No Significant Impact (FONSI) for this project.

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

• Kentucky DAML determined that a floodplain encroachment permit to "Construct Across or Along a Stream" should be applied for and obtained for the project.

• In the ATP request letter and EA, DAML notes that the local government agency administering construction of this project and the engineers they retain, will acquire all permits/certifications, such as the needed floodplain encroachment permit, prior to the funding of construction. However, it must be noted that, in accordance with the Federal Assistance Manual, the State is ultimately responsible to OSM under the grant conditions to ensure that the necessary permits/certifications are obtained and compliance is fully met throughout the life of the project.

• Stream crossings are only authorized using the proposed sub-surface drilling technique as noted in the project request documents. If this technique is not used, further consultation with the U.S. Army Corps of Engineers (COE) and Kentucky Division of Water to assess the need for and compliance with the requirements of Section 404 and Section 401 (Water Quality Certifications) of the Clean Water Act

(CWA). This must be completed and OSM notified, so the EA and FONSI for this project can be amended, before any further construction activity may proceed.

• In order to address the concern by the Office of State Archaeology, DAML is reminded to comply with provision "III. In case of a late discovery of cultural materials or evidence of human remains, all project work (exempt or non-exempt) in the vicinity of the discovery area shall cease immediately and AML shall contact the Kentucky Heritage Council...."

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.

Actng

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

11/18/11
Date

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Deane Area - Phase 1 Water Supply
Abandoned Mine Lands (AML) Project
Letcher County, Kentucky

The Commonwealth of Kentucky submitted an Authorization to Proceed with Construction Activity (ATP) request for Federal AML grant funds to the Office of Surface Mining Reclamation and Enforcement (OSM) for this project. The ATP request consists of a request letter, Environmental Assessment (EA) with consultation correspondence, project description, location map, AML Inventory System (AMLIS) Problem Area (PA) Description forms, and other supporting enclosures. The project area may be centrally located on the Mayking, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map at 37° 14' 19" North Latitude and 82° 45' 51" West Longitude near the community of Deane, 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-004173-SGA. The project involves reclamation of AML conditions consisting of installation of about 30,003 linear feet of new water supply pipe to extend existing potable public water supply to about 70 residences whose groundwater supplies are adversely impacted by pre-Law and interim-Law coal mining operations.

OSM has thoroughly reviewed the EA prepared for this project by the Kentucky Division of Abandoned Mine Lands (DAML) and determined that it adequately discusses the environmental issues and impacts as required by the National Environmental Policy Act (NEPA) for OSM abandoned mine lands reclamation grant construction activities for authorization purposes.

Based on the analysis in the EA, I find that the construction activity performed under this project will not have significant impacts on the quality of the human environment. Therefore, I conclude that a detailed Environmental Impact Statement is unnecessary. My specific reasons are as follows:

The alternative to not fund the project would result in no favorable impacts and the adverse impacts would continue unabated. The long-term beneficial impact of the proposed action will result in the protection of the health, safety, general welfare, and property of the local citizens and other persons who may come in contact with these AML conditions. No long-term adverse impacts are anticipated. Short-term environmental impacts are limited to sedimentation, noise, and inconvenience to the local residents while the project is constructed. Sedimentation will be controlled by using silt control and prompt revegetation of the disturbed area. Noise, dust, and other inconveniences to local residents are unavoidable impacts related to construction activities.

All appropriate government agencies were consulted or their review criteria applied by agreement. As a result, it was determined that the project area does not contain or significantly affect threatened or endangered species or their habitat, jurisdictional wetlands, cultural or historic values, prime and unique farmland values, recreational resources, or Class I air quality regions. To reduce impacts from the project, the recommendations made by the agencies consulted were considered and, as appropriate, incorporated into the EA prepared by DAML and/or as an element of their request for ATP with construction submitted for OSM authorization. The ATP contained a commitment to relocate affected families during the construction phase. Specifically, the advised that (would be/may be) affected by the project. The responses from agencies consulted for the National Environmental Policy Act (NEPA) review include the following comments and/or recommendations:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) identified one known federally threatened/endangered fish and wildlife species, the Blackside Dace, within a 10 mile radius of the project area. They also identified one records of state listed species of concern, the American Black Bear, within 1 mile radius of the project area. KDFWR does not anticipate any significant impacts on the Blackside Dace or its habitat, and made no comments of concern for the American Black Bear. KDFWR did provide a list of recommendations to reduce potential negative impacts to general aquatic resources that can occur in the project area. DAML considered all of the suggestions and incorporated them as appropriate in their reclamation plans.

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 the Elusive Clubtail, known to occur within a 1-mile radius of the project. DAML discussed each species noted above in the biological review memorandum, and in addition discussed these and the KFWDR species noted in the EA and their ATP request correspondence, 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;

- 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.

