

## **Authorization to Proceed (ATP)**

Clinton Roberts Group  
Abandoned Mine Land (AML) Reclamation Project  
based on Environmental Assessment (EA) & Categorical Exclusion (CX)  
Pike County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the July 13, 2011, request for ATP with construction activity on the Clinton Roberts Group AML Reclamation Project, prepared by the Kentucky Department for Natural Resources, Division of Abandoned Mine Lands (DAML).

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 (e-AMLIS) for Problem Areas (PA) #s KY-002925-SGA & KY-002984-SGA. These PA's have been approved by OSM in the e-AMLIS system on July 7, 2011.

OSM reviewed the EA prepared by DAML documenting the National Environmental Policy Act (NEPA) environmental review of 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 the Clinton Roberts Group. Please give special attention to the following recommendation (s).

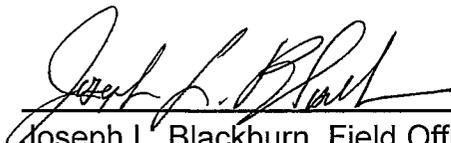
OSM reviewed the Categorical Exclusion Determination (CX) NEPA environmental review document prepared by the Division of Abandoned Mine Lands for the AML reclamation project. We have determined that the currently proposed activity requested is adequately considered in the approved CX NEPA environmental review document. In addition, the proposed activity conforms with exclusion criteria in 516 DM 2 and 13, does not involve any of the general exceptions in 516 DM 13.5(A)(33) or extraordinary circumstances listed in 516 DM 2, Appendix 2, and is excluded from further NEPA compliance. We have prepared and I have signed a CX for this project. We recommend that appropriate consideration be given to the recommendations and comments provided in the response letters from the consultation agencies. Please give special attention to the following recommendation (s).

- With the exception of trees directly impacted by the AML problem, there is no 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

November 15, and provided the activity does not occur in "Known Indiana Bat Habitat".

- Should it become necessary that trees greater than 5' DBH need to be cleared, a biological assessment, or mist net survey may be required if the clearing would not occur between October 15 and March 31.
- LFO recommends that DAML verifies the applicability of the provisions with the KDOW Stream Construction permit (#6919), which was obtained by the landowner in 1996, to the activities within this project. Please provide LFO with a copy of proceed with whatever the KDOW recommends as to needed permits for this project.

Accordingly, pursuant to Section 5-11-20D.3 of the Federal Assistance Manual and my signature on this notification document, DAML is authorized to proceed with the 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

8/02/2011  
Date

Memorandum

Date: August 1, 2011

To: Clinton Roberts Group Abandoned Mine Land (AML) Reclamation Project  
File SubAccount# 99.117030000

From: Corey Miller, Program Specialist  
Lexington Field Office (LFO), Program Support Branch (PSB)

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

The Branch recommends that the Field Office Director (FOD) authorize the State of Kentucky to proceed with the construction activity proposed on the Clinton Roberts Group AML Reclamation Project. The Branch prepared an ATP notice for the FOD review. The Branch recommends that the FOD sign the Categorical Exclusion Determination (CX), the Finding of No Significant Impact (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, FONSI, and CX. Additionally, the transmittal email will be copied to the Department for Natural Resources (DNR) Commissioner.

The Kentucky DAML ATP request dated July 13, 2011, was received at LFO attached to an email on July 13, 2011. The ATP was processed within 13 working days; therefore, the customer service target of 14 working days to process an ATP was met. The ATP was processed in 19 calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP was met.

The project area may be located on the Harold, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 31' 25.4" North Latitude and 82° 38' 33" West Longitude and on the Wayland, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 27' 35" North Latitude and 82° 46' 0" West Longitude; near the community of Harold, Kentucky. The project location, AML problems to be addressed, and proposed reclamation activity/cost are also available at <http://www.osmre.gov> under PA#s KY-002925-SGA and KY-002984-SGA. The project involves reclamation of AML conditions consisting of portal closures and landslides at four sites. The Branch prepared an ATP letter as required by OSM Directive AML-1-2 (signed June 22, 2007), and Finding of No Significant Impact (FONSI) & Categorical Exclusion (CX), for the FOD review. The Branch recommends that the FOD sign the (CX) & FONSI, and ATP in the space provided on each document.

DAML did not designate a funding source under the budget category entitled Project Costs (Non-Water Supply) of any of Kentucky's AML Annual Construction Grants (ACG). In previous discussions, DNR indicated they would assign projects to a grant before they go to construction. Until a final AG and Location Code are assigned the LFO Project/Site ID # 99.117030000 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 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 August 15, 2011, Contract Award was entered as September 1, 2011, and Contract/Construction Completion was entered as March 01, 2012.

An office review of the request documents was conducted. The documents consisted of; a project description, a location map, a National Environmental Policy Act (NEPA) review documented in a CX and an Environmental Assessment (EA) with agency consultation response letters attached; and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms, with engineer cost estimates for PA#s KY-002925-SGA and KY-002984-SGA.

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

The CX & 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. The use of a CX is acceptable for the construction activity proposed for the Moore, Mosley and Gearheart sites in this project because all items on the CX have a response of "No." The project type does not meet any of the ten general exceptions, in 516 DM 13.5(B)(33), that would require preparation of an Environmental Assessment.

