

Authorization to Proceed (ATP)

Marie Feltner Slide
Abandoned Mine Land (AML) Reclamation Project
based on Finding of No Significant Impact (FONSI)
Knott County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the September 7, 2011, request for ATP with construction activity on the Marie Feltner Slide AML Reclamation project, prepared by the Division of Abandoned Mine Lands (DAML) of the Kentucky Department for Natural Resources. OSM found that the appropriate request documents were submitted and appear to support the need for the proposed construction activity. OSM confirmed that the required information for this project has been included in the AML Inventory System.

Due to ambiguity in the project areas delineated in the three design sheets submitted with the ATP request, the delineated project area for the construction activity and authorization by OSM for this project will be limited as follows:

1. Work areas specifically delineated on Sheet #3/Drawing #3 are authorized for construction activity, to include: Waste Areas #1 and #2; Slide Area's; Project Site/Existing Wall; and Haul Road to Bench, to be left open after the project. The Haul Road to Bench is further conditioned in this ATP, that it be constructed and left in an environmentally maintainable sound condition with appropriate grade, drainage features, surfacing and revegetation.
2. Waste Area #5 as delineated on Sheet #4/Drawing #4 is limited to the mine bench and does not include the area above the highwall or reclaimed mine bench outslope, is authorized for construction activity.
3. All existing access or mine bench access roads to access areas in 1 and 2 above between each other or from a public road that are contained within the generalized polygon delineated on Sheet #5/Drawing #5 are authorized for construction activity as access roads, with the exception that disturbance is limited to the drivable surface area, generally 15 to 40 feet wide, and does not include disturbance above highwalls or road cuts or the outslope of roads or mine benches. This also does not include the area noted in 5 below to the east of Waste area #4, nor the area outside Waste area #2 as delineated in Sheet #3/Drawing #3.
4. Waste Areas #3 and #4 as delineated on Sheet #4/Drawing #4 are not authorized for use, until DAML provides information delineating haul road access to the waste areas for OSM consideration and authorization in a project revision.

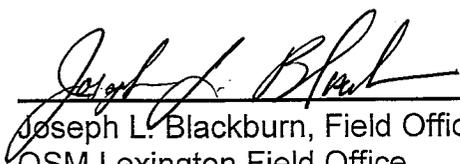
5. The extended bench area on Sheet #5/Drawing #5, to the east of the specific location of Waste Area #4 (as located on Sheet #4/Drawing #4) is not authorized for construction activity until OSM is provided a revision to the project explaining a construction activity for the area such as a potential additional mine bench waste area.

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.

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

- 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 from portions of the project not directly impacted by the AML problem will be accomplished between October 15 and March 31, or a habitat assessment or presence/absence survey will be required for the given area by qualified DAML staff.
- No caves or clifflines are proposed or authorized to be disturbed.
- No mine portal/shaft closures are proposed or authorized.

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



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

9-22-11
Date

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Marie Feltner Slide
Abandoned Mine Lands (AML) Project
Knott 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 Carrie, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map at 37° 17' 18" North Latitude and 83° 06' 01" West Longitude near the community of Cordia, 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-002144-SGA. This project involves reclamation of unstable hillside AML conditions initially addressed under the Marie Feltner and Sue Combs Slides project authorized on April 2, 2007. That project involved installation of a gabion wall, which has since partially failed. The current project proposes to remove the failed portion of the gabion wall, excavate the unstable landslide material to rock, place the material in five waste areas, and construct a pile and lagging wall.

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 or flood plains, 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 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 known federally threatened/endangered fish and wildlife within a 10 mile radius of the project area, but offered recommendation to install erosion control measures and maintain them regularly.

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 letter and an attached biological review memorandum. DAML found that KSNPC data indicated no federally listed threatened or endangered species within a 10-mile radius and no species of State concern are known to occur within a 1-mile radius of the project. The DAML biological review memorandum 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:

- With the exception of trees directly impacted by the AML problem, portions of the project do not include the purposeful removal of trees during the period of April 1 to October 15; the DAML ATP request letter, EA, and biological review memorandum note that 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 from portions of the project not directly impacted by the AML problem will be accomplished between October 15 and March 31, or a habitat assessment or presence/absence survey will be required for the given area by qualified DAML staff;
- 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 are proposed to 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.