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 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 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.

The Office of State Archaeology (OSA) found 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. They noted that they feel the proposed water lines pass through areas that have potential for archaeological sites. Since they have insufficient information to determine the likelihood that archaeological sites may be present or potentially impacted by construction of the water supply, they recommended coordination with the State Historic Preservation Officer (SHPO) before beginning construction activities.

As noted in the previous paragraph documenting SHPO consultation, this coordination is accomplished through an existing Programmatic Agreement, therefore since no specific evidence of archaeological potential is alleged by the OSA, no further coordination is warranted for the environmental evaluation of this project. However, in order to address OSA's concern, the ATP will be conditioned to remind DAML to comply with the following provision of the Programmatic Agreement with the SHPO: "III. In case of a late discovery of cultural materials or evidence of human remains, all project work (exempt or non-exempt) in the vicinity of the discovery area shall cease immediately and AML shall contact the Kentucky Heritage Council...."

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 a 401 WQC nor a 404 CWA permit are needed for the project as proposed, which proposes sub-surface drilling for stream crossings. The ATP will be conditioned to require further consultation in the event that stream crossings are not accomplished using subsurface drilling as follows:

"Stream crossings are only authorized using the proposed sub-surface drilling technique as noted in the project request documents. If this technique is not used, further consultation with the U.S. Army Corps of Engineers (COE) and Kentucky Division of Water to assess the need for and compliance with the requirements of Section 404 and Section 401 (Water Quality Certifications) of the Clean Water Act (CWA). This must be completed and OSM notified, so the EA and FONSI for this project can be amended, before any further construction activity may proceed."

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 within the base floodplain and a floodplain permit is required.

DAML's ATP request letter and EA note that the local government agency administering construction of this project and the engineers and contractors retained by them for this project, will acquire any needed permits prior to the onset of construction. In addition, DAML states that it will not fund this project until all required permits and authorization are issued. The OSM authorization to proceed with construction activity document will be conditioned to emphasis these issues and notify DAML that the State is ultimately responsible to OSM under the grant conditions to ensure that the necessary permits are obtained, including DOW Floodplain Encroachment Permits, and that compliance is fully met throughout the life of the project.

The DAML ATP request documents note that this project will include pre- and/or post-project maintenance and repair of existing previously constructed public county roads utilized during the construction of this project, which are administered by the county or local road authority. It is expected that these public roads will need some improvement or repair due to the demands of the equipment necessary to accomplish completion of the AML construction activity. DAML notes that this construction activity will be conducted under the authority and supervision of the local public road authority and will consist of standard road construction practices appropriate to mitigate impacts to the local community from potential degraded road conditions in order to maintain public traffic safety. This construction activity while funded as part of this AML funded

construction project will be subject to the customary environmental evaluation considerations and construction practices of the local public governmental road authority, and does not require additional environmental evaluation under the NEPA evaluation documented for this AML construction activity.

11-18-11

OSM Environmental Reviewer
AML Program Specialist

Date

Acting

11-18-11

Joseph L. Blackburn
Field Office Director

Date

Memorandum

Date: November 18, 2011

To: Deane Area - Phase 1 Water Supply Abandoned Mine Land (AML) Reclamation Project File ID# 99.145040000

From: Steve Cassel, Sr., AML Program Specialist 11-18-11
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 Deane Area - Phase 1 Water Supply AML Reclamation Project with a construction budget of $804,249.00. The Branch prepared an ATP notice and Finding of No Significant Impact (FONSI) for the FOD review. The Branch recommends that the FOD sign the FONSI 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 FONSI. Additionally, the transmittal email will be copied to the Department for Natural Resources (DNR) Commissioner.

The Kentucky DAML ATP request dated November 1, 2011, was received at LFO on November 1, 2011. The ATP was processed within 12 working days; therefore, the customer service target of 14 working days to process an ATP has been met. The ATP was processed in 18 calendar days; therefore, 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 Mayking, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map at 37° 14' 19" North Latitude and 82° 45' 51" West Longitude near the community of Deane, 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-004173-SGA. The project involves reclamation of AML conditions consisting of installation of about 30,003 linear feet of new water supply pipe to extend existing potable public water supply to about 70 residences whose groundwater supplies are adversely impacted by pre-Law and interim-Law coal mining operations.

DAML did not designate a funding source for the construction work under the budget category entitled Water Supply Project Costs 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 # 99.145040000 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. The following proposed dates were assigned and entered by LFO for database tracking purposes: Bid Advertisement Date was entered as December 1, 2011, Contract Award was entered as January 1, 2012, and Contract/Construction Completion was entered as January 1, 2013.

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 an Environmental Assessment (EA) with agency consultation documentation; and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms, with engineer cost estimates and reference to a water supply study, for PA# KY-004173-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 2012 Oversight Agreement.