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

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

No significant impacts have been reported to this office or identified by the Branch. The Branch recommends that the Office of Surface Mining Reclamation and Enforcement (OSM) accept the CX & EA submitted by the Kentucky DAML. The EA prepared by the State and the State's ATP request letter 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 Kentucky Department of Fish and Wildlife Resources (KDFWR) identified no known federally threatened/endangered fish and wildlife within a 10 mile radius of the project area. They also identified no records of state listed species of concern within 1 mile radius of the project area. They recommended that erosion control measures included in the mentioned in the project description will need to be installed prior to construction and should be inspected and repaired regularly.

The DAML staff biologist reviewed the Kentucky State Nature Preserves Commission's (KSNPC) BIOTICS database in lieu of further consultation. The findings are noted in the ATP request letter and an attached memorandum. DAML found that KSNPC data indicated one federally listed threatened or endangered species within a 10-mile radius and no species of State concern a 1-mile radius of the project. DAML listed the species noted above in the biologist's memorandum, the EA, and their ATP request letter, 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.

The DAML Biologist also noted that the federally listed endangered Indiana bat, although not indicated to exist in the project vicinity; by his and the KDFWR reviews, would not be disturbed by the project. This is based on the fact that the project proposes to reclaim the seven open portals with wildlife friendly gates to allow bat access, cliffs, or caves, and proposes no disturbance of forested areas that could be utilized as roosting sites other than that area impacted by the AML problem that is creating a threat to the public; and in the event that any trees that represent potential Indiana bat habitat need to be removed, removal will only occur between October 15 and March 31, to avoid potential impacts to the Indiana bat.

In a meeting held in February 2010, between LFO, USFWS Kentucky Field Office (KFO) and DAML; Steve Hohmann, Director of DAML, offered to coordinate NEPA consultation with the KFO of the USFWS in Frankfort, Kentucky, utilizing the agreement 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 consulted 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. 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, which included consultation with the KSNPC and the KDFWR, 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 conditions in the MOA are met because:

- There will be no 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 14, and the proposed activity does not occur in "Known Indiana Bat Habitat".
- No caves or clifflines will be disturbed;
- The project proposes to reclaim seven open mine portals/shafts with FWS accepted types of wildlife friendly gates that allow bat access.
- 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 and State Historic Preservation Officer (SHPO) was not contacted for this project, based upon the MOA signed on January 3, 2011. The Kentucky Heritage Council (KHC)/State Historic Preservation Officer (SHPO) and the DAML signed an agreement which identified the *criteria to be used to determine which projects are exempt from review by the. The agreement defines exempt projects as: "Routine and recurring projects whose impacts are foreseeable and cause little or no ground disturbance or that have a low probability of affecting known or unknown historic properties.."*

The agreement also includes a list of previous site activities that would substantially diminish the likelihood of affecting known or unknown historic sites or properties. They are listed below. They are listed below.

1. Activities that occur on previously disturbed land, including highwalls, refuse piles, slurry cells, subsidence areas, mine benches, mine portals with no constructed entry support, and any coal mining remains less than 50 years of age, including tipples, other structures, intact rail tracks, and mining equipment.
2. Roads and roadside ditches.
3. Areas disturbed by timber operations.
4. Areas disturbed by gas and oil well development.
5. Areas disturbed by residential and commercial development.
6. Areas with water flows from mine discharges.
7. Trenches excavated for waterline installation in previously disturbed soils."

According to the project description, all of the project area has been impacted by items 1, 2, and 5 in the above list; therefore, the project is exempt from further consultation with the KHC. This fulfills the responsibility to consult with the SHPO under the Section 106 review process. Neither agency recommended conducting archeological surveys/investigations or mitigation measures.

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. DNR assigned this responsibility to their Division of Mine Permits (DMP). The DMP further delegated this responsibility to DAML, with consultation as needed on a case by case basis. In addition, the DAML Director in a meeting held in February 2010, offered and agreed to coordinate consultation with the U.S. Army Corps of Engineers (COE) concerning CWA 404 (CWA) permits, as DAML had been doing

without an agreement in the past. OSM LFO accepted DAML's offer to conduct this consultation.

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

As a result, DAML applies each responsible agency's criteria by agreement or physically consults with the DMP and DOW concerning CWA 401 WQC and floodplain permits to "Construct Across or Along a Stream", and with the COE concerning CWA 404 permits. This review has been centralized with DAML's Design Branch, whose staff has previous experience in this area and with the Kentucky DOW. DAML determined from the written description that the project may impact a floodplain and it requires a DOW floodplain permit. Also, the land owner currently has a KDOW Stream Construction Permit (#6919) for construction activity that may affect a stream or wetland.

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 #'s KY-002925-SGA and KY-002984-SGA was submitted by DAML for OSM review prior to input into the e-AMLIS by the DAML. This information reflects the changes in units and costs based upon the design and classification of the funded category. This was confirmed by LFO's review of the e-AMLIS database

## FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Clinton Roberts Group  
Abandoned Mine Lands (AML) Project  
Pike County, Kentucky

The Branch recommends that the Field Office Director (FOD) authorize the State of Kentucky to proceed with the construction activity proposed on the Clinton Roberts Group AML Reclamation Project. The project area may be located on the Harold, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 31' 25.4" North Latitude and 82° 38' 33" West Longitude and on the Wayland, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 27' 35" North Latitude and 82° 46' 0" West Longitude; near the community of Harold, Kentucky. The project location, AML problems to be addressed, and proposed reclamation activity/cost are also available at <http://www.osmre.gov> under PA#s KY-002925-SGA and KY-002984-SGA. The project involves reclamation of AML conditions consisting of portal closures and landslides at four sites.

