

Authorization to Proceed (ATP)

Alan Wright Portals
Abandoned Mine Land (AML) Reclamation Project
based on Environmental Assessment (EA) and Categorical Exclusion (CX)
Floyd County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the September 1, 2011, request for ATP with construction activity on the Alan Wright Portals Abandoned Mine Land 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 (AMLIS) for Problem Areas (PA) #s KY-000787-SGA, KY-003351-SGA, KY-003353-SGA, KY-003389-SGA, KY-003484-SGA, KY-003851-SGA, and KY-003988-SGA. OSM has signed approved these PAs on August 25 & 26 of 2011.

OSM reviewed the EA prepared by DAML for the Randall Sammons and Sandra Williams project areas documenting the National Environmental Policy Act (NEPA) environmental review. OSM determined that the EA adequately discusses the environmental issues and impacts associated with the construction of these projects. 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 Randall Sammons and Sandra Williams project areas.

OSM reviewed the Categorical Exclusion Determination (CX) NEPA environmental review document prepared by the Division of Abandoned Mine Lands for the Alan Wright, Johnnie Sizemore, Terry Sizemore, Compton I & II, Tony Grubb, and Ed Conley sites of 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. A CX has been prepared and signed 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 at the Alan Wright site within the AML feature, 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".

- Two of the nine sites (Randall Sammons and the Sandra Williams sites) require floodplain permits. Please follow all requirements while conducting the construction activity.
- The Kentucky Department of Fish & Wildlife Resources suggests that the erosion control measures included in the ATP project description should be installed prior to construction and should be inspected and repaired regularly as needed.

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

09/21/2011

Date

Memorandum

Date: September 21, 2011

To: Alan Wright Portals Group Abandoned Mine Land (AML) Reclamation Project
File SubAccount# 99.132030000

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 Alan Wright Portals Group AML Reclamation Project. The Branch prepared an ATP letter, and Finding of No Significant Impact (FONSI) and 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. The original signed ATP letter will be sent to the Division of Abandoned Mine Lands (DAML) Director, along with associated approval documents consisting of a copy of the LFO review memorandum and CX & FONSI. A scanned copy of these authorization documents will be attached to an email to the Department for Natural Resources (DNR) Commissioner.

The Kentucky DAML ATP request dated September 1, 2011, was received at LFO attached to an email on September 1, 2011. The ATP was processed within 14 working days; therefore, the customer service target of 14 working days to process an ATP was met. The ATP was processed in 20 calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP was met.

The project area may be centrally located on the Harold, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at site #6 of the nine project locations in this proposal at 37° 34' 47.15" North Latitude and 82° 44' 56.06" West Longitude near the community of Martin, Kentucky. The project location, AML problems to be addressed, and proposed reclamation activity/cost are also available at <http://www.eamlis.osmre.gov> in the AMLIS under PA#s KY-000787-SGA, KY-003351-SGA, KY-003353-SGA, KY-003389-SGA, KY-003484-SGA, KY-003851-SGA, and KY-003988-SGA. The project involves reclamation of AML conditions consisting of portal closures at nine sites.

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 # 99.132030000 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 October 1, 2011, Contract Award was entered as November 1, 2011, and Contract/Construction Completion was entered as November 1, 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 Form's, with engineer cost estimates for PA#s KY-000787-SGA, KY-003351-SGA, KY-003353-SGA, KY-003389-SGA, KY-003484-SGA, KY-003851-SGA, and KY-003988-SGA.

A pre-approval field inspection of the proposed project was deemed unnecessary, since no unique characteristics warranting special field verification were noted and it wasn't selected for field verification under the EY 2012 Oversight Agreement.

The 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 at the following seven sites in this project because all items on the CX have a response of "No". The sites are: the Alan Wright site, Johnnie Sizemore site, Terry Sizemore site, the Compton I & II sites, the Tony Grubb site, and the Ed Conley site. 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. Access is via existing roads for the seven of the nine sites (#1-4, 7, & 9) in this proposal. 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 and 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 about the seven sites for the NEPA covered by the review and discussed appropriate resolution of all their concerns and recommendations. The seven sites covered under the CX are addressed below. The responses from agencies consulted for the NEPA review for the Randall Sammons and Sandra Williams are summarized in the FONSI prepared by OSM for the EA:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) identified one known federally threatened/endangered fish and wildlife within a 10 mile radius of the project area. They also identified records of one state listed species of concern within 1 mile radius of the Sandra Williams site. KDFWR recommends erosion control measures will need to be installed prior to construction and should be inspected and repaired regularly as needed.