The EA 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. 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 EA submitted by the Kentucky DAML. The EA prepared by the State and the State's ATP request correspondence and attachments discussed 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 are summarized in the FONSI prepared by OSM for the EA.

The comments from the Kentucky State Clearinghouse, Kentucky's "Single Point of Contact" (SPOC) pertaining to AML Water Supply projects included no comments that affect this proposal. Problem Area (PA) #KY-004173-SGA was directly input into the AMLIS by the DAML on October 24, 2011. This information reflects the units and costs based upon the design and classification of the unfunded category.This was confirmed by LFO review of the AMLIS data and a PAD summary website screen printout from the OSM HDQ AMLIS database. PA # KY-004173-SGA represents a "new Problem Area" requiring FOD approval under OSM Directive AML-1-2 (signed June 22, 2007). A FOD approval form was not prepared for the PA, since the new e-AMLIS is operational, with electronic OSM FOD approval, which eliminated the need for the FOD approval form. Under the authority of the Lexington Field Office Director, I approved the PA on October 24, 2011.

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.

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR NATURAL RESOURCES
Division of Abandoned Mine Lands
2521 Lawrenceburg Road
Frankfort, Kentucky 40601
www.ky.gov

Steven L. Beshear
Governor

Leonard K. Peters
Secretary

Carl E. Campbell
Commissioner

November 1, 2011

Mr. Joseph L. Blackburn, Director
U. S. Department of the Interior
Office of Surface Mining
Lexington Field Office
2675 Regency Road
Lexington, KY 40503

RE: Deane Area – Phase I AML Water Supply Project (Letcher County)

Dear Mr. Blackburn:

We are requesting "Authorization to Proceed" with site-specific construction activities on the referenced project, as described in the enclosed package. Enclosed are a project description, location map, and an eligibility statement with supporting information for the above-referenced project. Additional, eligibility information is available at the Frankfort AML office. The PAD for problem area # KY 4173 SGA has been prepared, entered into the e-AMLIS by the division, and has been approved by OSM. The PAD information has not been included in this ATP package; however, all necessary information {the problem area description (PAD) supplemental forms and an engineer cost estimate} can be found online in e-AMLIS for your review. Enclosed is a copy of the eligibility determination that was sent to the Office of Legal Services that finds the proposed project eligible for AML funding. Also, enclosed is an Environmental Assessment, with two agency consultation response documents and two DAML consultation documents attached. The Kentucky Heritage Council (KHC) was not contacted, as this project is exempt under the Programmatic Agreement between AML and KHC due to the previous disturbances by mining, road construction, and/or houseseat development.

AML Program Development staff conducted a search of the Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database. This search revealed one species of state concern, monitored by the KSNPC, is known to occur within one mile of the project site, and that one species listed as threatened or endangered, under the United States Endangered Species Act (USESA), is known to exist within ten miles of the project site. The species noted in the search are the:

<u>KSNPC species found within 1 mile from the project sites:</u>

- Elusive Clubtail (*Stylurus notatus*)

<u>USESA listed species found within 10 miles from the project site:</u>

- Indiana Bat (*Myotis sodalis*)

According to the memorandum by Keith B. Coleman, dated October 17, 2011, neither of these species should be negatively impacted by the proposed reclamation work. Although the entire state of Kentucky has been declared to be potential Indiana Bat habitat, since the removal of trees over 5" DBH is not anticipated, and no cave-like structures will be closed, no negative impacts should result upon the Indiana Bat, regardless of the timing of construction. Additionally, the Kentucky Department of Fish and Wildlife Resources (KDFWR) indicated the American Black Bear (*Ursus americanus*) is known to occur within one mile of the project site. However, the roadside ditch and a residential front yard are not the preferred habitat of the American Black Bear.

A letter was sent to the DAML floodplain and hydrology staff specialist, soliciting their comments regarding this project. The letter requested comments regarding water quality certification (WQC) and floodplain permit issues. The response stated that a floodplain permit would be required, but no WQC or COE permits will be required as long as the work performed is subsurface (directional boring method). The engineers and/or contractors retained for this project are required to obtain all necessary permits. This Division will not fund this project until all required permits and authorizations are received. The other consulted agencies had no objections or concerns regarding this project.

Overall, the project is a Priority 2. The project is estimated to cost $804,249.00, exclusive of "in-house" personnel costs associated with project administration, design, support, surveying, and bid activities. Completion of the project will not require the acquisition of any land and will not significantly affect the potential recovery of residual coal reserves at the sites. The principal benefits to be derived from the successful completion of the project are the elimination of abandoned mine land problems as described in the attached project description.

Construction contract bidding, awarding, and subsequent construction completion will occur as soon as possible. Should you have any questions regarding this information, please contact us at 502/564-2141.