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 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 no known federally threatened/endangered fish and wildlife within a 10 mile radius of the project area. They also identified no records of state listed species of concern within 1 mile radius of the project area. They recommended that erosion control measures included in the mentioned in the project description will need to be installed prior to construction and should be inspected and repaired regularly.

The DAML staff biologist reviewed the Kentucky State Nature Preserves Commission's (KSNPC) BIOTICS database in lieu of further consultation. The findings are noted in the ATP request letter and an attached memorandum. DAML found that KSNPC data indicated one federally listed threatened or endangered species within a 10-mile radius and no species of State concern a 1-mile radius of the project. DAML listed the species noted above in the biologist's memorandum, the EA, and their ATP request letter, 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.

The DAML Biologist also noted that the federally listed endangered Indiana bat, although not indicated to exist in the project vicinity; by his and the KDFWR reviews, would not be disturbed by the project. This is based on the fact that the project proposes to reclaim the seven open portals with wildlife friendly gates to allow bat access, cliffs, or caves, and proposes no disturbance of forested areas that could be utilized as roosting sites other than that area impacted by the AML problem that is creating a threat to the public; and in the event that any trees that represent potential Indiana bat habitat need to be removed, removal will only occur between October 15 and March 31 to avoid potential impacts to the Indiana bat.

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processing of the ATP may proceed with the confidence that the biological environment is being protected. 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, which included consultation with the KSNPC and the KDFWR, 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 conditions in the MOA are met because:

- There will be no 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 14, and the proposed activity does not occur in "Known Indiana Bat Habitat".
- No caves or clifflines will be disturbed;
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- 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.

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Council (KHC)/State Historic Preservation Officer (SHPO) and the DAML signed an agreement which identified the criteria to be used to determine which projects are exempt from review by the. The agreement defines exempt projects as: *"Routine and recurring projects whose impacts are foreseeable and cause little or no ground disturbance or that have a low probability of affecting known or unknown historic properties.."*

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7. Trenches excavated for waterline installation in previously disturbed soils."

According to the project description, all of the project area has been impacted by items 1, 2, and 5 in the above list; therefore, the project is exempt from further consultation with the KHC. This fulfills the responsibility to consult with the SHPO under the Section 106 review process. Neither agency recommended conducting archeological surveys/investigations or mitigation measures.

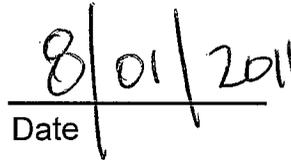
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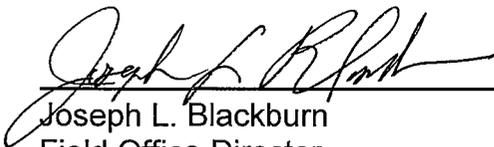
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Corey Miller  
QSM Environmental Reviewer  
AML Program Specialist



Date



Joseph L. Blackburn  
Field Office Director



Date

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

State: KY PA: KY 2925 SGA  
Project Name: Clinton Roberts Group AML Reclamation Project (Moore, Mosley, Gearheart sites)  
Project Description: Close 7 mine openings with wildlife closures

I. GENERAL EXCEPTIONS

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

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

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

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

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

Highly controversial environmental effects? No  Yes

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

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

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

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

Adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species? No  Yes

Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Wetlands Protection) or The Fish and Wildlife Coordination Act? No [x] Yes [ ]

Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment? No [x] Yes [ ]

III. RESOURCE IMPACT EXCEPTIONS

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

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

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: Steve Hohmann Date: 7/13/11

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

VI. OSM DETERMINATION

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

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

Signature: Joseph L. Blackburn Date: 8/05/2011

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



Corey Miller <ctmsbc@gmail.com>

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## ATP Request Package for Clinton Roberts Group AML Reclamation Project (Pike County)

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Bill Overman <kyaml2008@gmail.com>

Wed, Jul 13, 2011 at 2:30 PM

To: scasselsr <scasselsr@gmail.com>, ctmsbc <ctmsbc@gmail.com>, osmlorenestes@gmail.com

Please see attached ATP request package for the Clinton Roberts Group AML Reclamation Project.

Respond accordingly.

If you have any questions or concerns ref. this package, please contact Bill Overman or Ryan Howell.

Thanks,

Vanna  
AML - Frankfort



**Clinton Roberts Group - ATP Request 7.13.11.pdf**  
19885K

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**ENERGY AND ENVIRONMENT CABINET**  
**DEPARTMENT FOR NATURAL RESOURCES**

Division of Abandoned Mine Lands

2521 Lawrenceburg Road  
Frankfort, Kentucky 40601  
[www.ky.gov](http://www.ky.gov)

**Steven L. Beshear**  
Governor

**Leonard K. Peters**  
Secretary

**Carl E. Campbell**  
Commissioner

July 13, 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: Clinton Roberts Group AML Reclamation Project (Pike 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 problem area description (PAD) supplemental forms, including a problem description and an engineer cost estimate, for the above-referenced project. The PAD's for problem area #'s KY 2925 SGA and KY 2984 SGA have been prepared and entered into the e-AMLIS by the division. 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 are an Environmental Assessment for the Clinton Roberts site and waste area and a Categorical Exclusion for the Moore, Mosley, and Gearheart site, with two agency consultation response documents and two DAML consultation documents attached. The Kentucky Heritage Council was not contacted, as the project sites have been previously disturbed and fall under the exemption agreement between AML and KHC.