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 three species of State concern within a 1-mile radius of the project. DAML listed and discussed the each species 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 eight open portals with wildlife friendly gates to allow bat access, backfill and install proper drainage at three portals that are collapsed precluding the use as bat habitat, and proposes no disturbance of forested areas that could be utilized as roosting sites. Tree removal for the Terry Sizemore, Sandra Williams, and Randall Sammons sites will only occur between October 15 and March 31 to avoid potential impacts to the Indiana bat. Tree removal for the Alan Wright site is authorized at any time due to the tree removal being directly within the AML slide area.

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 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 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 cliffines will be disturbed;
- The project proposes to reclaim one 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 – 6 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 all sites within the project does not impact a stream, wetland, or floodplain that requires a 401 WQC, a 404 CWA permit, or a DOW floodplain permit except the Randall Sammons and the Sandra Williams sites. DAML's ATP request letter and EA note that they will submit an application and, if required, acquire this permit prior to the onset of construction. DAML further notes in their ATP letter that they will request a copy of all necessary permits prior to expending AML funds.

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-000787-SGA, KY-003351-SGA, KY-003353-SGA, KY-003389-SGA, KY-003484-SGA, KY-003851-SGA, and KY-003988-SGA was directly input into the e-AMLIS by the DAML. This was confirmed by LFO's review of the e-AMLIS data. PA #'s KY-000787-SGA, KY-003351-SGA, KY-003353-SGA, KY-003389-SGA, and KY-003484-SGA were approved in the e-AMLIS system on August 25, 2011. KY-003851-SGA and KY-003988-SGA were approved in the e-AMLIS system on August 26, 2011.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Alan Wright Portals
Abandoned Mine Lands (AML) Project
Floyd 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 Martin, Harold, Lancer, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 34' 47.15" North Latitude and 82° 45' 56.06" West Longitude near the community of Martin, Kentucky. The project location, AML problems to be addressed and proposed reclamation activity/cost are also available at <http://www.eamlis.osmre.gov> in the AMLIS under PA#s KY-000787-SGA and KY-003351-SGA. The project involves reclamation of AML conditions consisting of a dangerous slide and portal reclamation at two 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, 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 one known federally threatened/endangered fish and wildlife within a 10 mile radius of the project area. They also identified records of one state listed species of concern within 1 mile radius of the Sandra Williams site. KDFWR recommends erosion control measures will need to be installed prior to construction and should be inspected and repaired regularly as needed.

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 three species of State concern within a 1-mile radius of the project. DAML listed and discussed the each species 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 eight open portals with wildlife friendly gates to allow bat access, backfill and install proper drainage at three portals that are collapsed precluding the use as bat habitat, and proposes no disturbance of forested areas that could be utilized as roosting sites. Tree removal for the Sandra Williams and Randall Sammons sites 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 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 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 one 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 (KHC) and State Historic Preservation Officer (SHPO) was not contacted for this project, based upon the MOA signed on January 3, 2011. The 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 triples, 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 – 6 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 all sites within the project does not impact a stream, wetland, or floodplain that requires a 401 WQC, a 404 CWA permit, or a DOW floodplain permit except the Randall Sammons and the Sandra Williams sites.

DAML's ATP request letter and EA note that they will submit an application and, if required, acquire this permit prior to the onset of construction. DAML further notes in their ATP letter that they will request a copy of all necessary permits prior to expending AML funds.



OSM Environmental Reviewer
AML Program Specialist

9/23/11
Date



Joseph L. Blackburn
Field Office Director

9/23/2011
Date

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

State: Kentucky PA: KY 3353 SGA, KY 3389 SGA, KY 3484 SGA, KY 3851 SGA, KY 3988 SGA
Project Name: Alan Wright Portals Group AML Reclamation Project
Project Description: Properly close mine openings and control associated drainage.

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 Yes

Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment? No 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 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 *by Bill [unclear]* Date: 9/15/11

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: SEP 21 2011

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



Corey Miller <ctmsbc@gmail.com>

ATP Request Package for Alan Wright Portals Group AMLRP

Bill Overman <kyaml2008@gmail.com>

Thu, Sep 1, 2011 at 9:58 AM

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

Please see attached ATP request package for the Alan Wright Portals Group AML Reclamation Project (Floyd County).

Respond accordingly.

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

Thanks,

Vanna
AML-Frankfort

 **Alan Wright Portals Group - ATP Request 9.1.11.pdf**
11117K



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 1, 2011

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

RE: Alan Wright Portals Group AML Reclamation Project (Floyd 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 and location maps for the above-referenced project. The PAD's for problem area #'s KY 0787 SGA, KY 3351 SGA, KY 3353 SGA, KY 3389 SGA, KY 3484 SGA, KY 3851 SGA and KY 3988 SGA have 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 are an Environmental Assessment for the Sandra Williams and Randall Sammons sites and a Categorical Exclusion for the Alan Wright, Johnnie Sizemore, Terry Sizemore, Tony Grubb, Ed Conley, and the Compton I & II sites, 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 three 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 (USES), is known to exist within ten miles of the project site.

