

Authorization to Proceed (ATP)

Bonnie Melton
Abandoned Mine Land (AML) Reclamation Project
based on Finding of No Significant Impact (FONSI)
Leslie, County, Kentucky

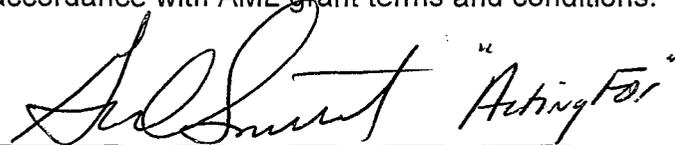
The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the September 8, 2011, request for ATP with construction activity on the Bonnie Melton AML Reclamation project, prepared by the Division of Abandoned Mine Lands (DAML) of the Kentucky Department for Natural Resources. OSM found that the appropriate request documents were submitted and appear to support the need for the proposed construction activity. OSM confirmed that the required information for this project has been included in the AML Inventory System.

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

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

- The DAML project request notes that no tree removal is proposed outside the AML problem area, but that if tree removal is needed it will only take place between October 15 and March 31, or a habitat assessment or a presence/absence survey will be required.
- No cave or cliffline disturbance or mine portal/shaft closures are proposed or authorized under this project;
- Your staff determined that a floodplain encroachment permit to "Construct Across or Along a Stream" should be applied for and obtained, and the project request letter notes construction will not start until all permits and authorizations have been received. Please ensure compliance with the permit throughout the construction of the project.

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

 "Acting For"

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

9-26-11

Date

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Bonnie Melton
Abandoned Mine Lands (AML) Project
Leslie 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 Hyden East, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map at 37° 10' 43" North Latitude and 83° 17' 55" West Longitude near the community of Wooten, Kentucky. The project location, AML problems to be addressed and proposed reclamation activity/cost are also available at <http://www.osmre.gov> in the AMLIS under PA# KY-003640-SGA. The project involves reclamation of AML conditions consisting of construction of a guardrail panel retaining wall and a concrete retaining wall to protect the Bonnie Melton residence.

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.

The designated DAML biological review staff reviewed the Kentucky State Nature Preserves Commission's (KSNPC) endangered, threatened and special concern reference databases in lieu of direct consultation. The findings are noted in the ATP request correspondence and an attached biological review memorandum. DAML found that KSNPC data indicated one federally listed threatened or endangered species, the Indiana bat, within a 10-mile radius and one species of State concern, the Rafinesque's Big-eared bat, is known to occur within a 1-mile radius of the project. DAML discussed each species in the biological review memorandum, the EA, and their ATP request correspondence, finding that the noted species will not be impacted, since the project will not result in a significant negative impact to their critical habitat and/or suitable habitat does not exist within the project area to support the species. No reason was identified to dispute their determination.

In a meeting held in February 2010 between the OSM Lexington Field Office (LFO), Kentucky Field Office (KFO) in Frankfort, Kentucky, of the U.S. Fish and Wildlife Service (USFWS) and DAML; Steve Hohmann, Director of DAML, offered to coordinate NEPA consultation with the KFO, utilizing the agreements in the September 18, 2009, Memorandum of Agreement (MOA) signed by the OSM, LFO and USFWS KFO. This document outlined the acceptable conditions that the projects potential impacts can have where the KFO will not need to be further contacted for comment. When the conditions within the agreement are present, processing of the ATP may proceed with the confidence that the biological environment is being protected and provisions of Section 7 of the Endangered Species Act have been fulfilled. It was agreed to by all parties, acknowledging that LFO would retain the final review to determine if the NEPA documentation is complete.