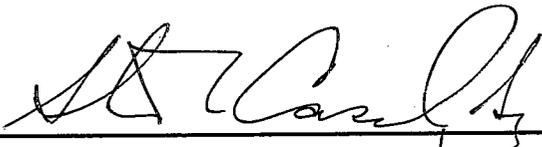
With the specifics of the proposal meeting the criteria set out in the MOA, OSM agrees with DAML's determination that the proposed project would not adversely impact the species if these conditions are present. With this information, they found the requirements of Section 7 of the Endangered Species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

The Office of State Archaeology found that their records did not indicate any known archaeological sites directly in the project area, no systematic archaeological survey has been conducted in the immediate project area, and past disturbance to the project area make it unlikely that archaeological sites will be preserved.

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

Environmental and Public Protection Cabinet (EPPC) (changed to the Environment and Energy Cabinet (EEC) in July 2008) Secretary order dated December 12, 2006, transferred authority for issuance of Clean Water Act (CWA) Section 401 Water Quality Certifications (WQC) associated with surface coal mine operations, to include any reclamation projects proposed by the DAML, to the Kentucky Department for Natural Resources (DNR). DNR assigned this responsibility to the DAML Design Branch. In a meeting held in February 2010 between the OSM Lexington Field Office (LFO), Kentucky Field Office (KFO) in Frankfort, Kentucky, of the U.S. Fish and Wildlife Service (USFWS) and DAML to primarily discuss fish and wildlife issues; Steve Hohmann, Director of DAML, offered to coordinate NEPA consultation with the U.S. Army Corps of Engineers (COE) to assess the need for and compliance with the permit requirements of Section 404 of the Clean Water Act (CWA) by application of criteria provided by the COE. This was beneficial to both offices since these issues are inter-related. The DAML Design Branch determined that neither a 401 WQC nor a 404 CWA permit are needed for the project as proposed.

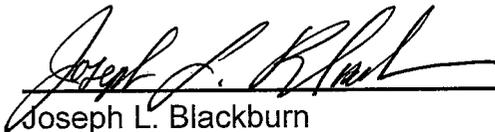
Under a 2005 agreement with the Kentucky Division of Water (DOW) Floodplain Management Section (FMS) of the Water Resources Branch, DOW authorized DAML to apply DOW floodplain standards in lieu of a DOW review. In this agreement, DAML will directly consult with DOW if it appears a permit may be required. 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. This statement is contained in the ATP request letter and the project description.



OSM Environmental Reviewer
AML Program Specialist

9-22-11

Date



Joseph L. Blackburn
Field Office Director

9-22-11

Date

Memorandum

Date: September 22, 2011

To: Marie Feltner Slide Abandoned Mine Land (AML) Reclamation Project File

From: Steve Cassel, Sr., AML Program Specialist, *9-22-11*
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 Marie Feltner Slide AML Reclamation Project. 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 and FONSI 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. Additionally, the transmittal email will be copied to the Department for Natural Resources (DNR) Commissioner.

The initial Kentucky DAML ATP request dated July 27, 2011, was received at LFO on July 27, 2011. Some complications developed with the project, waste area easements, etc., refer to emails scanned into the Attachments of this project file and conversation documentation in the Notes tab of the project database file. On August 15, 2011 DAML Director Steve Hohmann stated he was withdrawing the Marie Feltner Slide project ATP request dated July 27, 2011, from further OSM ATP consideration, so DAML could redesign the project and prepare another ATP request. This initial ATP request is kept on file in this project file, but is not to be used for this project.

The final ATP request for the Marie Feltner Slide project was submitted on September 7, 2011. The ATP was processed within 11 working days; therefore, the customer service target of 14 working days to process an ATP has been met. The ATP was processed in 15 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 Carrie, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map at 37° 17' 18" North Latitude and 83° 06' 01" West Longitude near the community of Cordia, 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-002144-SGA. This project involves reclamation of unstable hillside AML conditions initially addressed under the Marie Feltner and Sue Combs Slides project authorized on April 2, 2007. That project involved installation of a gabion wall, which has since partially failed. In the interim, DAML was authorized on June 20, 2011, to perform a temporary maintenance measure to the

previous project, in preparation for a more extensive project to fully remedy the AML impacts at this site, and consisted of installing a temporary 100 foot long, 72 inch diameter culvert to prevent flooding of Clear Fork and a public road, in order to maintain public transportation in the area.

