

Authorization to Proceed (ATP)

City of Jackson- Hwy 476 Tank & Pump Station
Abandoned Mine Land (AML) Water Supply Project
based on Environmental Assessment (EA)
Breathitt 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 City of Jackson- Hwy 476 Tank & Pump Station Abandoned Mine Land (AML) Water Supply Project prepared by the Kentucky Department for Natural Resources, Division of Abandoned Mine Lands (DAML).

OSM found that the appropriate request documents were submitted and appear to support the need for the proposed construction activity. OSM confirmed that the required information for this project has been included in the AML Inventory System (e-AMLIS) for Problem Areas (PA) # KY-004143-SGA. OSM has approved the new PA # KY-004143-SGA on September 27, 2011.

OSM reviewed the EA prepared by DAML documenting the National Environmental Policy Act (NEPA) environmental review of this project. OSM determined that the EA adequately discusses the environmental issues and impacts associated with the construction of the project. Based on the analysis in the EA, I have determined that reclamation of this abandoned mine site would not have significant effects on the quality of the human environment. Therefore, I conclude that no environmental impact statement is necessary. As a result, I have signed the Finding of No Significant Impact (FONSI) for the City of Jackson- Hwy 476 Tank & Pump Station Abandoned Mine Land (AML) Water Supply Project. Please give special attention to the following recommendation (s).

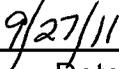
- Should it become necessary for the clearing of trees, a habitat assessment or presence-absence survey will be required.
- The engineers and/or contractors retained for this project are required to obtain all necessary permits. The Division states that they will not fund this project until all required permits and authorizations are received.
- A Floodplain/Stream Construction Permit is required for this permit. Please follow the permit requirements throughout the life of this project. No U S Army Corps of Engineers Permit or Water Quality Certification is required; as long as the waterline crossing uses subsurface construction methods.
- The construction of the water tank for this project should be constructed in accordance with the ATP proposal and the comments and/or recommendations

of the Kentucky Heritage Council's (KHC) review of the archaeological survey that was completed for the water tank location. If the KHC requires a modification to the tank location, please submit the location change to OSM, to complete the NEPA review.

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



Date

Memorandum

Date: September 27, 2011

To: City of Jackson – Hwy 476 Tank and Pump Station Abandoned Mine Land (AML) Reclamation Project File SubAccount# 99.137040000

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 City of Jackson _ Hwy 476 Tank & Pump Station AML Reclamation Project. The Branch prepared an ATP letter and Finding of No Significant Impact (FONSI) for the FOD review. The Branch recommends that the FOD sign the 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 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 8, 2011, was received at LFO attached to an email on September 8, 2011. The ATP was processed within 13 working days; therefore, the customer service target of 14 working days to process an ATP was met. The ATP was processed in 19 calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP was met.

The project area may be centrally located on the Quicksand, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 30' 39" North Latitude and 83° 20' 43" West Longitude near the community of Hardshell, 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-004143-SGA. The project involves reclamation of AML conditions consisting of polluted water at one site servicing several homes.

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 # 99.137040000 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, water quality sampling analysis, a National Environmental Policy Act (NEPA) review documented in 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 and reference to a water supply study for PA# KY-004143-SGA.

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

The EA submitted for the construction activity at the site was reviewed and found to adequately document the environmental review of the construction activity within the current NEPA review guidance. No significant impacts have been reported to this office or identified by the Branch. The Branch recommends that the Office of Surface Mining Reclamation and Enforcement (OSM) accept the EA submitted by the Kentucky DAML.

The EA prepared by the State and the State's ATP request letter summarized the responses from agencies consulted for the NEPA review and discussed appropriate resolution of all their concerns and recommendations. The responses from agencies consulted for the NEPA review are summarized in the FONSI prepared by OSM for the EA. The comments from the Kentucky State Clearinghouse, Kentucky's "Single Point of Contact" (SPOC) pertaining to AML Water Supply projects included no comments that affect this proposal.