After review of the ATP documents for this project, DAML determined that additional consultation with the USFWS is not required because the proposed project will not

adversely affect a federally listed species (Federal Assistance Manual (FAM) Chapter 5-11-15, A. 3.) The project activities meet the following conditions noted in the MOA to ensure protection of federally listed species; specifically the Indiana bat, Gray bat, and freshwater fishes and mussels:

- With the exception of trees directly impacted by the AML problem, the project does not include the purposeful removal of standing trees larger than 5 inches diameter at breast height or standing snags with loose bark that are 9 inch or greater diameter at breast height and at least 10 feet in height, during the period of April 1 to October 15;
- The project activity does not occur in "Known Indiana Bat Habitat" identified on the map attached to the MOA and the GIS files provided by USFWS KFO on November 2, 2009, used to generate the map (a copy of a section of the MOA GIS layer map on which the project coordinates are located is attached to this the DAML biological review memorandum as proof of this determination);
- No caves or clifflines will be disturbed;
- No mine portal/shaft closures are proposed;
- No purposeful filling or crossing of streams using heavy equipment or the removal of riparian vegetation using heavy equipment within the Tradewater, lower Ohio, upper Cumberland, Green, and Licking River basins;
- In order to avoid/reduce indirect impacts, erosion and sediment control plans will be implemented and monitored until permanent vegetation has become established in the above listed watersheds and all other watersheds as may be appropriate.

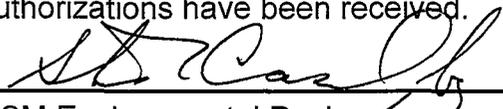
The DAML biological review memorandum also notes that if any removal of trees not directly impacted by the AML problem is later found to be necessary during the period April 1 to October 15, a habitat assessment or presence/absence survey will be required by qualified DAML staff. With the specifics of the proposal meeting the criteria set out in the MOA, OSM agrees with DAML's determination that the proposed project would not adversely impact the species if these conditions are present. With this information, they found the requirements of Section 7 of the Endangered Species Act have been fulfilled.

The Office of State Archaeology found that their records did not indicate any known archaeological sites directly in the project area, no systematic archaeological survey has been conducted in the immediate project area, and past disturbance to the project area make it unlikely that archaeological sites will be preserved. The Kentucky Heritage Council (KHC) and State Historic Preservation Officer (SHPO) were not consulted

further for the current construction activity, since this project activity falls under the "exempt projects" provisions in the Programmatic Agreement that DAML signed on January 3, 2011, with the KHC. Exempt projects are "Routine and recurring projects whose impacts [under Section 106 of the Natural Historic Preservation Act] are "foreseeable and cause little or no ground disturbance or that have a low probability of affecting known or unknown historic properties..." Under the agreement KHC requires no consultation beyond DAML's determination that the project is an exempt project.

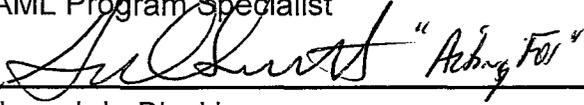
Environmental and Public Protection Cabinet (EPPC) (changed to the Environment and Energy Cabinet (EEC) in July 2008) Secretary order dated December 12, 2006, transferred authority for issuance of Clean Water Act (CWA) Section 401 Water Quality Certifications (WQC) associated with surface coal mine operations,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

Under a 2005 agreement with the Kentucky Division of Water (DOW) Floodplain Management Section (FMS) of the Water Resources Branch, DOW authorized DAML to apply DOW floodplain standards in lieu of a DOW review. In this agreement, DAML will directly consult with DOW if it appears a permit may be required. DAML has acquired a set of Federal Emergency Management Agency (FEMA) floodplain maps that include the project area. DAML's Design Branch personnel researched these maps and have determined that the project is within the base floodplain and a floodplain encroachment permit to "Construct Across or Along a Stream" should be applied for and obtained, and the project request letter notes construction will not start until all permits and authorizations have been received.