The species noted in the search are the:

- Northern brook lamprey (*Ichthyomyzon fossor* – KSNPC Special Concern)
- Scrub oak (*Quercus ilicifolia* – KSNPC Historical Record)
- Scarlet kingsnake (*Lampropeltis triangulum* – KSNPC Special Concern)
- Indiana bat (*Myotis sodalis* – USESA Listed Endangered)

As described in the attached memo, dated July 7, 2011, these species should not be negatively impacted. The sites to be impacted by this project are not within any area held to be the “Known Habitat” of the Indiana bat by the United States Fish and Wildlife Service. The occurrences noted in the database are summer mist-net records, approximately 7.7 miles to the west and 8.3 miles NNE of the nearest project sites (T. Sizemore and Williams, respectively). These sites are 2.7 miles and 3.3 miles (respectively) outside of the resulting USFS range circles. Both range circles are coded as maternity range circles. However, the KSNPC database does not indicate these as a maternity record and an undetermined record (respectively). Some trees are to be disturbed by project-related activities at the T. Sizemore, Williams, and Sammons sites. Therefore, in order to prevent any potential for negative impact to this Endangered species, construction at those three project sites should wait until after October 15 and be completed prior to March 31. Alternatively, an Indiana Bat Presence/Absence survey could be conducted to determine whether or not these sites are being utilized by the Indiana bat. If the Indiana bat is found at these sites during such a survey, project construction will then need to wait until the winter period mentioned previously. Following these procedures will prevent any negative impact to the Indiana bat.

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 Randall Sammons and Sandra Williams sites. No additional WQC, COE, or floodplain permits will be required at any of the sites. This division is applying for all necessary permits, and construction will not start at the Sammons and Williams sites until they have been received. 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 \$426,509.00, 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.

Office of Surface Mining
September 1, 2011
Page Three

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

Alan Wright Portals Group AML Reclamation Project Floyd County

Project Description

The proposed project (4.5 acres total) consists of nine sites located in the Martin, Harold, and Lancer Quads of Floyd County.

Site 1- Alan Wright

This site is located in the Martin Quad, along Denwood Rd. (Lat: 37° 33' 47.1", Long: 82° 45' 55.8") at the residence of Alan Wright. The site (0.5 acres) consists of one slide area and drainage problems. The slide area will be corrected by constructing a block retaining wall set on a concrete footer. A subdrain will be installed behind the block wall and another will be installed behind the north side of the residence. These drains will flow into an existing rock-lined ditch along the property. The existing county road culvert will be replaced with a 24" HDPE culvert along with the placement of a concrete headwall at the inlet and outlet of the new culvert. A bid item is also included to replace the septic system that is located at the northeast edge of the deck and parking area. The only removal of trees over 5" DBH is within the slide area. Access to the site will be through the existing driveway and parking area to the home.

Site 2- Johnnie Sizemore

This site is located in the Martin Quad, along Denwood Rd. (Lat: 37° 33' 47.1", Long: 82° 45' 55.8") between the Johnnie Sizemore residence and the Alan Wright residence. The site (0.5 acres) consists of drainage problems and one mine opening. The mine opening is currently a poorly constructed block closure that will be opened and an 8" drainage pipe will be installed and back filled with class II rock. The drainage from the portal will flow into a cleaned out ditchline and into a concrete ditch between the driveway and a neighboring home. Two concrete drop boxes will be installed on either side of Denwood Rd. to prohibit water from pooling in these areas. The ditchline below Denwood Rd. will be armored with class III stone and will flow into the Right Fork of Beaver Creek. Removal of trees over 5" DBH should not be necessary. Access to the site will be gained by an existing driveway.

Site 3- Terry Sizemore

This site is located in the Martin Quad, along Denwood Rd. (Lat: 37° 33' 45.04", Long: 82°46' 4.76") approximately 0.1 miles west of the Wright & J. Sizemore sites, at the residence of Terry Sizemore. The site (less than 0.5 acres) consists of two mine openings. The two open

portals, located on the hillside behind the home, will be closed with wildlife access closures and back filled with class II rock. Any earth excavated from the J. Sizemore and Alan Wright sites may be used for fill at the Terry Sizemore site. Removal of trees over 5" DBH may be necessary. Access to the site will be through an existing driveway and a maintained yard.

Site 4- Compton I

This site is located in the Martin Quad, along Barnett Rd. (Lat: 37° 33' 24.8", Long: 82° 45' 31.7") at the residence of T.J. Compton. The site (0.5 acres) consists of one collapsed mine opening. The collapsed opening will be excavated so that an 8" vent/drainage pipe can be installed. The opening will then be backfilled with shale and class II rock. Removal of trees over 5" DBH should not be necessary. Access will be through the driveway and a maintained yard.