Sincerely,

Steve Hohmann

Steve Hohmann, Director
Division of Abandoned Mine Lands

SH:BO:vr

Enclosures

Deane Area- Phase 1
AML Water Line Extension

Letcher County – Mayking and Jenkins West Quads.

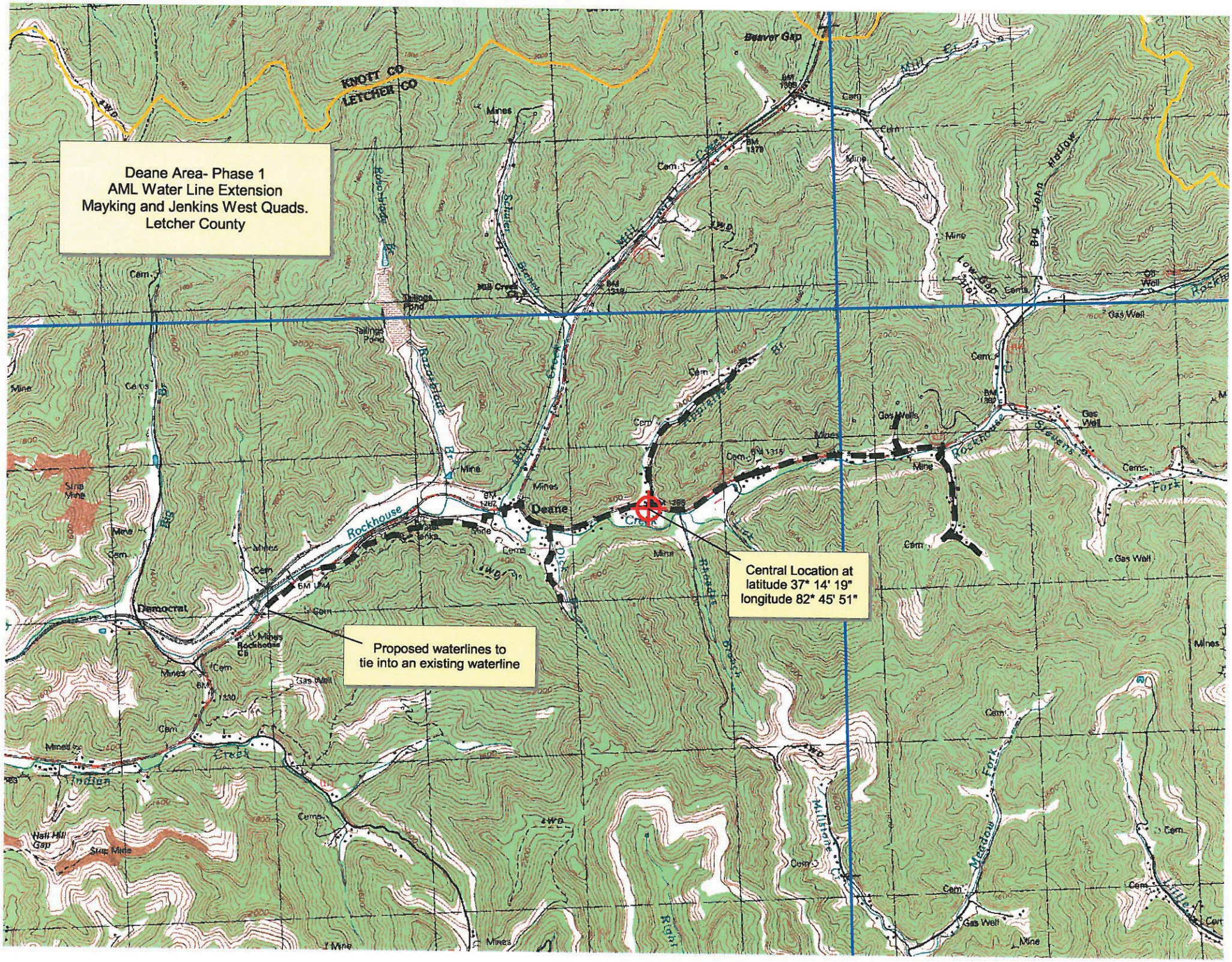
Project Description

Groundwater in the Deane area of Letcher County has been damaged by pre-law coal mining operations. Therefore, this area is eligible for an AML-funded waterline extension project to abate the problems. The project is centrally located on the Mayking 7.5' United States Geological Survey (USGS) quadrangle at Latitude 37° 14' 19" and Longitude 82° 45' 51". 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.

A total of approximately 30,003 linear feet of new water supply pipe is proposed for the project. The pipe diameters will range from 3/4" to 8". Approximately 70 new water meters will be installed. Waterlines will be installed in previously disturbed ditches and shoulders of public road right-of-ways or at cleared private roads, and in mowed residential yards. A small section of waterline will be placed outside of the road right-of-way, but this area has been previously disturbed by placement of spoil and topsoil by a coal company. No trees over 5" in diameter at breast height are proposed to be removed during this project.