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 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 is the Indiana Bat (*Myotis sodalists* – USESA Endangered). As described in the attached memo, dated May 2, 2011, this species should not be negatively impacted. No trees should need to be removed and the portals will be closed with wildlife closures. The area impacted by this project is also not within any area held to be the "Known Habitat" of the Indiana Bat by the USFWS.

Office of Surface Mining  
July 13, 2011  
Page Two

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 at the Clinton Roberts waste area. A Stream Construction Permit (KDOW Permit #6919) was previously obtained by Mr. Clinton Roberts; and the conditions of the permit will be followed, which includes the stipulation that fill may not be placed within 50' of the top of the bank of Mud Creek. No additional WQC, COE, or floodplain permits will be required at any of the sites. 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 \$204,280.00, 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 lands 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

***Clinton Roberts Group  
AML Reclamation Project***

Floyd County  
Harold & Wayland Geologic Quadrangles

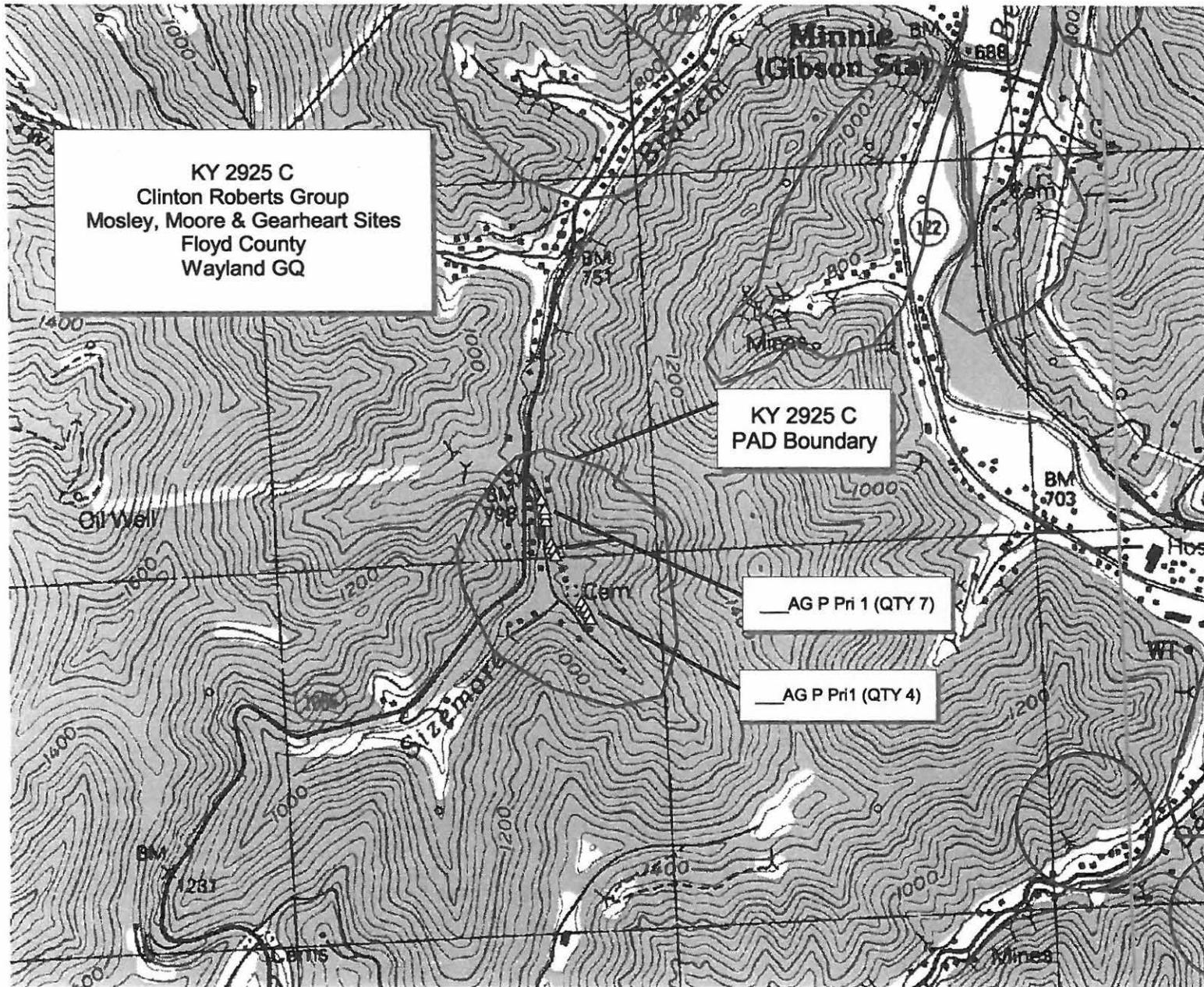
Project Description

The Clinton Roberts Group AML Reclamation Project consists of four sites in Floyd County, within the Harold and Wayland Geologic Quadrangles. (See attached map.) Reclamation plans are designed to correct problems primarily caused by and directly linked to AML-eligible mining operations, which also pose a threat to human health and safety.

Plans for the Clinton Roberts Site include designs to construct an 84 linear feet by 4 tier gabion basket wall, directly below the landslide area and residential yard. The unstable area is at the junction of KY 979 and KY 1426. Ditching, culvert replacement, and the construction of lined drainage channels and a subdrain system are also planned in order to provide adequate drainage control within the project area. No tree removal is planned outside of the immediate slide area. Pre-existing access routes and the waste area are within the project site boundary. All areas within the project site boundary have been disturbed due to roadway construction, mining, house seat development, and routine maintenance associated with the developed areas.