Site 5- Compton II

This site is located in the Martin Quad, along Highway 80 Overlook Rd. (Lat: 37° 33' 37.57", 82° 45' 53.67"). The site (0.5 acres) consists of one mine opening and drainage problems. The mine opening will be closed with a wildlife access closure and backfilled with class II rock. A rock lined ditch will be constructed in front of the portal closure to direct drainage into a roadside ditch. Removal of trees over 5" DBH should not be necessary. Access to the portal will be gained by clearing briars and other woody debris from an old mine bench. The upper bench area may also serve as an additional waste area if need be.

Site 6- Sandra Williams

This site is located in the Harold Quad, along KY 1426 (Lat: 37° 34' 47.15", 82° 44' 56.06") near the Martin Hospital at the residence of Sandra Williams. The site (0.5 acres) consists of one mine opening and drainage problems. The mine opening will be closed with a wildlife access closure. A rock-lined ditch will then carry drainage from the portal to the old road and then follow the drainage path down the hill and into the highway culvert. Two subdrains will also be installed south of the Williams home and drain into the same drainage channel as the portal. Removal of trees over 5" DBH will be necessary. Access to the portal will be from the clinic's asphalt parking lot and cutting a path to the old mine bench.

Site 7- Tony Grubb

This site is located in the Harold Quad, along Arkansas Creek (Lat: 37° 34' 16.55", Long: 82° 44' 3.14") behind two residences. The site (0.5 acres) consists of one mine opening. The mine opening will be closed with a wildlife access closure. Removal of trees over 5" DBH should not be necessary. Access will be through a maintained yard behind the homes.

Site 8- Randall Sammons

This site is located in the Harold Quad, approximately .5 miles south of the Tony Grubb site, along Arkansas Creek (Lat:37° 33' 56.6", 82° 43' 50.13") along the driveway to Randall Sammons's daughter's home. The site (1.0 acre) consists of drainage problems and mine openings. One collapsed portal will be opened and an 8" drainage pipe will be installed. It will then be backfilled with class II rock and gabion baskets. The two open portals will be closed with wildlife access closures and be backfilled with class II rock. A rock lined ditch will be constructed in front of the portals to carry drainage to the driveway ditchline. The existing ditchline will be excavated and a rock toe buttress will be installed on the uphill side to stabilize loose shale material. Removal of trees over 5" DBH will be necessary. Access to the site will either be via a concrete bridge or a low water crossing. Any waste material from the site will be deposited in an open lot near Randall Sammons's daughter's residence at the end of the gravel driveway.

Site 9- Ed Conley

This site is located in the Lancer Quad, along Mosley Branch Rd. (Lat: 37° 37' 42.36", 82° 42' 31.94") behind the Conley home. The site (0.5 acres) consists of one collapsed portal and one mine opening. The open portal will be closed with a wildlife access closure. The collapsed portal will not be disturbed. Removal of trees over 5" DBH should not be necessary. Access to the site will be through driveway to the home.

All Sites:

Site preparation includes clearing and grubbing of vegetation. 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 maintained throughout the life of the project, prompt re-vegetation using agricultural limestone, fertilizer, seed, filter fabric and mulch for the areas disturbed by the project.

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

A landscape allowance is included to replace "in kind" landscape disturbed as needed as part of normal construction efforts. A bituminous repair bid item is included to repair and "in kind" bituminous damaged during the normal construction process. A utility relocation/structural removal bid item is included to move any utilities that will be required.

Prestonsburg
Quad

Lancer
Quad

Alan Wright Portals Group
AML Reclamation Project
Sites 1-9
Martin, Harold, & Lancer Quads
Floyd County

Site 9- Conley
Lat 37° 37' 42.36"
Long 82° 42' 31.94"

FLOYD
COUNTY

Site 6- Williams
Lat 37° 34' 47.15"
Long 82° 44' 56.06"

Site 7- Grubb
Lat 37° 34' 16.55"
Long 82° 44' 3.14"

Site 1 & 2- Wright & J. Sizemore
Lat 37° 33' 47.1"
Long 82° 45' 55.8"