The current project proposes to remove the failed portion of the gabion wall, excavate the unstable landslide material to rock, place the material in five waste areas, and construct a pile and lagging wall. In email correspondence with DAML, DAML notes that the temporary 100 foot long, 72 inch diameter culvert in Clear Fork is planned to be removed under a subsequent DAML AML construction project, rather than be part of this current project proposal. This correspondence is scanned into the LFO State Project database file for this project.

DAML did not designate a funding source under the budget category entitled Project Costs (Non-Water Supply) of any of Kentucky's FY 2010 29th 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 # 99.118030000 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 October 1, 2011, Contract Award was entered as November 1, 2011, and Contract/Construction Completion was entered as October 1, 2012.

An office review of the request documents was conducted. The documents quality sampling analysis, a National Environmental Policy Act (NEPA) review documented in a CX 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 for PA# KY-002144-SGA.

A pre-approval field inspection of the proposed project was deemed unnecessary, since a previous original project and maintenance project were previously authorized, and the new disturbance areas are on previously disturbed mine benches, etc.

The initial ATP request dated July 27, 2011, submitted a Categorical Exclusion Determination (CX) for the project. The current final ATP request submitted on September 7, 2011, submitted an Environmental Assessment (EA) for the project since the construction activity is indicated to be over 100 acres, reported to be 300 acres in the EA and project description.

However, after phone conversations with DAML Program Development Branch staff on Monday September 19, 2011, DAML does not intend to disturb all of the apparent 300 acres indicated in the polygon on Sheet #5/Drawing #5 submitted with the ATP. As indicated in the ATP request documents, not all of the 22.9 acres in the five waste areas specifically indicated on Sheet # 3/Drawing #3 and Sheet #4/Drawing #4 will be disturbed, it will depend on the amount of waste generated. The entire area drawn around the existing mine roads and bench roads that include upslope, or above highwall areas on bench areas, or downslope areas are also not intended to be disturbed.

DAML indicated that the disturbance on the existing roads is intended to be limited to the drivable surface area only, which would be from 10 to 30 feet in width for the length of the road. It was explained that the long section of mine bench road extending to the north west towards Hardburly Road, is just included as an alternative site access if needed, and in all likelihood will not be used due to the long haul costs. The extended bench area on Sheet #5/Drawing #5, to the east of the specific location of Waste Area #4 (as located on Sheet #4/Drawing #4) is added as a potential additional mine bench waste area, even though it is not currently indicated as a waste area on the supplied project area maps or project description. Also, it was noted that there was no apparent intention to waste material in the area above the specific area of Waste area #2 (as located on Sheet #3/Drawing #3), as indicated on Sheet #5/Drawing #5.

In reality, the actual disturbed area of this project will most likely be less than 100 acres, in the neighborhood of about 60 acres, even if all the access roads are used. This resulted in a discussion with DAML that in future projects, DAML will designate work areas as they have traditionally done, except that the work areas may be enlarged appropriately to account for the need for additional waste area, roads, etc. and help reduce the need for future project revisions, the construction down time this entails, and respond the DAML Construction Branch need for some additional latitude in project limits. However, it was noted to DAML that this should be done appropriately to only include that area needed for work area, not to ease the drawing of the project boundaries and design acreage calculations in the design preparation.

As a result, the delineated project area for the construction activity and authorization by OSM for this project will be limited as follows and noted on the ATP notice:

1. Work areas specifically delineated on Sheet #3/Drawing #3 are authorized for construction activity, to include: Waste Areas #1 and #2; Slide Area's; Project Site/Existing Wall; and Haul Road to Bench, to be left open after the project. The Haul Road to Bench is further conditioned in this ATP, that it be constructed and left in an environmentally maintainable sound condition with appropriate grade, drainage features, surfacing and revegetation.

2. Waste Area #5 as delineated on Sheet #4/Drawing #4 is limited to the mine bench and does not include the area above the highwall or reclaimed mine bench outslope, is authorized for construction activity.