Design plans for the Austin Moore, Terry Mosley, and Tammy Gearheart sites include designs to close 7 open mine portals along the county road, just below the neighboring residences. All portals have been proposed to be closed with wildlife accessible closures. Access to the portal areas will be from the county road. No tree clearing should be required in order to close the portals. The work area, located along the county road and within the rock outcrop, has been disturbed by both mining and roadway construction.

The AML Sediment and Erosion Control Plan will be implemented and monitored during construction. All disturbed areas will be vegetated as soon as practical. No stream channels will be disturbed, and the project will not require any floodplain or water quality-related permits. An encroachment permit, issued by the Kentucky Transportation Cabinet, will be obtained prior to construction.



KY 2925 C  
 Clinton Roberts Group  
 Mosley, Moore & Gearheart Sites  
 Floyd County  
 Wayland GQ

KY 2925 C  
 PAD Boundary

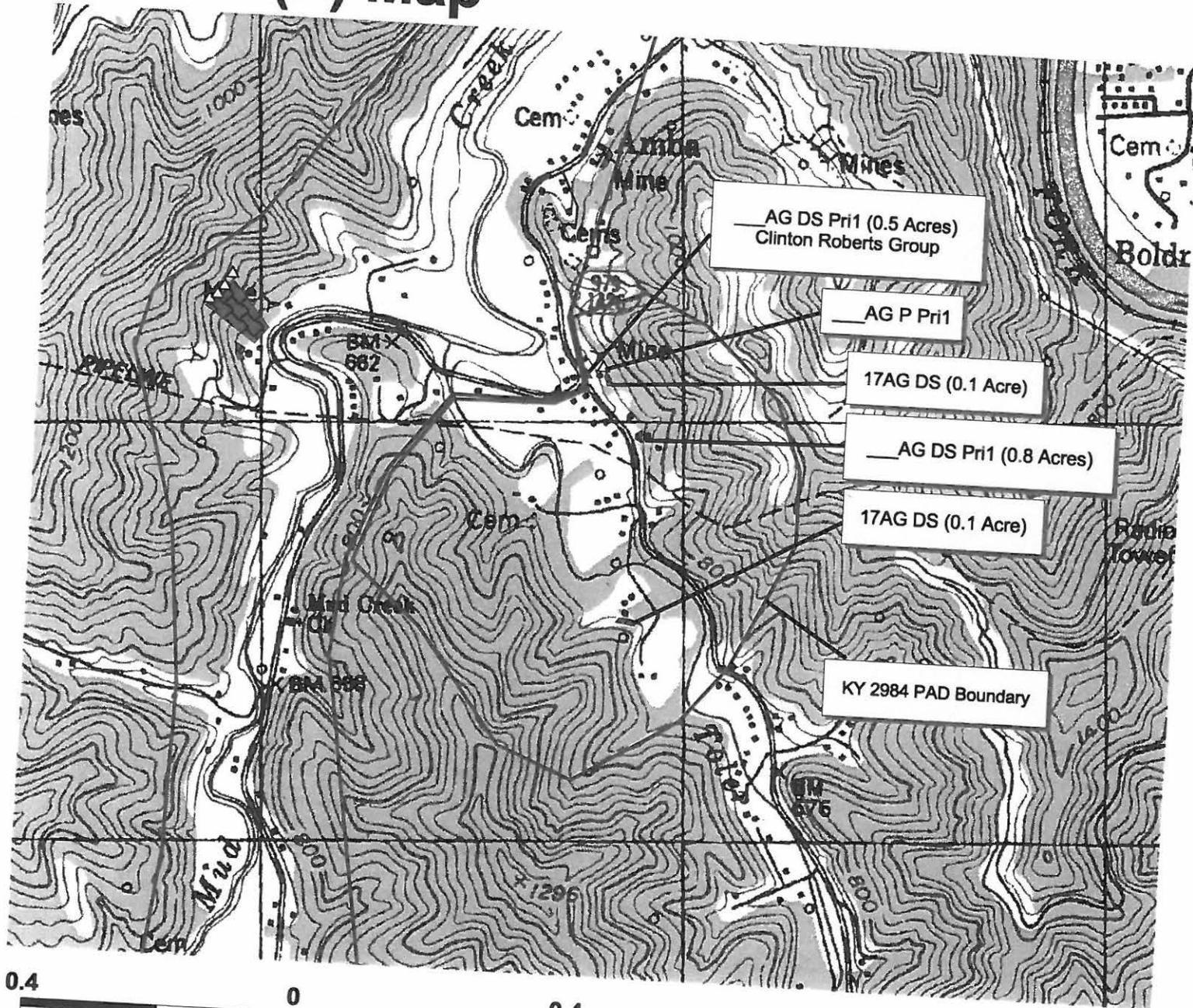
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  - Quad



# KY 2984(E) Map



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  - Waste Area



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

State: KY PA: KY 2925 SGA  
Project Name: Clinton Roberts Group AML Reclamation Project (Moore, Mosley, Gearheart sites)  
Project Description: Close 7 mine openings with wildlife closures

I. GENERAL EXCEPTIONS

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

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

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

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

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

Highly controversial environmental effects? No  Yes

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

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

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

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

Adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species? No  Yes

Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Wetlands Protection) or The Fish and Wildlife Coordination Act? No [x] Yes [ ]

Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment? No [x] Yes [ ]

III. RESOURCE IMPACT EXCEPTIONS

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

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

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: Steve Hohmann Date: 7/13/11

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

VI. OSM DETERMINATION

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

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

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

## ENVIRONMENTAL ASSESSMENT

### Clinton Roberts Site (AMLIS – KY2984 E)

#### CLINTON ROBERTS GROUP - AML RECLAMATION PROJECT

##### **A. Description of the Proposed Action:**

The project area is located in Floyd County, within the area shown on the Harold, KY 7.5' USGS quadrangle map. The retaining wall and drainage structures to be constructed at this site will be placed along the slope adjacent to the public roadway, near the community of Harold, and at the junction of KY 979 and KY 1426.