Harold
Quad

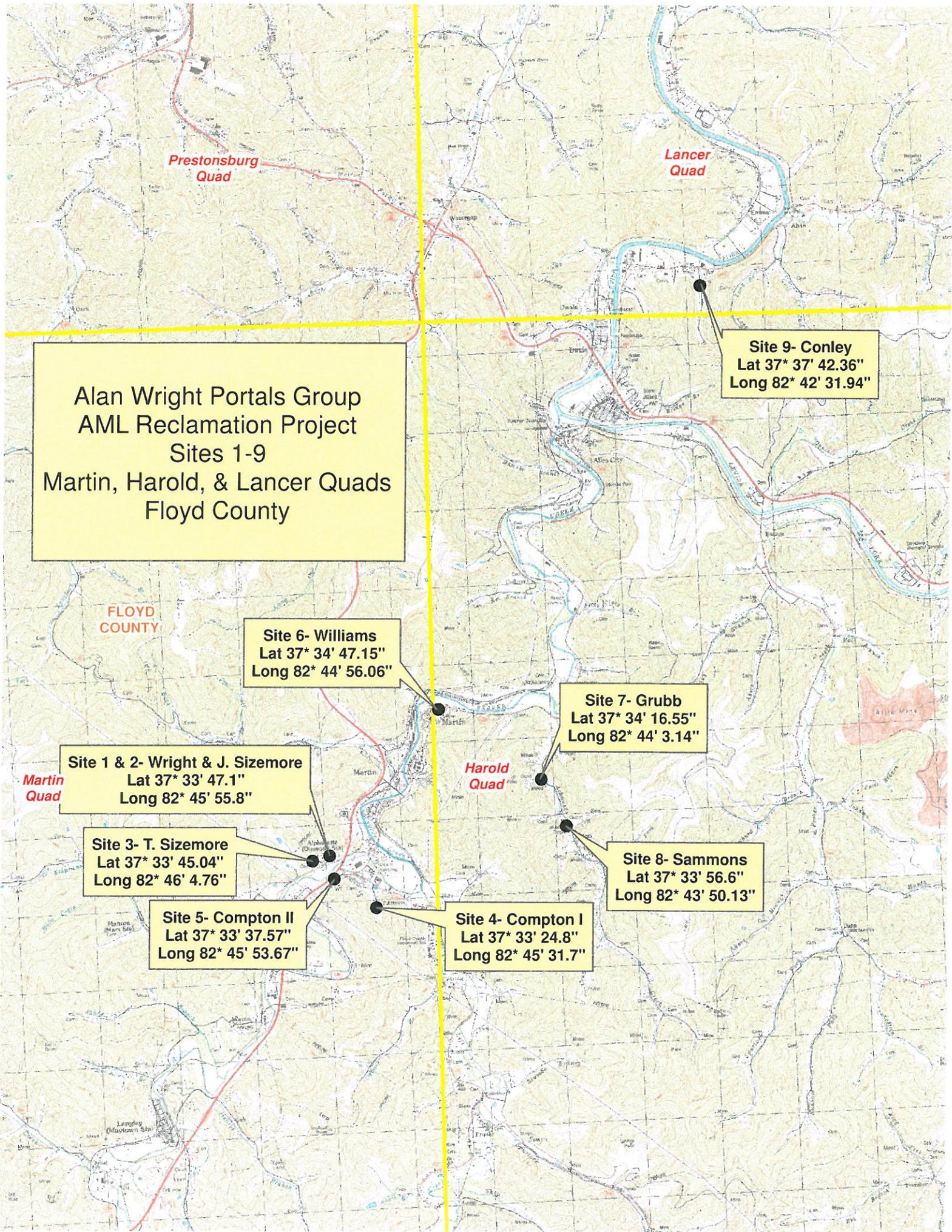
Site 3- T. Sizemore
Lat 37° 33' 45.04"
Long 82° 46' 4.76"

Site 8- Sammons
Lat 37° 33' 56.6"
Long 82° 43' 50.13"

Site 5- Compton II
Lat 37° 33' 37.57"
Long 82° 45' 53.67"

Site 4- Compton I
Lat 37° 33' 24.8"
Long 82° 45' 31.7"

Martin
Quad



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

State: Kentucky PA: KY 3353 SGA, KY 3389 SGA, KY 3484 SGA, KY 3851 SGA, KY 3988 SGA
Project Name: Alan Wright Portals Group AML Reclamation Project
Project Description: Properly close mine openings and control associated drainage.

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 *by Bill* Date: 9/15/11

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

Alan Wright Portals Group AML Reclamation Project

ENVIRONMENTAL ASSESSMENT

Randall Sammons & Sandra Williams Sites

A. Description of the Proposed Action:

The Randall Sammons (1.0 acre) and Sandra Williams (0.5 acre) sites are proposed project sites within the nine site Alan Wright Portals Group AML Reclamation Project, in Bell County. The Sammons site (Lat: 37° 33' 56.6", 82° 43' 50.13") and the Williams site (Lat: 37° 34' 47.15", 82° 44' 56.06") are located in the Harold Quad. Proposed work at both of these sites includes closing mine openings and installing drainage controls. This Environmental Assessment is required because these two sites will require floodplain permits.