3. All existing access or mine bench access roads to access areas in 1 and 2 above between each other or from a public road that are contained within the generalized polygon delineated on Sheet #5/Drawing #5 are authorized for construction activity as access roads, with the exception that disturbance is limited to the drivable surface area, generally 15 to 40 feet wide, and does not include disturbance above highwalls or road cuts or the outslope of roads or mine benches. This also does not include the area noted in 5 below to the east of Waste area #4, nor the area outside Waste area #2 as delineated in Sheet #3/Drawing #3.

4. Waste Areas #3 and #4 as delineated on Sheet #4/Drawing #4 are not authorized for use, until DAML provides information delineating haul road access to the waste areas for OSM consideration and authorization in a project revision.

5. The extended bench area on Sheet #5/Drawing #5, to the east of the specific location of Waste Area #4 (as located on Sheet #4/Drawing #4) is not authorized for construction activity until OSM is provided a revision to the project explaining a construction activity for the area such as a potential additional mine bench waste area.

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 summarized the responses from agencies consulted for the NEPA review and discussed appropriate resolution of all their concerns and recommendations. The responses from agencies consulted for the NEPA review 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 Non-Water Supply projects included no comments that affect this proposal. The information to update PA # KY-002144-SGA was directly input into the AMLIS by the DAML. This information reflects the changes in units and costs based upon the design and classification of the funded category. This was confirmed by LFO review of the AMLIS data. This PA does not represent a "new Problem Area" after December 20, 2006, requiring FOD approval under OSM Directive AML-1-2 (signed June 22, 2007); therefore, no FOD approval forms were prepared for FOD signature.

Marie Feltner Slide AML Reclamation Project

September 22, 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

Steven L. Beshear
Governor

Division of Abandoned Mine Lands
2521 Lawrenceburg Road
Frankfort, Kentucky 40601
www.ky.gov

Leonard K. Peters
Secretary

Carl E. Campbell
Commissioner

September 7, 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: Marie Feltner Slide AML Reclamation Project (Knott 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 maps, and problem area description (PAD) supplemental forms, including a problem description and an engineer cost estimate, for the above-referenced project. The PAD for problem area # KY 2144 SGA has been prepared and entered into the e-AMLIS by the division. 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. An eligibility determination that finds the proposed project eligible for AML funding has been reviewed and signed by the Office of Legal Services. Support documents for the PAD's and the eligibility determination will be made available to you upon request. Also enclosed is an Environmental Assessment, with two agency consultation response documents and two DAML consultation documents attached. The Kentucky Heritage Council was not contacted, as the project site falls under the exemption agreement between AML and KHC, as it has been previously disturbed by mining activity, previous AML reclamation projects, houseseat construction, and utility upgrades to existing access roads.

AML Program Development staff conducted a search of the Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database. This search revealed no species of state concern, monitored by the KSNPC, are known to occur within one mile of the project site, and that no species listed as threatened or endangered, under the United States Endangered Species Act (USES A), are known to exist within ten miles of the project site.

The entirety of the state of Kentucky has been determined to be the potential habitat of the Indiana Bat (*Myotis sodalis* – USESA Endangered) by the United States Fish and Wildlife Service (USFWS). Since tree clearing within the slide area is exempt from habitat consideration, and since waste areas #1 and #5 do not require clearing, project construction may begin at any time and not negatively impact the Indiana Bat. The usage of

waste areas #2- #4 will require clearing for waste placement and/or access. These areas should not be disturbed outside of the accepted tree removal period (October 15 - March 31). If it is determined that any trees, outside of the slide area, that represent potential bat habitat will have to be removed between April 1 and October 14, a habitat assessment or a presence absence survey will be required to be performed by a qualified biologist. The area impacted by this project is not within any area held to be the "Known Habitat" of the Indiana bat by the USFWS.

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 no WQC, COE, or floodplain permits would be required. The other consulted agencies had no objections or concerns regarding this project.

Overall, the project is a Priority 1. The project is estimated to cost \$1,977,140.00, 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, Director
Division of Abandoned Mine Lands

SH:BO:RH:vr

Enclosures

**Marie Feltner Slide
AML Reclamation Project
Knott County**

Project Description

The proposed project (approximately 300 acres total) consists of stabilizing two landslide areas near Clear Fork Road in Knott County. The project area is located in the Carrie Quadrangle at 37° 17' 17.3" latitude and 83° 5' 58.3" longitude (see the attached map). Five waste areas (approximately 22.9 acres) have been included in the project limits due to the uncertainty of the amount of material that will be excavated to rock. Not all of these waste areas may need to be used.