OSM Environmental Reviewer
AML Program Specialist

9-26-11
Date



Joseph L. Blackburn
Field Office Director

9-26-11
Date

Memorandum

Date: September 26, 2011

To: Bonnie Melton Abandoned Mine Land (AML) Reclamation Project File ID# 99.136030000

From: Steve Cassel, Sr., AML Program Specialist *SC 9-26-11*
Lexington Field Office (LFO), Program Support Branch (PSB)

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

The Branch recommends that the Field Office Director (FOD) authorize the State of Kentucky to proceed with the construction activity proposed on the Bonnie Melton AML Reclamation Project. The Branch prepared an ATP notice and Finding of No Significant Impact (FONSI) for the FOD review. The Branch recommends that the FOD sign the FONSI and ATP notice in the space provided on each document. The original signed ATP notice will be filed in the LFO AML project construction files and a copy will be sent to the Division of Abandoned Mine Lands (DAML) Director attached to a transmittal email, with an attachment of associated approval documents, consisting of a copy of the LFO review memorandum and FONSI. Additionally, the transmittal email will be copied to the Department for Natural Resources (DNR) Commissioner.

The Kentucky DAML ATP request dated September 8, 2011, was received at LFO on September 8, 2011. The ATP was processed within 12 working days; therefore, the customer service target of 14 working days to process an ATP has been met. The ATP was processed in 18 calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP has been met.

The project area may be centrally located on the Hyden East, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map at 37° 10' 43" North Latitude and 83° 17' 55" West Longitude near the community of Wooten, Kentucky. The project location, AML problems to be addressed and proposed reclamation activity/cost are also available at <http://www.osmre.gov> in the AMLIS under PA# KY-003640-SGA. The project involves reclamation of AML conditions consisting of construction of a guardrail panel retaining wall and a concrete retaining wall to protect the Bonnie Melton residence.

DAML did not designate a funding source for the construction work under the budget category entitled Project Costs (Non-Water Supply) of any of Kentucky's FY AML Annual Construction Grants (AG). In previous discussions, DNR indicated they would assign projects to a grant before they go to construction. The LFO Project/Site ID #99.136030000 was assigned to the project file for LFO tracking purposes until actual AG and Location Code numbers are assigned by DAML and can be inserted in the appropriate positions at the beginning and end of the LFO Project #. No specific proposed bid advertisement, bid opening, or construction completion dates were provided by DAML in the ATP request letter; therefore I inserted dates in the database

based on the ATP request letter stating that these activities will occur as soon as possible. The following proposed dates were assigned and entered by LFO for database tracking purposes: Bid Advertisement Date was entered as October 1, 2011, Contract Award was entered as November 1, 2011, and Contract/Construction Completion was entered as May 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 an Environmental Assessment (EA) with agency consultation documentation; and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms, with engineer cost estimates for PA# KY-003640-SGA. A pre-approval field inspection of the proposed project was conducted on September 14, 2011 for field verification under the EY 2012 Oversight Agreement. The proposal was recommended for approval with no concerns or recommendations. Refer to report findings and photos in the LFO State AML Project Database, which were previously forwarded to DAML.

The CX submitted for the construction activity at the site was reviewed and found to adequately document the environmental review of the construction activity within the current NEPA review guidance. No significant impacts have been reported to this office or identified by the Branch. The Branch recommends that the Office of Surface Mining Reclamation and Enforcement (OSM) accept the EA submitted by the Kentucky DAML. The EA prepared by the State and the State's ATP request correspondence and attachments discussed the responses from agencies consulted for the NEPA review and discussed appropriate resolution of all their concerns and recommendations. The responses from agencies consulted for the NEPA review are summarized in the FONSI prepared by OSM for the EA.

The comments from the Kentucky State Clearinghouse, Kentucky's "Single Point of Contact" (SPOC) pertaining to AML Non-Water Supply projects included no comments that affect this proposal. The information to update PA # KY-003640-SGA was directly input into the AMLIS by the DAML. This information reflects the changes in units and costs based upon the design and classification of the funded category. This was confirmed by LFO review of the AMLIS data and a PAD website screen printout from the OSM HDQ AMLIS database. PA# KY-003640-SGA submitted for this ATP does not represent a "new Problem Area" after December 20, 2006, requiring FOD approval under OSM Directive AML-1-2 (signed June 22, 2007); therefore, no FOD approval forms were prepared for FOD signature.