B. Need for the Proposed Action:

Deep mine operations took place at these two sites prior to May 18, 1982. The proposed work at these two sites includes properly closing mine openings that are a threat to anyone that may venture in or around them, and properly controlling mine drainage away from the nearby residences. This drainage could cause health risks and destabilize the slopes and cause landslides. The proposed project will mitigate problems rated as Priority 1. The problems are further described in the description for national AML inventory problem area # KY 0787 SGA and KY 3351 SGA.

C. Alternatives Considered:

- Properly close four mine openings and control the associated drainage at two proposed sites.
- Take no action, allowing the risks to human health and property hazards to continue.

C.1. Preferred Alternative:

The proposed project at the Williams site consists of closing one mine opening and controlling drainage problems. The mine opening will be closed with a wildlife access closure. A rock-lined ditch will then carry drainage from the portal to the old road and then follow the drainage path down the hill and into the highway culvert. Two subdrains will also be installed south of the Williams home and drain into the same drainage channel as the portal.

The proposed project at the Sammons site consists of reclaiming drainage problems and closing mine openings. One collapsed portal will be opened and an 8" drainage pipe will be installed. It will then be backfilled with class II rock and gabion baskets. The two open

portals will be closed with wildlife access closures and be backfilled with class II rock. A rock lined ditch will be constructed in front of the portals to carry drainage to the driveway ditchline. The existing ditchline will be excavated and a rock toe buttress will be installed on the uphill side to stabilize loose shale material.

C.2. No Action:

Should the Commonwealth take no action, people could be injured and residences and property could be damaged from abandoned mine land problems.

D. Affected Environment:

D.1. General Setting:

This project is located in Floyd County, near the community of Martin. 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:

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

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

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

- Kentucky Department of Fish and Wildlife Resources (KDFWR)
- Kentucky Division of Water (DOW) floodplain database
- Kentucky Office of State Archaeology (OSA)
- Kentucky State Nature Preserves Commission (KSNPC) database

The Kentucky Heritage Council (KHC) was not contacted, as the project is exempt under the Programmatic Agreement between KHC and AML due to the previous disturbances by coal mining activity and houseseat construction.

E. Environmental Impacts of the Proposed Alternative:

The following resources will not be significantly impacted by reclamation activities using the preferred alternative:

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

The proposed project will not adversely impact low income or minority persons. Due to the need for two floodplain permits, hydrology will be discussed. Due to the possible occurrence of ten monitored species within the project area, fish and wildlife/plants will be discussed. Because KHC was not contacted for this project, archaeology will be discussed.

E.1.a. Hydrology:

A formulated erosion, sediment, and drainage control plan will be implemented during construction, to minimize sedimentation of receiving streams. This plan includes hay-bale silt checks, silt fences, road culverts, surface ditches and prompt revegetation of disturbed areas. The completed project will provide non-eroding drainage controls. The project will also provide a vigorous, complete cover of perennial vegetation, which will result in less stream sedimentation after project construction. All drainage controls will be implemented throughout the life of the project. Therefore, the hydrology of the project areas and downstream areas will suffer no long-term negative impacts due to construction of this project.

The database for water quality certification (WQC) and floodplain review researched by AML staff revealed that a floodplain permit will be required at the Randall Sammons and Sandra Williams sites. No additional WQC, COE, or floodplain permits will be required at any of the sites included in the Alan Wright Portals Group AML Reclamation Project. This division is applying for all necessary permits and construction will not start until they have been received.

E.1.b. Fish and Wildlife/Plants

The KSNPC database researched by AML staff revealed that three species of state concern, monitored by KSNPC, are known to occur within a 1-mile radius of the project site, and one known federally listed threatened and endangered species is known to exist within ten miles of the project site. The species noted in the search are the:

- Northern brook lamprey (*Ichthyomyzon fossor* – KSNPC Special Concern)
- Scrub oak (*Quercus ilicifolia* – KSNPC Historical Record)
- Scarlet kingsnake (*Lampropeltis triangulum* – KSNPC Special Concern)
- Indiana bat (*Myotis sodalis* – USESA Listed Endangered)

According to the memo by Edwin Boone, dated July 7, 2011, none of these species should be negatively impacted by the proposed reclamation work. The entirety of the Commonwealth of Kentucky has been determined, by the United States Fish and Wildlife Service (USFWS), to be the potential habitat of the Indiana bat. . The sites to be impacted by this project are not within any area held to be the “Known Habitat” of the Indiana bat by the United States Fish and Wildlife Service. The occurrences noted in the database are summer mist-net records, approximately 7.7 miles to the west and 8.3 miles NNE of the nearest project sites (T. Sizemore and Williams, respectively). These sites are 2.7 miles and 3.3 miles (respectively) outside of the resulting USFS range circles. Both range circles are coded as maternity range circles. However, the KSNPC database does not indicate these as a maternity record and an undetermined record (respectively). Some trees are to be disturbed by project-related activities at the T. Sizemore, Williams, and Sammons sites. Therefore, in order to prevent any potential for negative impact to this Endangered species, construction at those three project sites should wait until after October 15 and be completed prior to March 31. Alternatively, an Indiana bat Presence/Absence survey could be conducted to determine whether or not these sites are being utilized by the Indiana bat. If the Indiana bat is found at these sites during such a survey, project construction will then need to wait until the winter period mentioned previously. Following these procedures will prevent any negative impact to the Indian bat.