A gabion wall constructed during the 26 AG (2009) Marie Feltner & Sue Combs Slides AML Project has partially failed. The failed portion of the gabion wall will be removed and landslide material associated with this failure will be excavated to rock and placed in one of five waste areas, and a pile and lagging wall will be constructed. An additional area of instability exists to the east of the previously worked area. This area will also be stabilized by excavating a portion of the hillside and constructing a retaining wall.

Access to the slide area and waste area #1 and #5 are off of county roads, and will not require the removal of trees over 5" DBH. A temporary culvert has been placed in the stream at the bottom of the western slide area, and will be used as a low water crossing to access the landslide area. This culvert will be removed at the end of the project. Access onto the mine bench for the use of waste area's #2, 3, and 4 will require a road to be constructed from the top of the western slide area up to the mine bench, which will then serve to access waste area #'s 2, 3, 4, and 5. This constructed access road will require the removal of trees over 5" DBH, as will waste area #'s 2, 3, and 4. No tree removal will be necessary along the previously existing access road that runs along the mine bench, as it has been upgraded by a gas company. In order to prevent a negative impact to the Indiana Bat, tree removal along the constructed access road and for the use of waste areas #2, 3, and 4 will only occur between October 15 and March 31. These waste areas should not be needed until after October 15.

Construction disturbances will be kept to a minimum through the use of a stringently formulated sediment and erosion control program, consisting of hay-bale silt checks and silt fences maintained throughout the life of the project, and prompt revegetation using agricultural limestone, fertilizer, seed, netting and mulch for the areas disturbed by the project. New rock-lined ditches and subdrain pipes will control drainage.

The project site has been previously disturbed by coal mining, residential construction, road construction, AML construction and/or gas company construction. No disturbance of any stream reach is planned. No construction is proposed within a

regulated floodplain. All necessary permits and/or variances will be procured prior to construction.

F:\Project\AML\Marie Felther Slide\Design\Views_mapping_7-15-11\Marie Felther Planview Used For Design.dwg



COUNTY OF	ANNUAL GRANT	SHEET NO.	TOTAL SHEETS
KNOTT	30	5	X



MARIE FELTHER SLIDE II AML RECLAMATION PROJECT		
DRAWN BY SMH	PROJECT BOUNDARIES COMMONWEALTH OF KENTUCKY	DRAWING NO. 5
CHECKED BY WPS	FINANCE & ADMINISTRATION CABINET DEPARTMENT FOR FACILITIES & SUPPORT SERVICES DIVISION OF ENGINEERING & CONSTRUCTION ADMINISTRATION FRANKFORT, KY	SCALE 1" = 500' AS BUILT DATE
DATE 8/2011	ENERGY AND ENVIRONMENT CABINET DEPARTMENT OF NATURAL RESOURCES DIVISION OF ABANDONED MINE LANDS FRANKFORT, KY	AS BUILT DRAWN BY
AGENCY AUTHORIZED AGENT	DATE	DATE

PRELIMINARY

COUNTY OF	SHEET NO.	TOTAL SHEETS
KNOTT	30	4

NOTE: RECLAIMATION OF WASTE AREAS
 THESE AREAS ARE PROPOSED AS WASTE AREAS FOR THE RECLAIMATION OF WASTE WATER TO BE RECLAIMED. THESE AREAS ARE PROPOSED AS WASTE AREAS FOR THE RECLAIMATION OF WASTE WATER TO BE RECLAIMED. THESE AREAS ARE PROPOSED AS WASTE AREAS FOR THE RECLAIMATION OF WASTE WATER TO BE RECLAIMED.