The information to update PA # KY-004143-SGA was directly input into the e-AMLIS by the DAML. This PA represents a "new Problem Area" requiring FOD approval under OSM Directive AML-1-2 (signed June 22, 2007). The PA was approved within the e-AMLIS system on September 27, 2011.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

City of Jackson – Hwy 476 Tank & Pump Station
Abandoned Mine Lands (AML) Project
Breathitt 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 Quicksand, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 30' 39" North Latitude and 83° 20' 43" West Longitude near the community of Hardshell, 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-004143-SGA. The project involves reclamation of AML conditions consisting of polluted water at one site servicing several homes.

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 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.

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 one species of State concern within a 1-mile radius of the project. DAML listed and discussed each species in the biologist's memorandum, the EA, and their ATP request letter, finding that the noted species will not be impacted, since the project will not result in a significant negative impact to their critical habitat and/or suitable habitat does not exist within the project area to support the species. No reason was identified to dispute their determination.

The DAML Biologist also noted that the federally listed endangered Indiana bat, although not indicated to exist in the project vicinity; by his and the KDFWR reviews, would not be disturbed by the project. This is based on the fact that the project proposes to disturb no mine portals, cliffs, or caves, and proposes no disturbance of forested areas that could be utilized as roosting sites and in the event that any trees that represent potential Indiana bat habitat need to be removed, habitat assessment or presence-absence survey will be performed by a certified biologist, or removal will only occur between October 15 and March 31, to avoid potential impacts to the Indiana bat.

In a meeting held in February 2010 between LFO, USFWS Kentucky Field Office (KFO) and DAML; Steve Hohmann, Director of DAML, offered to coordinate NEPA consultation with the KFO of the USFWS in Frankfort, Kentucky, utilizing the agreements in the September 18, 2009, Memorandum of Agreement (MOA) signed by

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 no mine portals/shafts.
- 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. However, since they have

insufficient information to determine the likelihood that archaeological sites may be present or potentially impacted by construction of the water supply. They recommended coordination with the State Historic Preservation Officer (SHPO) before beginning construction activities.

The Kentucky Heritage Council and State Historic Preservation Officer (SHPO) was not contacted for the majority of this project area due to the location of the construction activity, and 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.”

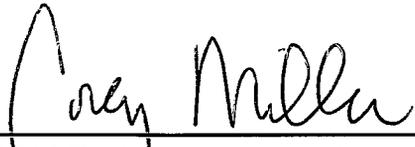
According to the project description, all of the project area has been impacted by items 1 - 5 in the above list; therefore, the project is exempt from further consultation with the KHC. One area has been submitted for review by the SHPO for the water storage tank location. This area should be constructed in accordance with the ATP proposal, in addition to comments and/or recommendations made by the KHC. This fulfills the responsibility to consult with the SHPO under the Section 106 review process. Neither agency recommended conducting archeological surveys/investigations or mitigation measures.

Environmental and Public Protection Cabinet (EPPC) (changed to the Environment and Energy Cabinet (EEC) in July 2008) Secretary order dated December 12, 2006, transferred authority for issuance of Clean Water Act (CWA) Section 401 Water Quality Certifications (WQC) associated with surface coal mine operations, to include any

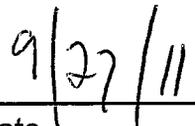
reclamation projects proposed by the DAML, to the Kentucky Department for Natural Resources (DNR) DNR. DNR assigned this responsibility to their Division of Mine Permits (DMP). The DMP further delegated this responsibility to DAML, with consultation as needed on a case by case basis. In addition, the DAML Director in a meeting held in February 2010, offered and agreed to coordinate consultation with the U.S. Army Corps of Engineers (COE) concerning CWA 404 (CWA) permits, as DAML had been doing without an agreement in the past. OSM LFO accepted DAML's offer to conduct this consultation.