E.1.c. Archaeology:

The Kentucky Heritage Council (KHC) was not contacted, as the site in this project was determined to be exempt under the Programmatic Agreement between KHC and AML due to the previous disturbances by mining activity, road construction, and/or houseseat development.

E.1.d. Cumulative Environmental Impact:

No significant environmental impacts should occur as a result of construction of the preferred alternative in the watershed where the proposed construction site is located. While numerous AML reclamation projects have been constructed throughout the state, each has been found through the NEPA process to have no significant impact upon the environment. Therefore, as neither previous projects nor the proposed alternative will have any significant impact upon the environment within the watershed, there will be no cumulative impact as a result of the construction of this proposed AML project.

E.2. No Action Alternative:

E.2.a. Hydrology:

Existing hydrologic conditions would remain unchanged with the no-action alternative.

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

Existing plant and animal species would remain unchanged with the no-action alternative.

E.2.c. Archaeology:

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

F. Summary:

The Commonwealth considered two reclamation options:

1. Reclaim health and property hazards from pre-law mining.
2. Take no action.

The first option was selected due to its overall advantages.

G. Consultations:

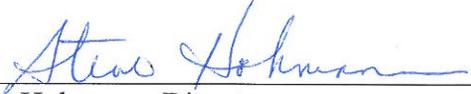
The following agencies and databases were consulted prior to preparation of this document:

- Kentucky Department of Fish and Wildlife Resources (KDFWR)
- Kentucky Division of Water (DOW)
- Kentucky Office of State Archaeology (OSA)
- Kentucky State Nature Preserves Commission (KSNPC) database

H. Preparers/Reviewers:

Kentucky Division of Abandoned Mine Lands Personnel:

- Keith Coleman, Staff Biologist
- Ryan Howell, Environmental Control Supervisor
- Bill Overman, Program Development Branch Manager


Steve Hohmann, Director

8/31/11
Date

Howell, Ryan (EEC)

From: Hall, Samantha (EEC)
Sent: Thursday, June 23, 2011 12:04 PM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Rader, Timothy (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain and WQC review for Alan Wright Portals Group AMLRP

After reviewing the maps and descriptions for the Alan Wright Portals Group AMLRP, I have determined that no floodplain, WQC or COE permits are required except on the Randall Sammons and Sandra Williams sites. The Sammons and Williams sites will require a floodplain permit.

From: Rickwa, Vanna (EEC)
Sent: Friday, June 17, 2011 1:19 PM
To: Hall, Samantha (EEC)
Cc: Howell, Ryan (EEC); Rader, Timothy (EEC)
Subject: Request for floodplain and WQC review for Alan Wright Portals Group AMLRP

Attached please find the project description and maps for the Alan Wright Portals Group AML Reclamation Project.

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

Please notify Bill Overman, Ryan Howell, Tim Rader, 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

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: Alan Wright Portals 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,

A handwritten signature in blue ink that reads 'George M. Crothers'. The signature is written in a cursive style with a large, sweeping 'G' and 'C'.

(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. Gassett
Commissioner

22 June 2011

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

RE: Alan Wright Portals 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 the following federally and/or state-threatened/endangered species are known to occur within 10 miles and one mile, respectively, of the project sites. Please be aware that our database system is a dynamic one that only represents our current knowledge of various species distributions.

Alan Wright site: Indiana bat (*Myotis sodalis*) – Federally-endangered

Johnnie Sizemore site: Indiana bat

Terry Sizemore site: Indiana bat

Compton I site: Indiana bat

Compton II site: Indiana bat

Sandra Williams site: Indiana bat
Scarlet Kingsnake (*Lampropeltis triangulum elapsoides*) – state species of concern