WASTE AREA OPTION #4
 (POND WATER TO BE RECLAIMED)

WASTE AREA OPTION #3
 (POND WATER TO BE RECLAIMED)

WASTE AREA OPTION #1

RECLAIMATION DRAIN



MARIE FELTNER SLIDE II AML RECLAMATION PROJECT		
DESIGN BY	WASTE AREAS	DRAWING NO
SMH	COMMONWEALTH OF KENTUCKY	4
CHECKED BY	ENGINEER & ARCHITECTS SERVICE	SCALE
WPS	DIVISION OF ENGINEERING & CONTRACT ADMINISTRATION	1" = 300'
DATE	ENERGY AND ENVIRONMENT	AS BUILT
9/2011	DIVISION OF NATURAL RESOURCES	(Drawn by)
	DIVISION OF APPLICABLE AND ENVIRONMENTAL	

PRELIMINARY

PRELIMINARY

COUNTY OF	ANNUAL DRAIN	SHEET NO.	TOTAL SHEETS
KNOTT	####	3	X

EXISTING GRADE
 PROPOSED GRADE
 PROPOSED DRAINAGE
 PROPOSED EROSION CONTROL
 PROPOSED FILL
 PROPOSED EXCAVATION
 PROPOSED ROADWAY
 PROPOSED UTILITY

50' HIGH SLOPE
 LEAK

WASTE AREA TO BE
 FILL WITH WATER TO BE SPREAD

BENCH AREA

LAND AREA TO BE
 FILL WITH WATER TO BE SPREAD

WASTE AREA TO BE
 FILL WITH WATER TO BE SPREAD

WASTE AREA TO BE
 FILL WITH WATER TO BE SPREAD

PROJECT SITE

EXISTING DRAIN

WASTE AREA

WASTE AREA TO BE
 FILL WITH WATER TO BE SPREAD



MARIE FELTNER SLIDE II MIL RECLAMATION PROJECT		
DESIGN BY WPS	PLANVIEW	DRAWING NO. 3
CHECKED BY JAM	COMMONWEALTH OF KENTUCKY DEPARTMENT OF TRANSPORTATION DIVISION OF ENGINEERING & CONSTRUCTION ADMINISTRATION	SCALE 1" = 100' AS BUILT DATE
DATE 8/2011	ENERGY AND ENVIRONMENT CABINET DEPARTMENT OF NATURAL RESOURCES DIVISION OF ABANDONED WASTE LANDS FRANKFORT, KY	AS BUILT DATE BY
AGENCY MTC-SWETS INCORPORATED	4 General Civil Program - Contract Only	DATE

F:\Projects\KMA\Marie Feltner Slide\Drawings\mtpm_7-15-11\Marie Feltner Planview Use For Duplicating

ENVIRONMENTAL ASSESSMENT

Marie Feltner Slide AML Reclamation Maintenance Project

Knott County, Kentucky

A. Description of the Proposed Action:

The proposed project (approximately 300 acres total) consists of stabilizing two landslide areas near Clear Fork Road in Knott County. The project area is located in the Carrie Quadrangle at 37° 17' 17.3" latitude and 83° 5' 58.3" longitude. Five waste areas (approximately 22.9 acres) have been included in the project limits due to the uncertainty of the amount of material that will be excavated to rock. Not all of these waste areas may need to be used. The landslide at the Feltner residence is approximately 1.4 miles from the intersection of Clear Fork Road and KY 1088. A gabion wall constructed during the 26 AG (2009) Marie Feltner & Sue Combs Slides AML Project has partially failed. The failed portion of the gabion wall will be removed and landslide material associated with this failure will be excavated to rock and placed in one of five waste areas, and a pile and lagging wall will be constructed. An additional area of instability exists to the east of the previously worked area. This area will also be stabilized by excavating a portion of the hillside and constructing a retaining wall. This environmental assessment is required because the proposed project limits are over 100 acres in size.

B. Need for the Proposed Action:

Mining, which occurred before May 18, 1982, created the initial problems associated with this project. The problems currently were created by the failing gabion retaining wall constructed in the 26th AG.

These problems include:

- Hazards to public health, safety and welfare created from landslide above, which eventually will block off the stream causing damage to the road. Thus, access will be cut off for several homes upstream.

C. Alternatives Considered:

The following alternatives were considered for reclamation of the project site:

- Excavation of material on the slope above Clear Fork Creek, which would protect the creek from further constriction at the Marie Feltner site and preserve access along Clear Fork Road

Or:

- Take no corrective action at this time.

C.1. Preferred Alternative:

In this project, the Kentucky Division of Abandoned Mine Lands proposes to take the following actions:

- Excavation of material from the slope above Clear Fork stream and placement of material within five designated waste areas.
- Installation and maintenance of hay bale silt checks will minimize erosion and sedimentation at the site.
- All areas disturbed by construction will be vegetated, as soon as practical, using agricultural limestone, fertilizer, seed, mulch, and netting.