Installation and maintenance of hay-bale silt checks and erosion control netting will minimize sedimentation at creek crossings and other critical areas. Creek crossings will be constructed quickly and with as little intrusion of equipment into streams as possible, thereby limiting the disturbance of sediments and resulting turbidity to those found during heavy storm events. All construction disturbances will be kept to a minimum and vegetated as soon as practical. Construction of this project will require stream crossings, likely within floodplains. Consulting engineering companies retained for this project submitted design plans for this water supply project to the Kentucky Division of Water (DOW) for their review and approval. This approval process includes the identification and notice, to the party submitting the design plans, of all necessary permits, including floodplain permits and 401 WQC permits. The engineers and/or contractors retained for this project are required to obtain all necessary permits. This Division will not fund this project until all required permits and authorizations are issued.

This project will include pre- and/or post- project maintenance and repair of existing previously constructed public county roads utilized during the construction of this project, which are administered by the county or local road authority. This construction activity will be conducted under the authority and supervision of the local public road authority and will consist of standard road construction practices appropriate to mitigate impacts to the local community from potential degraded road conditions in order to maintain public traffic safety.


Deane Area- Phase 1
AML Water Line Extension
Mayking and Jenkins West Quads.
Letcher County
Central Location at
latitude 37* 14' 19"
longitude 82* 45' 51"
Proposed waterlines to
tie into an existing waterline
KNOTT CO
LETCHER CO
Beaver Gap
Deane
Democrat
Rockhouse
Tailings Pond
Mill Creek
Gas Well
Cem
Mine
Mines
Cems
Strip Mine
Indian
Creek
Meadow
Fork
Big John Hollow
Low Gap
Rockhouse Stevens
Millstone
Hall Hill Gap

Deane Area – Phase I
AML Water Supply Project

Letcher County
Mayking and Jenkins West Quads.

Environmental Assessment

A. Description of the Proposed Action:

The Kentucky Division of Abandoned Mine Lands (AML) proposes to provide 70 residences with a public water supply, by constructing approximately 30,003' of new water service lines that will tie into existing public water service lines. The project is located within the Mayking and Jenkins West 7.5' United States Geological Survey (USGS) quadrangles with a central location at Latitude 37 ° 14' 19" and Longitude 82° 45' 51" (see the attached map). The federal Office of Surface Mining (OSM) has requested that all water supply project proposals include an environmental assessment.

B. Need for the Proposed Action:

Poor quality well water threatens the health of anyone who drinks it. The problems proposed to be mitigated by this project are rated as Priority 2. The problems are further described in the priority documentation form for national AML inventory problem areas KY 4173-SGA.

C. Alternatives Considered:

1. Extend existing public waterlines, to replace groundwater wells contaminated or destroyed by previous mining.
2. Drill wells and/or provide and maintain cisterns.
3. Take no action, allowing the human health hazards to continue.

C.1. Preferred Alternative:

An AML-funded ground water study for an area in Letcher County, (see the attached map) has shown that groundwater in portions of the area are degraded primarily due to pre-law coal mine operations. As a result, portions of the study areas are eligible for AML expenditures to abate the problems.

The project consists of providing full municipal water service to approximately 70 residences. New service lines will tie into existing public water lines. Approximately 30,003' of water-supply pipe will be installed, with diameters ranging from 3/4" to 8". Pipes will mostly be installed in previously disturbed ditches and shoulders of public road rights-of-way. A small section of waterline

will be placed within a residential yard that has previously been disturbed during the placement of spoil material and topsoil by a local coal company. Meters and service lines will primarily be located in residential yards. All of the project areas have no forest areas to be cleared.

C.2. Drilled Wells:

Should the Commonwealth drill wells and/or provide and maintain cisterns, the cost would be prohibitive, and encountering a good water source by drilling in an area already disturbed by mining is unlikely.

C.3. No Action:

Should the Commonwealth take no action, people drinking well water contaminated by pre-law mining, or drinking contaminated water from other sources after their well was destroyed by pre-law mining, could suffer from health problems.

D. Affected Environment:

D.1. General Setting:

The predominant land uses in the vicinity are residential, commercial (small businesses), agricultural, and forestland. Second growth, unmanaged upland hardwood forest and coal mines are on the steep slopes.

D.2. Affected Resources:

The following agencies and databases were consulted to identify resources that may occur in the project vicinity:

- Kentucky Department of Fish and Wildlife Resources (KDFWR)
- Kentucky Division of Mine Permits (KDMP) floodplain database
- Kentucky Heritage Council (KHC) – exempt under Programmatic Agreement
- Kentucky Office of State Archaeology (OSA)
- Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database

Replies from these agencies and memos addressing the KSNPC database search and floodplain/water issues are attached.