The Area Office AML staff will be notified of this project authorization by cc'd copy of the email notifying DAML of this ATP or email of an updated State AML Project List after the authorization of this project and availability of the project documents on the LFO State AML reclamation project tracking database.

Bonnie Melton AML Reclamation Project

Leslie County

The proposed project, approximately 1.0 acre total, consists of the stabilization of an unstable landslide, and installation of drainage controls, near the Bonnie Melton residence located along KY 1807, near the community of Wooton, in Leslie County. The project is centrally located on the Hyden East Quadrangle at latitude 37° 10' 43" and longitude 83° 17' 55" (see attached map).

Reclamation construction at the site consists of the construction of a guardrail panel wall to protect the state road above the residence, and a concrete retaining wall at the base of the slope to protect the residence. Some of the slide material will be removed and some will be regraded in place. A previously disturbed area downslope of the Melton residence will be used as a waste area. No trees greater than 5" DBH will need to be removed outside of the unstable slope. Access to the project site and waste area is via the county road, and a residential driveway and yard.

Construction disturbances will be kept to a minimum and will be revegetated as soon as practical. Hay bale silt checks will provide additional sediment control throughout the life of the project. Drainage will be controlled with ditches, subdrains, and culverts. The project will not disturb any stream reaches. All project areas are previously disturbed by mining, road development, and/or residential development.

ENVIRONMENTAL ASSESSMENT

Bonnie Melton Landslide AML Reclamation Project Leslie County, Kentucky

A. Description of the Proposed Action:

The proposed project, approximately 1.0 acre, consists of the stabilization of an unstable landslide, and installation of drainage controls, near the Bonnie Melton residence located along KY 1807, near the community of Wooton, in Leslie County. The site is approximately 1200' from the intersection of KY 1807 and KY 80. All impacts associated with this reclamation project stem from AML eligible coal mining operations. This environmental assessment is required because construction will take place within the floodplain.

B. Need for the Proposed Action:

Mining, which occurred before May 18, 1982, created all problems associated with this project. These problems include:

- Hazards to public health, safety and welfare created from an unstable slope that threatens the Bonnie Melton residence, along with motorists traveling on KY 1807.

The problems are further described in the description for National AML Inventory Problem Area KY 3640.

C. Alternatives Considered:

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

- Installing a guardrail panel along the county road, and a concrete retaining wall at the base of the slope. Removing unstable slide material, and regrading other material in place.

Or:

- Take no corrective action at this time.

C.1. Preferred Alternative:

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

- Installing a guardrail panel above the residence along the county road, and a concrete retaining wall at the base of the slope. Removing unstable slide material, and regrading other material in place.
- All excavated material will be incorporated into on-site regrading.
- Installation and maintenance of hay bale silt checks will minimize erosion and sedimentation at the site.
- All areas disturbed by construction will be vegetated, as soon as practical, using agricultural limestone, fertilizer, seed, mulch, and netting.

C.2. No Action:

Should the Commonwealth of Kentucky take no corrective action, the previously described problems will likely result in further property damage, and risk of bodily injury or loss of life.

D. Affected Environment:

D.1. General Setting:

- The project site is located at the community of Wooton, in Leslie County, approximately 1200' from the intersection of KY 1807 and KY 80.
- KY 1807, and residentially maintained properties will provide access to the site.
- Primary land uses in the vicinity include forest, coal mining, and residential.
- Mining disturbed the entire project area.

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 mining activities, road construction, and houseseat development.

E. Environmental Impacts of the Proposed Alternatives:

E.1. Preferred 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 a DOW Stream Construction Permit, hydrology will be discussed. Due to the possible occurrence of two 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:

Division of Abandoned Mine Lands – Design Branch staff have reviewed the project site and found that a part of the project area lies within the floodplain of Wooton Creek. Work within the floodplain will be minor. This work will consist of the removal of unstable material from the outslope below the residence. Any fill material generated will be removed from the floodplain area. All necessary permits will be obtained before any work is performed at the site. No long term impacts from sedimentation should occur

since all areas disturbed by construction will be vegetated as soon as practical, using agricultural limestone, fertilizer, seed, mulch and netting.