This environmental assessment is required because the waste area associated with this site is located within the Mud Creek floodplain, therefore construction for the purpose of remediation of AML problems resulting from coal mining is not considered eligible for Categorical Exclusion.

- Construction of an 84 linear foot by 4 tier gabion retaining wall and associated drainage structures on Mr. Clinton Roberts' property. The problem area has been determined to have been degraded by coal mining that has been found to be eligible for the expenditure of Abandoned Mine Lands funding.
- The waste area associated with this site is located within the Mud Creek floodplain. Mr. Clinton Roberts has previously acquired a Stream Construction Permit (Permit #6919) from the Division of Water.

##### **B. Need for the Proposed Action:**

Deep mine operations have been conducted near the reported problem area from the 1940's through the 1960's, and were completed prior to May 18, 1982. These operations have had a combined detrimental effect upon the stability of slopes both above and below Mr. Roberts' residence. Currently, slope lubrication associated with the deep mine drainage has triggered slide movement which threatens the public roadway, the residential yard, and an outbuilding on Mr. Roberts' property. Additionally, drainage controls along the public road have periodically become pinched off, thereby creating hazardous driving conditions at the junction area due to flooding and freezing. The proposed waste area was chosen because the site is close to the project area and it is an area which Mr. Roberts' has been actively trying to improve, evident by his Stream Construction Permit acquisition.

##### **C. Alternatives Considered:**

### **C.1. Preferred Alternative:**

The Kentucky Division of Abandoned Mine Lands proposes to construct the retaining wall and drainage structures on Mr. Roberts' property, and place excess earthen materials within the nearby waste area. The waste area is a site for which Mr. Roberts has previously acquired a Stream Construction Permit, as he has been trying to improve the property.

### **C.2. Second Alternative:**

The second alternative is to proceed with project construction, exactly the same as the preferred alternative, with the only difference being the location of the waste area.

### **C.3. No Action:**

Should the Commonwealth take no action, the present threats to health and general safety, due to hazardous driving conditions associated with freezing drainage and slide debris, at the junctions of KY 979 and KY 1426, will remain unchanged.

## **D. Affected Environment**

### **D.1. General setting:**

This project is located in Floyd County, near the community of Harold. Primary land uses in the area include residential development, agricultural pasture and crop fields, coal mining and natural gas extraction, forested areas, and/or logging. Residential development is most often within the valley floors, and frequently within the 100 year floodplain boundaries. Coal has been mined throughout the watershed, in various seams, by underground, surface and auger methods. Additional information regarding the mining history for this project is contained in the eligibility determination.

### **D.2. Affected Resources:**

The following agencies were consulted to identify resources that may occur in the project vicinity: Office of State Archaeology (OSA), and Kentucky Department of Fish and Wildlife Resources (KDFWR). Kentucky Division of Abandoned Mine Lands staff, who specialize in water quality issues, were consulted regarding the need for Water Quality Certifications. Replies from these agencies are attached. In addition, a database of occurrences of species which are monitored by the Kentucky State Nature Preserves Commission, and species listed as "threatened" or "endangered" under the Endangered Species Act, was consulted. A summary memorandum regarding the results of the database search is also attached. The actual data that resulted from that search is the confidential property of KSNPC, and may not be distributed.

## **E. Environmental Impacts of the Proposed Alternatives:**

### **E.1. Preferred Alternative:**

The following resources will not be significantly negatively impacted by the preferred reclamation scheme: historic/cultural, vegetation, fish and wildlife, agriculture, soils, recreation, air quality, noise, topography, and “other” (socioeconomic or political). The proposed project will not adversely impact low income or minority persons. As the federal United States Fish and Wildlife Service (USFWS) has declared the entirety of the Commonwealth of Kentucky to be the potential habitat of the Indiana bat [*Myotis sodalis* – listed as “endangered” under the United States Endangered Species Act (USESA)], fish and wildlife will be addressed. As KDAML staff have indicated that a floodplain permit will be required for the waste area associated with the Clinton Roberts Site, floodplain/hydrology issues will be addressed.

#### **E.1.a. Fish and Wildlife:**

As noted above, the USFWS had declared the entirety of the Commonwealth of Kentucky to be the potential habitat of the Indiana bat (*Myotis sodalis* – USESA Endangered). However, a search of the KSNPC database reported no species listed as Threatened or Endangered under USESA as occurring within the general vicinity (10 miles) of the Clinton Roberts Site. Indiana Bat habitat includes caves and/or cave-like structures, such as abandoned mines which are free of poisonous gases, which are utilized as winter hibernacula. Additionally trees, which are over 5” diameter at breast height, and display such features as exfoliating bark, split limbs, or hollowed out cavities, are utilized as summer roost and maternity colony sites.