Tony Grubb site: Indiana bat

Randall Sammons site: Indiana bat

Ed Conley site: Indiana bat

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

Sincerely,



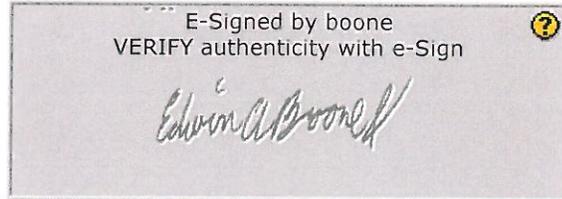
Dan Stoelb
Wildlife Biologist

Cc: Environmental Section File

MEMORANDUM

To: Allen Wright Portals Group AML Reclamation Project file

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



Through: Bill Overman, Branch Manager, Program Development Branch

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

Date: July 7, 2011

On Thursday, July 7, 2011, I conducted a search of the KSNPC database in order to determine if any species that are monitored by the KSNPC are known to occur within the near vicinity (a 1 mile radius) of any of the site to be disturbed by this project, and if any federally listed threatened and endangered species are known to occur within the general area (a 10 mile radius) of these sites. These searches revealed that three species of state concern that are monitored by the KSNPC occur within one mile, and that one federally listed threatened and endangered species is known to exist within ten miles of the project site. The species noted in the search are:

- Northern brook lamprey (*Ichthyomyzon fossor* – KSNPC Special Concern)
- Scrub oak (*Quercus ilicifolia* – KSNPC Historical Record)
- Scarlet kingsnake (*Lampropeltis triangulum* – KSNPC Special Concern)
- Indiana bat (*Myotis sodalis* – USESA Listed Endangered)

This project consists of nine sites comprising 4.5 acres, and addresses one small landslide, 11 abandoned mine portals and their associated drainage. Thirteen of these portals are to be closed utilizing “bat-friendly” wildlife access closures. The remaining four are less than one square foot in area, and are to be backfilled.

The brook lamprey is a non-parasitic lamprey found in small to medium sized upland streams. In these habitats, the juveniles prefer to live in soft-bottomed portions of streams, where they dig

into the substrate and feed by filtering. The adults spawn in areas of sand and gravel, where they construct cup-like nests. Adult lampreys die soon after spawning. Construction of this project will not directly disturb area streams. All areas that are disturbed by project-related activities will be protected by a stringent sediment and erosion control plan, including such elements as silt-fence, hay-bale silt fences, sediment traps, and prompt revegetation of all disturbed areas. The sediment controls that are emplaced at each site will prevent significant amounts of silt and sediment from entering area streams. Therefore, construction of this project should have no negative impact upon the northern brook lamprey.

The scrub oak is only known in Kentucky from historical record. No resource that I located, including the USDA Plants Database, NatureServe Explorer and Flora of North America list Kentucky as a state where this species is present. If it is actually present within Kentucky, it would be at or near the extreme southern edge of its range. The website for Flora of North America (www.efloras.org) states that the scrub oak lives in dry, sandy soils and open rocky outcrops. As the project areas consist of residential yards and adjacent dense forest, they do not approximate the preferred habitat of this species. Therefore, due to the likely absence of this species from Kentucky and due to the absence of its preferred habitat within the project areas, the scrub oak should not suffer a negative impact as a result of project-related actions.

The scarlet kingsnake prefers well-drained and sandy habitats. In their core range of the coastal plain, this is chiefly comprised of pine forests and sandhill habitats. The areas to be disturbed by this project are typically wet due to groundwater seepage and mine drainage, and are definitely not best described as well-drained. Therefore, as the habitats to be disturbed do not approximate those preferred by this species, the scarlet kingsnake should not be negatively impacted by project-related activities. Its bright coloration may in fact be a severe disadvantage in this area, due to the absence of the coral snake that its coloration mimics.

The entirety of the Commonwealth of Kentucky has been determined, by the United States Fish and Wildlife Service, to be the potential habitat of the Indiana bat (*Myotis sodalis* – USESA Listed Endangered). The Indiana bat establishes summer day roosts and brood colonies in trees with exfoliating bark and/or splits in limbs. In winter, it is known to utilize caves, and occasionally underground mine voids, as hibernacula. The sites to be impacted by this project are not within any area held to be the "Known Habitat" of the Indiana bat by the United States Fish and Wildlife Service. The occurrences noted in the database are summer mist-net records, approximately 7.7 miles to the west and 8.3 miles NNE of the nearest project sites (T. Sizemore and Williams, respectively). These sites are 2.7 miles and 3.3 miles (respectively) outside of the resulting USFS range circles. Both range circles are coded as maternity range circles. However, the KSNPC database does not indicate these as a maternity record and

an undetermined record (respectively). Some trees are to be disturbed by project-related activities at the T. Sizemore, Williams, and Sammons sites. Therefore, in order to prevent any potential for negative impact to this Endangered species, construction at those three project sites should wait until after October 15 and be completed prior to March 31. Alternatively, an Indiana bat Presence/Absence survey could be conducted to determine whether or not these sites are being utilized by the Indiana bat. If the Indiana bat is found at these sites during such a survey, project construction will then need to wait until the winter period mentioned previously. Following these procedures will prevent any negative impact to the Indian bat.