- Kentucky Heritage Council (KHC)- exempt under the Programmatic Agreement
- Office of State Archaeology (OSA)
- Kentucky Division of Water (DOW) - floodplain database
- Kentucky Department of Fish and Wildlife Resources (KDFWR)
- Kentucky State Nature Preserves Commission (KSNPC) species database.

E. Environmental Impacts of the Proposed Alternatives:

E.1. Preferred Alternative:

The Kentucky Heritage Council, Office of State Archaeology, and the Kentucky Department of Fish and Wildlife Resources failed to identify any resources in the project vicinity. Additionally, a check of the Kentucky State Nature Preserves Commission (KSNPC) database revealed no species of state concern are known to occur within one mile, and that no species listed as Threatened or Endangered under the United States Endangered Species Act (USES) are known to exist within ten miles of the project site. As a result, the following resources will not sustain significant adverse impacts by the preferred reclamation alternative: historic/cultural, vegetation, soils, recreation, air quality, noise, topography, and other (socioeconomic or political). This project will not adversely impact low income or minority persons.

E.1.a. Hydrology:

Division of Abandoned Mine Land staff have reviewed the site and found that no WQC, COE, or floodplain permits will be required. According to KAR4:040 no flood plain permit will be required for the temporary CMP pipe installed at the Marie Feltner site. In section 1 of this regulation, a construction permit pursuant to KRS 151.250 shall not be required for construction in or along a stream whose watershed is less than one (1) square mile, except for the construction of dams as defined by KRS 151.100 or other water impounding structures or for any construction that does or may endanger life or cause

severe damage to residential or commercial property. The temporary pipe at the bottom of the Marie Feltner slide will be used to access the slide, and will be removed once this project is constructed. Work within Clear Fork Creek will include excavating material within the creek. The area to be excavated has been determined by AML engineers to be less than 200', so an application for a permit to "Construct Across or Along a Stream" will not be required. The Division of Mine permits has determined that for the 401 Water Quality Certifications that this project will meet the general conditions outlined in their certifications. No long term impacts from sedimentation will result since all areas disturbed by construction will be vegetated as soon as practical, using agricultural limestone, fertilizer, seed, mulch and netting.

E.1.b. Cumulative Environmental Impact:

The 4 AG Clear Fork Slides Reclamation Project, 26 AG Marie Feltner and Sue Combs slides and the 26 AG Josh Feltner were worked by AML in the watershed. The Sue Combs Landslide, KY-01-009, was worked by OSM as an emergency project. The work proposed by this project will not have a negative affect on the reclamation performed by either of the previous or future projects. As a result, the preferred alternative should not contribute to any adverse cumulative environmental impacts from any completed or future AML or OSM projects.

E.2. No Action Alternative:

E.2.a. Hydrology:

Should the commonwealth take no action, existing hydrologic conditions would not change.

E.2.b. Cumulative Environmental Impacts:

The Kentucky Division of Abandoned Mine Lands has no ongoing projects in the vicinity of the site proposed in the Marie Feltner Slides AML Reclamation Project. The no action alternative would result in the continued hazards to human health, safety, and welfare caused by the landslides along Clear Fork Road.

F. Summary:

The Commonwealth considered the following reclamation options:

- Excavation of material on the slope above Clear Fork Creek, which would protect the creek from further constriction at the Marie Feltner site and preserve access along Clear Fork Road.

Or:

- Take no corrective action at this time.

DAML selected the preferred alternative. It is the only option of those considered that may eliminate the continuing threats to health, safety, and the environment posed by the landslide

G. Consultations:

Agencies and databases consulted prior to the preparation of this document were:

- Kentucky Department of Fish and Wildlife Resources
- Kentucky State Nature Preserves Commission (KSNPC) species database.
- Office of State Archaeology, University of Kentucky
- Kentucky Heritage Council – Exempt under the Programmatic Agreement
- Kentucky Division of Water – Floodplain database

H. Preparers/Reviewers:

Kentucky Division of Abandoned Mine Lands Personnel

Keith Coleman, Environmental Technologist III, DAML Staff Biologist

Ryan Howell, Environmental Control Supervisor

Bill Overman, Program Development Branch Manager


Steve Hohmann, Director

9-7-11
Date

Howell, Ryan (EEC)

From: Hall, Samantha (EEC)
Sent: Monday, August 22, 2011 8:00 AM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Ruebens, Jeff (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain and WQC review for Marie Feltner AMLRP - 2nd processing

Floodplain/Stream Construction Permit

No permit is necessary.