E.1.b. Fish and Wildlife:

A search of the Kentucky State Nature Preserves Commission (KSNPC) database revealed that one species of state concern occurs within one mile of the project site and one federally listed threatened or endangered species is known to exist within ten miles of the project site.

One of the species of state concern noted in the search is the Rafinesque's Big-eared Bat (*Corynorhinus rafinesquii* – KSNPC Historical Record). This is a species that roosts in cave entrances, rock shelters, hollow trees, abandoned buildings and under bridges in forests of the southeastern states. Since no disturbances to potential habitat areas are planned in association with project construction, no negative impacts should result, regardless of the timing of construction.

The US Fish and Wildlife Service (USFWS) has declared the entire state of Kentucky to be the habitat of the Indiana bat (*Myotis sodalis* – USESA Endangered). This federally listed endangered 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. No trees over 5" DBH are proposed to be removed outside of the slide area, which is exempt, and no cave-like structures are proposed for closure, so the Indiana bat should not suffer a negative impact due to the construction of this project, regardless of the timing of the construction.

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 from mining activity, road construction, and/or houseseat development.

E.1.d. Cumulative Environmental Impact:

Previous reclamation performed by this division in the project watershed includes the 2AG Wooten Mines, 8AG Preston Fork Seam Fire, 20AG Margaret Wooten Drainage, and 22AG Dorothy Huff Slide. These projects have improved the environment via closing mine openings, reclaiming dangerous landslides, controlling mine drainage, and extinguishing mine fires, thereby reducing the risk of flooding and burning refuse. As a result, the preferred alternative should not contribute to any adverse cumulative environmental impacts from completed AML or OSM projects.

E.2. No Action Alternative:

E.2.a. Hydrology:

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

E.2.b Fish and Wildlife:

Should the commonwealth take no action, existing fish and wildlife conditions would not change.

E.2.c. Archaeology:

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

F. Summary:

The Commonwealth considered the following reclamation options:

- Installing a guardrail panel along the county road, and a concrete retaining wall at the base of the slope. Removing unstable slide material, and regrading other material in place.

Or:

- Take no corrective action at this time.

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

G. Consultations:

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

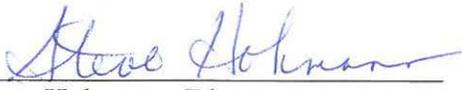
- Kentucky Department of Fish and Wildlife Resources (KDFWR)
- Kentucky Division of Water (DOW)
- Kentucky Office of State Archaeology (OSA)
- Kentucky State Nature Preserves Commission (KSNPC) database

H. Preparers/Reviewers:

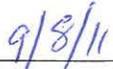
Kentucky Division of Abandoned Mine Lands Personnel

Jay Mitchell, Environmental Technologist III
Keith Coleman, Environmental Technologist III

Ryan Howell, Environmental Control Supervisor
Bill Overman, Program Development Branch Manager



Steve Hohmann, Director



Date

Howell, Ryan (EEC)

From: Hall, Samantha (EEC)
Sent: Friday, August 05, 2011 9:39 AM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Mitchell, Jay (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain & WQC review for Bonnie Melton AMLRP

Floodplain/Stream Construction Permit

A floodplain permit will be required.

US Army Corps of Engineers Permit (ACOE)

No permit is necessary.

Water Quality Certification

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

From: Rickwa, Vanna (EEC)
Sent: Thursday, August 04, 2011 3:22 PM
To: Hall, Samantha (EEC)
Cc: Howell, Ryan (EEC); Mitchell, Jay (EEC)
Subject: Request for floodplain & WQC review for Bonnie Melton AMLRP

Attached please find the project description and maps for the Bonnie Melton AMLRP.