E. Environmental Impacts of the Proposed Alternative:

Resources that could, but will not, be negatively affected by the proposed project include:

- Historic/Cultural
- Fish and Wildlife/Plants
- Soils
- Agricultural
- Recreation
- Small Business Use
- Air Quality
- Noise
- Topography
- Other (Socioeconomic or Political)

The proposed project will not adversely impact low income or minority persons. Development of an area for residential and business uses usually increases after a public water supply is available, especially for locations with existing poor quality and quantity well water, which may result in more jobs available.

Due to the proposed disturbances to install water lines in drainage ditches and right-of-way property along roads, in residential yards, and at stream crossings, hydrology will be discussed. Due to the Kentucky State Nature Preserves Commission (KSNPC) database search indicating the possible occurrence of one species listed as threatened or endangered under the United States Endangered Species Act (USESA) that is known to occur within ten miles of the project sites, and one species of state concern, monitored by KSNPC, that is known to occur within one mile of the project sites, fish and wildlife/plants will be discussed. Because KHC was not contacted for this project, archaeology will be discussed.

E.1.a. Hydrology:

A formulated erosion, sediment, and drainage control plan will be implemented during construction, to minimize sedimentation of receiving streams. This plan includes hay-bale silt checks and silt fences maintained throughout the life of the project, and prompt vegetation of disturbed areas, especially at and near stream crossings. The completed project will provide non-eroding drainage controls and a vigorous, complete cover of perennial vegetation, which will result in the same or less stream sedimentation after project construction. The disturbance of sediments and resulting turbidity in streams will be limited to those found during heavy storm events. Therefore, the hydrology of the project areas and downstream areas should not suffer long-term negative impacts due to construction of this project.

As indicated in the attached email dated October 10, 2011, a floodplain permit will be required. Because the waterlines are to be installed subsurface, no COE permit or WQC will be required. The engineers and/or contractors retained for

this project are required to obtain all necessary permits. This Division will not fund this project until all required permits and authorizations are received.

E.1.b. Fish and Wildlife/Plants

AML personnel searched the KSNPC BIOTICS 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 the project site, and if any federally-listed threatened and endangered species are known to occur within the general area (a 10-mile radius) of the project site. This search revealed one species of state concern monitored by the KSNPC is known to occur within one mile of the project site and one species listed as Threatened and Endangered under the United States Endangered Species Act (USESA) is known to exist within ten miles of the project site. The species noted in the search are:

- Elusive Clubtail (*Stylurus notatus*- KSNPC Species of State Concern)
- Indiana Bat (*Myotis sodalis*- USESA Listed Endangered)

As indicated in the attached memorandum dated October 17, 2011, neither of the species in the KSNPC search should be negatively impacted by construction of this project. Since no tree clearing is proposed, and since no cave-like structures or cliff lines will be disturbed as part of the project construction, the construction should not impact the Indiana Bat, regardless of the project timing.

The Kentucky Department of Fish and Wildlife Resources (KDFWR) indicated that the American Black Bear is known to be within 1 mile of the project; however the roadside ditch and residential yards are not suitable bear habitats. The KDFWR also indicated the Blackside Dace is known to occur within 10 miles of the proposed project site, but based on the nature of the project, the KDFWR does not anticipate impacts to the Blackside Dace or its critical habitat.

E.1.c. Archaeology

The Office of State Archaeology (OSA) was contacted. OSA did not have sufficient information to determine whether archaeological sites will be impacted by the project; therefore they recommended a consultation with the Kentucky Heritage Council (KHC). KHC was not contacted, as the project was determined to be exempt under the Programmatic Agreement between KHC and AML as the waterlines will be placed in roadside ditches with the exception of a small area that will be placed in spoil waste that has been covered with topsoil. This small area is located in a residential yard. The entire project work area has been previously disturbed by mining activity, road construction, and/or houseseat development.

E.1.d. Cumulative Environmental Impact:

No significant environmental impacts should occur as a result of construction of the preferred alternative in the watersheds where the proposed construction sites are located. No previous AML projects have been found to significantly negatively impact the environment- the projects are designed to reclaim human safety problems where the land has been disturbed by abandoned coal mining, with insignificant negative environmental impacts during and after these reclamation projects. Therefore, as neither previous projects, nor the proposed alternative, will have any significant impact upon the environment within these watersheds, there will be no cumulative negative impact as a result of the construction of this proposed AML project.

E.2. Drilling Wells Alternative:

E.2.a. Hydrology:

Drilling wells and/or providing and maintaining cisterns is unlikely to significantly change existing hydrologic conditions.

E.2.b. Fish and Wildlife/Plants:

Drilling wells and/or providing and maintaining cisterns is unlikely to significantly change the habitats for existing plant and animal species.