US Army Corps of Engineers Permit (ACOE)

No permit is necessary.

Water Quality Certification

The Division of Mine Permits has been informed of the project, no WQC will be required.

From: Rickwa, Vanna (EEC)
Sent: Friday, August 19, 2011 1:33 PM
To: Hall, Samantha (EEC)
Cc: Howell, Ryan (EEC); Ruebens, Jeff (EEC)
Subject: Request for floodplain and WQC review for Marie Feltner AMLRP - 2nd processing

This is the second processing for Marie Feltner AMLRP. This is the same project that was sent last month. Significant plan changes have been made, so we need to reprocess with updated information.

Attached please find the project description and maps for the Marie Feltner AMLRP.

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*



W. S. Webb Museum of Anthropology
Office of State Archaeology
College of Arts and Sciences
211 Lafferty Hall
Lexington, KY 40506-0024
(859) 257-8208
Fax (859) 323-1968
www.uky.edu

September 6, 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: Marie Feltner Slide AML Reclamation Project (Knott 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 there are no archaeological sites or surveys recorded within the immediate vicinity of the project area. While our records indicate that the project area has not been previously surveyed for archaeological remains, past disturbances to the area make it unlikely that archaeological sites will be preserved.

Sincerely,

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



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

Steven L. Beshear
Governor

#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
1-800-858-1549
Fax (502) 564-0506
fw.ky.gov

Marcheta Sparrow
Secretary

Dr. Jonathan W. Gasset
Commissioner

22 August 2011

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

RE: Marie Feltner Slide AML Reclamation Project (Knott 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 no federally or state-threatened/endangered species are known to occur within 10 miles and one mile, respectively, of the project site. Please be aware that our database system is a dynamic one that only represents our current knowledge of various species distributions.

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

Sincerely,

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

Dan Stoelb
Wildlife Biologist

Cc: Environmental Section File

Memorandum

To: Marie Feltner Slide
AML Reclamation Project

From: Keith B. Coleman
Environmental Technician, AML Program Development Branch
Keith B. Coleman 8-19-2011

Through: Bill Overman
Manager, AML Program Development Branch
Bill Overman 8/19/11

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

Date: August 19, 2011

On August 18, 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 sites. This search revealed that no species of state concern, monitored by KSNPC, are known to occur within one mile, and that no species currently listed as threatened or endangered under the United States Endangered Species Act (USES) are known to occur within ten miles of the project site.

The project consists of the excavation of a previously worked landslide. Several waste areas, as well as mine bench access routes, have been proposed in the event that larger quantities of soil need to be excavated from the slide area. Two of the waste areas (#'s 1 and 5) have been proposed to be used with no tree clearing required. Waste areas 2-4 will either need to be cleared for waste placement or for access. Trees within actively sliding areas, which are AML-eligible, are considered exempt from potential habitat consideration. To minimize sediment and erosion problems, a stringent control plan, including the utilization of such measures as hay-bale silt checks, silt fences, erosion control blankets, and prompt vegetation of all disturbed areas, will be implemented and monitored during the construction process.

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 splits in their trunks and larger limbs, and hibernates in caves and other similar underground cavities.

The search of the KSNPC BIOTICS database revealed no records of this species within 10 miles from any of the project areas. 10 records document the Indiana Bat within 10-20 miles from the nearest project area. Project areas include all waste areas and access routes, as well as the active slide area. Of the 10 records between 10-20 miles from the nearest project area, 4 records are hibernacula records, 2 are potential maternity area records, 2 are undetermined records, 1 is a summer mist-net record, and 1 is an Anabat call record.

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

However, since tree clearing within the slide area is exempt from habitat consideration, and since waste areas # 1 and 5 do not require clearing, project construction may begin at any time and not negatively impact the Indiana Bat. The usage of waste areas #2-4 will require clearing for waste placement and/or access. These areas should not be disturbed until after October 15th in order to ensure that bats have had a chance to leave swarming areas and enter cave systems for winter hibernation.

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 between April 1 and October 15, 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.