The nearest recorded occurrence of the Indiana bat was approximately 10-20 miles from the Clinton Roberts project site, and no known hibernacula or maternity colonies have been documented within 20 miles of any of the project sites. Since no trees which represent potential Indiana Bat habitat need to be removed, and since all portals will be closed with wildlife accessible closures (Mosley, Moore and Gearheart Site), no negative impacts should result upon the Indiana Bat, regardless of the timing of project-related construction. (KSNPC response memo attached.) The waste area at the Clinton Roberts site will not involve work with any portals, and will not require the removal of trees which represent potential Indiana Bat habitat, therefore the preferred alternative, as described herein, will not negatively impact the Indiana Bat. Lastly, the project does not fall within the buffered, known-habitat area as described by USFWS.

#### **E.1.b. Floodplain/Hydrology:**

KDAML personnel indicated that the project will require a floodplain permit due to the location of the waste area. Mr. Clinton Roberts had previously obtained a Stream Construction Permit (KDOW Permit #6919). Since Mr. Roberts has already used the

proposed waste area to place fill materials, no significant disturbance should result due to the placement of project-related fill. The site is already clear of vegetation. Permit conditions indicate that the toe of the fill area must not be located within 50' of the near top of bank of Mud Creek. Additionally, permanent vegetation must be established on the fill as soon as possible, upon completion of the filling sequence. Standard silt control practices must be utilized, in a quantity or degree necessary to prevent the siltation of Mud Creek. Silt fences, rock check dams and/or straw-bales are acceptable erosion control structures. All materials shall be stable and inert, free from pollutants and floatable objects, and shall meet all appropriate engineering standards.

**E.1.c. Cumulative Environmental Impact:**

No significant cumulative environmental impacts should occur due to previous and proposed AML projects in the portions of the Mud Creek and Toler Creek watersheds to be affected by this project. No other AML projects are currently planned for the above-mentioned watersheds. All previously constructed AML reclamation projects within the affected watershed were found to not pose a risk of any significant environmental impacts. Therefore, as the proposed alternative also should not have any significant impact upon the environment within the watershed, there will be no cumulative environmental impact as a direct result of the construction of AML reclamation projects.

**E.2. Waste Area Relocation Alternative:**

**E.2.a. Fish and Wildlife:** The selection of a different waste area may require the removal of trees and other vegetation for access or the placement of fill materials. Additionally, project costs may be higher due to the increased hauling distance. Clearing may be conducted in a manner as to protect the endangered Indiana Bat; however the best management practice of clearing during winter months may delay project timing. The preferred alternative appears to be a better choice, as the associated waste area is already disturbed, close to the project site, easily accessible, and preferred by the property owner.

**E.2.b. Floodplain/Hydrology:** The selection of a waste area which is not located within a floodplain would reduce the chances of subsequent sedimentation problems; however, permit conditions associated with the preferred alternative plan should prevent sedimentation problems within Mud Creek. Similar erosion control devices and vegetative cover establishment conditions would be implemented regardless of where the waste area is located.

**E.2.c. Cumulative:** By selecting the second alternative, project timing may be delayed due to tree clearing concerns. Vegetative clearing is an additional disturbance which may be conducted in a manner as to protect the Indiana Bat, but would not be necessary by selecting the preferred alternative. Sedimentation and erosion control measures will be required, and implemented, regardless of where the waste area is located. Project-related construction will be conducted in a manner as to prevent cumulative impacts by controlling erosion and

sedimentation and minimizing vegetative clearing. The preferred alternative may save time and money, due to the fact that the waste area has been cleared of trees and is close to the project site.

**E.3. No Action Alternative:**

**E.3.a. Fish and Wildlife:**

Taking no action would not cause any adverse impact to the fish and wildlife of the area.

**E.2.b. Floodplain/Hydrology:**

Taking no action would not cause any adverse impact to the floodplain or hydrology of the project area.

**E.3.c. Cumulative:**

Taking no action would result in the same conditions as currently exist - an unstable slope will continue to cause drainage and roadway hazard problems at the problem area. The waste area associated with the preferred alternative is a previously disturbed area, so taking no action would also not change the condition at that site.

**F. Summary**

The Commonwealth considered three reclamation options. First, install the drainage controls and retaining wall at the problem area, and waste materials at the nearby, previously disturbed waste area on Mr. Roberts' property. Second, construct the project, as designed, and waste earthen materials at a different location. Third, take no action. The first option was selected, as it is the most practical choice with respect to timing and construction costs, and the associated waste area is already disturbed under a valid permit.

**G. Consultations:**

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

1. Kentucky Department of Fish and Wildlife Resources.
2. Office of State Archaeology, University of Kentucky.
3. Kentucky Division of Abandoned Mine Lands, Water Quality Specialists
4. Kentucky State Nature Preserves Commission, via its BIOTICS database.



## Howell, Ryan (EEC)

---

**From:** Hall, Samantha (EEC)  
**Sent:** Monday, June 06, 2011 2:38 PM  
**To:** Rickwa, Vanna (EEC)  
**Cc:** Howell, Ryan (EEC); Coleman, Keith (EEC); Overman, Bill (EEC)  
**Subject:** RE: Request for floodplain and WQC review for Clinton Roberts Group AMLRP

After reviewing the plans and description for the Clinton Roberts Group AMLRP, I have determined that a floodplain permit will be required for the waste area on the Clinton Roberts site. No other floodplain, WQC or COE permits will be required.

---

**From:** Rickwa, Vanna (EEC)  
**Sent:** Wednesday, June 01, 2011 10:21 AM  
**To:** Hall, Samantha (EEC)  
**Cc:** Howell, Ryan (EEC); Coleman, Keith (EEC)  
**Subject:** Request for floodplain and WQC review for Clinton Roberts Group AMLRP

Attached please find the project description and maps for the Clinton Roberts Group AMLRP.