E.2.c. Archaeology

Drilling wells and/or providing and maintaining cisterns is unlikely to cause a negative impact to any potential archaeological resources.

E.3. No Action Option:

E.3.a. Hydrology:

If the Commonwealth takes no action, existing hydrologic conditions would remain unchanged.

E.3.b. Fish and Wildlife/Plants:

If the Commonwealth takes no action, existing plant and animal species would remain unchanged.

E.3.c. Archaeology

Potential archaeological resources would remain unchanged with the no-action alternative.

F. Summary:

The Commonwealth considered three options:

1. Extend public waterlines to replace wells damaged by pre-law mining.
2. Drill wells and/or provide and maintain cisterns.
3. Take no action.

The first option was selected due to its overall advantages.

G. Consultations:

The following agencies and databases were consulted prior to preparation of this document:

- Kentucky Department of Fish and Wildlife Resources (KDFWR)
- Kentucky Division of Mine Permits (KDMP) floodplain database
- Kentucky Heritage Council (KHC) – exempt under Programmatic Agreement
- Kentucky Office of State Archaeology (OSA)
- Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database

H. Preparers/Reviewers:

Kentucky Division of Abandoned Mine Lands Personnel:

- Jeff Ruebens, Environmental Technologist III
- Keith Coleman, Environmental Technician III
- Ryan Howell, Environmental Control Supervisor
- Bill Overman, Program Development Branch Manager

Steve Hohmann 11/1/11

- Steve Hohmann, Director Date

Howell, Ryan (EEC)

From: Hall, Samantha (EEC)
Sent: Monday, October 10, 2011 9:54 AM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Ruebens, Jeff (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain and WQC review for Deane Area Phase I WSP

Floodplain/Stream Construction Permit
A floodplain permit will be required.

US Army Corps of Engineers Permit (ACOE)
No permit is necessary as long as the stream crossings are subsurface.

Water Quality Certification
No permit is necessary as long as the stream crossings are subsurface.

From: Rickwa, Vanna (EEC)
Sent: Friday, October 07, 2011 11:07 AM
To: Hall, Samantha (EEC)
Cc: Howell, Ryan (EEC); Ruebens, Jeff (EEC)
Subject: Request for floodplain and WQC review for Deane Area Phase I WSP

Attached please find the project description and map for the Deane Area Phase I Water Supply Project.

Please do a floodplain and WQC review to determine if there would be any issues reference this project.

Please notify Bill Overman, Ryan Howell, Jeff Ruebens, and myself of your response.

Thanks,

Vanna Rickwa
Administrative Specialist III
Energy and Environment Cabinet
Department for Natural Resources
Division of Abandoned Mine Lands
2521 Lawrenceburg Road
Frankfort, Kentucky 40601
502/564-2141, Ext. 130

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

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Governor

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Marcheta Sparrow
Secretary

Dr. Jonathan W. Gassett
Commissioner

18 October 2011

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

RE: Deane Area Phase I AML Water Supply Project (Letcher 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-threatened Blackside Dace *(Chrosomus cumberlandensis)* is known to occur within 10 miles of the proposed project site. The American Black Bear *(Ursus americanus)* is a state-listed species known to occur within one mile of the project site. Based on the nature of the project, the KDFWR does not anticipate impacts to the Blackside Dace or its associated critical habitat. Please be aware that our database system is a dynamic one that only represents our current knowledge of various species distributions.

Additionally, the KDFWR recommends the following measures:

- Avoidance of impacts to intermittent and perennial streams if it is feasible.
- Channel changes located within the project area should incorporate natural stream channel design.
- Development/excavation during low flow period to minimize disturbances.
- Proper placement of erosion control structures below highly disturbed areas to minimize entry of silt to the stream.
- Replanting of disturbed areas after construction, including reforestation of stream banks, with native vegetation for soil stabilization and enhancement of fish and wildlife populations.
- Avoid impacts to forested areas if possible. If impacts can not be avoided we recommend reforestation of common areas with native trees to promote use by various species of wildlife.
- Return all disturbed instream habitat to stable condition upon completion of construction in the area.
- Preservation of any tree canopy overhanging the stream.

To minimize indirect impacts to aquatic resources, strict erosion control measures should be developed and implemented prior to construction to minimize siltation into streams and storm water drainage systems located within the project area. Such erosion control measures may include, but are not limited to silt fences, staked straw bales, brush barriers, sediment

basins, and diversion ditches. Erosion control measures 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

Memorandum

To: Deane Area

AML Water Supply Project

From: *Keith B. Coleman*

Environmental Technician, AML Program Development Branch

October 17, 2011

Through: *Bill Overman*

Manager, AML Program Development Branch

10/17/11

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

Date: October 17, 2011

On October 17, 2011, I conducted a search of the KSNPC database in order to determine if any species of state concern (monitored by KSNPC) are known to occur within the near vicinity (1 mile radius) of the sites to be disturbed by this project, and if any federally listed "threatened or endangered" species are known to occur within the general vicinity (10 mile radius) of the project site. This search revealed that one species of state concern, monitored by KSNPC, is known to occur within one mile, and that one species currently listed as threatened or endangered under the United States Endangered Species Act (USESA) is known to occur within ten miles of the project site.