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

Please notify Bill Overman, Ryan Howell, Jay Mitchell, and myself of your response.

Thanks,

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



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

September 6, 2011

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

RE: Bonnie Melton AML Reclamation Project (Leslie County)

Dear Mr. Hohmann:

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

Our records indicate that there are no archaeological sites or surveys recorded within the immediate vicinity of the project area. While our records indicate that the project area has not been previously surveyed for archaeological remains, past disturbances to the area make it unlikely that archaeological sites will be preserved.

Sincerely,

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. Gasset
Commissioner

12 August 2011

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

RE: Bonnie Melton AML Reclamation Project (Leslie 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 proposed project site. Please be aware that our database system is a dynamic one that only represents our current knowledge of various species distributions.

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

Sincerely,

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

Dan Stoelb
Wildlife Biologist

Cc: Environmental Section File

Memorandum

To: Bonnie Melton Landslide
AML Reclamation Project

From: Keith B. Coleman
Environmental Technician, AML Program Development Branch
Keith B. Coleman 8-17-11

Through: Bill Overman
Manager, AML Program Development Branch
Bill Overman 8/17/11

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

Date: August 17, 2011

On August 16, 2011, I conducted a search of the KSNPC database in order to determine if any species of state concern (monitored by KSNPC) are known to occur within the near vicinity (1 mile radius) of the site to be disturbed by this project, and if any federally listed "threatened or endangered" species are known to occur within the general vicinity (10 mile radius) of the project site. This search revealed that one species of state concern, monitored by KSNPC, is known to occur within one mile, and that one species currently listed as threatened or endangered under the United States Endangered Species Act (USES) is known to occur within ten miles of the project site.

This project (1 acre total) consists of the installation a guardrail panel at the top of the slide area, a concrete retaining wall at the toe of the slide, and the grading of slide materials. Any trees within the slide are located in the AML-impacted area and are considered unstable and unsuitable for habitat consideration. The waste area is located on-site and will not require the removal of any trees over 5" DBH. Access routes are pre-existing. No perennial or intermittent streams will be disturbed. No mine portals will be disturbed. To minimize sediment and erosion problems, a stringent control plan, including the utilization of such measures as hay-bale silt checks, silt fences, erosion control blankets, and prompt vegetation of all disturbed areas, will be implemented and monitored during the construction process.

KSNPC Monitored Species

Rafinesque's Big-eared Bat (*Corynorhinus rafinesquii*, KSNPC Special Concern)

USESA Listed Species

Indiana Bat (*Myotis sodalis*, "Anabat Call" record, 7.4 miles SSW)

Rafinesque's Big-eared Bats roost in cave entrances and rock shelters, hollow trees, abandoned buildings, and under bridges in forests of the southeastern states. Maternity colonies are established in late spring. Since no disturbances to potential habitat areas are planned in association with project construction, no negative impacts should result, regardless of the timing of construction.

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

The search of the KSNPC BIOTICS database revealed one "Anabat call" record of this species within 10 miles of the project site (7.4 miles SSW). Nine additional records document the Indiana Bat within 10-20 miles from the project site. Of those 9 records, 3 are documented as potential maternity areas, 1 is a maternity colony, 1 is a foraging area, 1 is undetermined, 1 is a summer mist-net record, 1 is a transient mist-net record, and 1 is a hibernaculum record.

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

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



STEVEN L. BESHEAR
GOVERNOR

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WATER
200 FAIR OAKS LANE, 4TH FLOOR
FRANKFORT, KENTUCKY 40601
www.kentucky.gov

LEONARD K. PETERS
SECRETARY

STREAM CONSTRUCTION PERMIT

For Construction In Or Along A Stream

Issued to: **Division of Abandoned Mine Lands**
Address: **2521 Lawrenceburg Rd**
Frankfort, KY 40601

Permit expires on
September 8, 2012

Permit No. **19326**

In accordance with KRS 151.250 and KRS 151.260, the Energy and Environment Cabinet approves the application dated August 17, 2011 for Construction of 165 LF of flexible concrete channel lining in the right descending floodplain of Wooton Creek, about stream mile 0.3, with coordinates 37.178056, -83.298333, in Leslie County. AI: 112557

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 attached limitations. **Please read these limitations carefully!** If you are unable to adhere to these limitations for any reason, please contact this office prior to construction.