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

Please notify Bill Overman, Ryan Howell, 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*



COMMONWEALTH OF KENTUCKY  
 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
 DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
 DIVISION OF WATER  
 FRANKFORT, KENTUCKY 40601



Permit No. 6919  
 Expires if work is not begun by  
May 23, 1997

**STREAM CONSTRUCTION PERMIT**  
 For Construction In Or Along A Stream

Issued to: Clinton and Janet Roberts  
 Address: Box 251  
 (Street)  
Harold Kentucky 41635  
 (City) (State) (Zip Code)

In accordance with KRS 151.250 and KRS 151.260, the Natural Resources and Environmental Protection Cabinet approves the application dated April 16, 1996, for the placement of fill off KY 979, near Mud Creek mile 2.6R (coordinates N7-31-28, W82-38-43), Floyd County.

There shall be no deviation from the plans and specifications submitted and hereby approved unless the proposed change shall first have been submitted to and approved in writing by the Cabinet. This approval is subject to the following limitations.

- (1) Upon completion of construction of this project, the permittee must notify this Cabinet in writing that the project has been completed.
2. This permit is issued from the standpoint of stream obstruction only and does not constitute certification of any other aspect of the proposed construction. The applicant is liable for any damage resulting from the construction, operation, or maintenance of this project. This permit has been issued under the provisions of KRS Chapter 151.250 and regulations promulgated pursuant thereto. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal and local agencies.
3. A copy of this permit must be posted at the construction site.

**"SEE ADDITIONAL  
 LIMITATIONS ON REVERSE SIDE"**

This permit is nontransferable and is not valid unless actual construction of this authorized work is begun prior to the expiration date noted above. Any violation of the Water Resources Act of 1966 as amended is subject to penalties as set forth in KRS 151.990.

Issued this 23rd day of May, 19 96.

pc: Jimmy Hall, Floyd Co.  
 Hazard Regional Office

By A. J. Amothure  
 Division of Water

#### ADDITIONAL LIMITATIONS

4. Since Floyd County participates in the National Flood Insurance Program, a local permit must be obtained prior to beginning of construction. Upon completion of construction Clinton and Janet Roberts must contact the local permitting agency for final approval of the construction for compliance with the requirements of the county and/or city. Local agencies may have authority to require an elevation surcharge in your area, i.e., they may require that the finished first floor elevation be higher than that required by the state.
5. At no point shall the toe of the fill be located within 50 feet of the near top of bank of Mud Creek.
6. Permanent vegetation shall be established on fill as soon as possible upon completion of filling.
7. Clinton and Janet Roberts must use standard silt control practices in such quantity to prevent siltation of Mud Creek. Silt fences, rock check dams and/or straw-bales are acceptable.
8. To avoid secondary adverse impacts, all materials used shall be stable and inert, free from pollutants and floatable objects, and shall meet all appropriate Engineering standards. (Inert meaning soil, rock, broken concrete or similar materials)
9. This permit is for fill only, the construction of any buildings on this site must also be permitted prior to the start of construction.



UNIVERSITY OF KENTUCKY

**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*

June 29, 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: Clinton Roberts Group AML Reclamation Project (Floyd 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 archaeological 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

6 June 2011

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

RE: Clinton Roberts Group AML Reclamation Project (Floyd 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 that reads "Dan Stoelb".

Dan Stoelb  
Wildlife Biologist

Cc: Environmental Section File

## Memorandum

**To:** Clinton Roberts Group  
AML Reclamation Project

**From:** Keith B. Coleman  
Environmental Technician, AML Program Development Branch  
*K. Coleman 5-02-11*

**Through:** Bill Overman  
Manager, AML Program Development Branch  
*Bill Overman 6/3/11*

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

**Date:** May 2, 2011

On May 2, 2011, I conducted a search of the KSNPC database in order to determine if any species which are monitored by the 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 the KSNPC, are known to occur within one mile, and that one species listed as threatened or endangered under the United States Endangered Species Act (USES A) is known to occur within ten miles of the Mosley, Moore and Gearheart project sites.

The project plans (1 acre total) include designs to close 7 open mine portals with wildlife accessible closures, to construct an 84', 4-tier gabion basket retaining wall, and to install drainage control devices above and below the slide area. Accesses to the project sites are pre-existing, and the waste area is clear of trees. The AML Sediment & Erosion Control Plan will be implemented and monitored during construction. Disturbed areas will be vegetated as soon as practical. No disturbances are planned for any stream channels. No trees should need to be removed as the reclamation plans have been described.

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

The above search of the KSNPC BIOTICS database revealed one “summer mist-net” record of this species 10 miles NW of the Mosley, Moore & Gearheart project site. Two records (1 summer mist-net, 1 undetermined) document the species within 10-20 miles from both of the project sites. Since *no* records of hibernacula are within 10 miles of any project area and *no* maternity area records are within 5 miles from any project area, and since *no* maternity colonies or non-maternity records are within 2.5 miles from any project area, 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 is not anticipated as part of this project, and since all portals will be closed with wildlife accessible closures, construction *should not* negatively impact the Indiana Bat, regardless of the construction timing. Should it become necessary that trees greater than 5” DBH need to be cleared, a biological assessment, or a mist net survey may be required if the clearing would not occur between October 15 and March 31, a time in which bats are secured within their hibernacula. 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.