The proposed project (30,000 linear feet total) consists of the installation of approximately 30,000 linear feet of water line, and 70 new water meters. No mine portals or trees over 5" DBH will be disturbed due to project-related construction. Installation and maintenance of hay-bale silt checks and erosion control netting will minimize sedimentation at creek crossings and other critical areas. Creek crossings will be constructed quickly and with as little intrusion of equipment into streams as possible, thereby limiting the disturbance of sediments and resulting turbidity to those found during heavy storm events. All construction disturbances will be kept to a minimum and vegetated as soon as practical. Construction of this project will require stream crossings, likely within floodplains. Consulting engineering companies retained for this project

submitted design plans for this water supply project to the Kentucky Division of Water (DOW) for their review and approval. This approval process includes the identification and notice, to the party submitting the design plans, of all necessary permits, including floodplain permits and 401 WQC permits. The engineers and/or contractors retained for this project are required to obtain all necessary permits. This Division will not fund this project until all required permits and authorizations are issued.

KSNPC Species of State Concern

Elusive Clubtail (*Stylurus notatus*, Pre-1970 Countywide record)

USESA Listed Species

Indiana Bat (*Myotis sodalis*, "summer mist-net" record, 9.8 miles SW, 5/17/2005)

The **Elusive Clubtail** is a dragonfly, the larvae of which inhabit large river systems. The AML Sediment & Erosion Control Plan includes standard erosion control devices which should prevent excessive sedimentation and turbidity problems. Sediment and erosion control devices will be monitored and maintained throughout the construction period. Disturbed areas will be vegetated as soon as practical. Crossings associated with this project only involve small streams. Since the AML control plan will ensure that the disturbances are kept to a minimum, no negative impacts should result upon this species due to project-related construction.

The US Fish and Wildlife Service (USFWS) has declared the whole of the state of Kentucky to be the potential habitat of the **Indiana Bat** (*Myotis sodalis* – USESA Endangered). This species day roosts and establishes maternity colonies in trees with exfoliating bark or cavities in their trunks and larger limbs, and hibernates in caves and other similar underground cavities.

The search of the KSNPC BIOTICS database revealed one "summer mist-net" record of this species within 10 miles of the project site (9.8 miles SW from the project site). Thirteen additional records document the Indiana Bat within 10-20 miles from the project site. Five of the thirteen additional records are of "summer mist-net" captures, five of the records are of hibernacula, one is a maternity area, one is a roost site, and one is a breeding record.

Since no records of hibernacula are within 10 miles of the project area and no maternity area records are within 5 miles from the project area, and since no maternity colonies or non-maternity records are within 2.5 miles from the project area, no special conditions would apply to the accepted tree removal period, a time at which bats are secure within their hibernacula (October 15 – March 31).

However, since tree clearing has not been proposed, and since no cave-like structures will be disturbed as part of the project construction, the construction should not impact this species, regardless of the timing. Should the clearing of trees (trees which are over 5" DBH and also display characteristics such as shaggy, exfoliating bark, or crevices and hollowed-out cavities within their trunks and larger limbs) outside of any unstable, AML-impacted areas become necessary, a habitat assessment or presence-absence survey may be required. Lastly, the project does not fall within "*known habitat*" of the Indiana Bat, as described by USFWS. Adherence to these best management practices should prevent any negative impacts upon the Indiana Bat.

UNIVERSITY OF KENTUCKY

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October 31, 2011

Mr. Steve Hohmann, Director
Energy and Environment Cabinet
Department for Natural Resources
Division of Abandoned Mine Lands
2521 Lawrenceburg Road
Frankfort, KY 40601

RE: Deane Area Phase I AML Water Supply Project (Letcher County)

Dear Mr. Hohmann:

Concerning the above referenced project, I have reviewed the Office of State Archaeology files to determine if any prehistoric or historic sites are located in proximity to the proposed AML project. The following information is provided to assist in your decision to proceed with an Environmental Assessment or a Categorical Exclusion Determination for the project.

Our records indicate that no surveys or sites have been recorded in the project area. However, the proposed lines pass through areas that have potential for archaeological sites. We do not have sufficient information to determine whether archaeological sites will be impacted by the project. It is my recommendation that you consult with the State Historic Preservation Office to determine whether an archaeological survey is required.

Sincerely,

(Christina A. Pappas for)
George M. Crothers, Ph.D.
Director