This permit is valid from the standpoint of stream obstruction only. 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. Specifically if the project involves work in a stream, such as bank stabilization, dredging, relocation, or in designated wetlands, a 401 Water Quality Certification from the Division of Water will be required.

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.

If you have any questions regarding this permit, please call Soheyl Bigdeli at (502) 564-3410.

Issued September 8, 2011.

Todd Powers, P.E., Supervisor
Floodplain Management Section
Surface Water Permit Branch

2011 SEP 15 P 1:07
DIVISION OF ABANDONED
MINE LANDS

TAP/SB/dg

pc: London Regional Office
Charles Pence – Leslie County Floodplain Coordinator
File

Stream Construction Permit

Bonnie Melton Residence
Facility Requirements
Permit Number:19326
Activity ID No.: APE20110001

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ACTV0000000001 (Channel Lining) Construction of 165 LF of flexible concrete channel lining in the right descending floodplain of Wooton Creek, about stream mile 0.3, with coordinates 37.178056, -83.298333, in Leslie County.:

Submittal/Action Requirements:

Condition No.	Condition
S-1	Division of Abandoned Mine Lands must submit final construction report: Due within 90 days after completion of construction Division of Abandoned Mine Lands must certify in writing that the project has been completed in accordance with the approved plans and specifications. A Final Construction Report Form is enclosed. [401 KAR 4:060 Section 6]

Narrative Requirements:

Condition No.	Condition
T-1	The issuance of this permit by the cabinet does not convey any property rights of any kind or any exclusive privilege. [KRS 151.250 & 401 KAR 4:060]
T-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. [KRS 151.250]
T-3	A copy of this permit must be available at the construction site. [KRS 151.250]
T-4	Any work performed by or for Division of Abandoned Mine Lands that does not fully conform to the submitted application or drawings and the limitations set forth in this permit, is subject to partial or total removal and enforcement actions pursuant to KRS 151.280 as directed by the Kentucky Department for Environmental Protection. [KRS 151.280]
T-5	Any design changes or amendments to the approved plans must be submitted to the Division of Water and approved in writing prior to implementation. [KRS 151.250]
T-6	Since Leslie County participates in the National Flood Insurance Program, a local floodplain permit must be obtained prior to beginning of construction. Upon completion of construction Division of Abandoned Mine Lands must contact the local permitting agency for final approval of the construction for compliance with the requirements of the local floodplain ordinance. [401 KAR 4:060 Section 9(c)]

Stream Construction Permit

Bonnie Melton Residence

Facility Requirements

Permit Number:19326

Activity ID No.: APE20110001

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Narrative Requirements:

Condition No.	Condition
T-7	Erosion prevention measures, sediment control measures, and other site management practices shall be designed, installed, and maintained in an effective operating condition to prevent migration of sediment off site. [KRS 224.70-110]
T-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 here means materials that are not chemically reactive and that will not rot or decompose, such as soil, rock, broken concrete or similar materials.). [401 KAR 4:060 Section 7]
T-9	All debris and excess material shall be removed for disposal outside of the base floodplain. [401 KAR 4:060]
T-10	Upon completion of construction all disturbed areas shall be seeded and mulched or otherwise stabilized to prevent erosion. [401 KAR 4:060]
T-11	The entry of mobile equipment into the stream channel shall be limited as much as reasonably possible to minimize degradation of the waters of the Commonwealth. [401 KAR 4:060]
T-12	Construction other than as authorized by this permit shall require written approval from the Division of Water. [401 KAR 4:060]