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

As a result, DAML applies each responsible agency's criteria by agreement or physically consults with the DMP and DOW concerning CWA 401 WQC and floodplain permits to "Construct Across or Along a Stream", and with the COE concerning CWA 404 permits. This review has been centralized with DAML's Design Branch, whose staff has previous experience in this area and with the Kentucky DOW. DAML determined from the written description that the project does not impact a stream or wetland that requires a 401 WQC, or a 404 CWA permit. This is based on the construction of the waterline crossing being done in the subsurface or by the boring method. It has also been determined that a DOW floodplain/stream construction permit is required for this project. DAML's ATP request letter and EA note that the engineers and/or contractors which is administering construction of this project, 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.



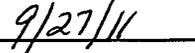
OSM Environmental Reviewer
AML Program Specialist



Date



Joseph L. Blackburn
Field Office Director



Date



Corey Miller <ctmsbc@gmail.com>

ATP Request Package for City of Jackson - Hwy 476 Tank & Pump Station WSP

Bill Overman <kyaml2008@gmail.com>

Thu, Sep 8, 2011 at 10:51 AM

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

Please see attached ATP request package for the City of Jackson-Hwy 476 Tank & Pump Station AML Water Supply Project (Breathitt County).

Respond accordingly.

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

Thanks,

Vanna
AML-Frankfort



City of Jackson-HWY 476 Tank & Pump - ATP Request 9.8.11.pdf

11104K



ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR NATURAL RESOURCES

Division of Abandoned Mine Lands

2521 Lawrenceburg Road
Frankfort, Kentucky 40601
www.ky.gov

Steven L. Beshear
Governor

Leonard K. Peters
Secretary

Carl E. Campbell
Commissioner

September 8, 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: City of Jackson – HWY 476 Tank & Pump Station AML Water Supply Project (Breathitt County)

Dear Mr. Blackburn:

We are requesting “Authorization to Proceed” with site-specific construction activities on the referenced project, as described in the enclosed package. Enclosed are a project description, location map, and problem area description (PAD) supplemental form, including a problem description and an engineer cost estimate, for the above-referenced project. The PAD for problem area # KY 4143 SGA has been prepared, entered into the e-AMLIS by the division, and is pending OSM approval. 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 and the eligibility determination will be made available to you upon request. Also, enclosed is an Environmental Assessment, with two agency consultation response documents and two DAML consultation documents attached. Although the majority of the proposed project is exempt under the Programmatic Agreement between KHC and AML, an archaeological survey was performed at the water tank location and was sent to KHC for their review. At this time, we have not received any comments from KHC concerning the archaeological survey; however, the OSA comments for the entire project area indicate no archaeological resources should be negatively impacted by this project. If AML receives any comments from KHC, those comments will be forwarded to OSM.

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

The species noted in the search are the:

KSNPC species found within 1 mile from the project sites:

- Evening Bat (*Nycticeius humeralis*)

USES listed species found within 10 miles from the project site:

- Indiana Bat (*Myotis sodalis*)

According to the memorandum by Keith B. Coleman, dated August 17, 2011, neither of these species should be negatively impacted by the proposed reclamation work. Although the entire state of Kentucky has been declared to be potential Indiana Bat habitat, and since the removal of trees over 5" DBH is not anticipated and no cave-like structures will be closed, no negative impacts should result upon the Indiana Bat, regardless of the timing of construction. Should it become necessary for the clearing of trees over 5" DBH, which also display characteristics such as shaggy, exfoliating bark, or crevices and hollowed-out cavities within their trunks and larger limbs, a habitat assessment or presence-absence survey may be required.

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

Overall, the project is a Priority 2. The project is estimated to cost \$250,000.00, exclusive of "in-house" personnel costs associated with project administration, design, support, surveying, and bid activities. Completion of the project will not require the acquisition of any land and will not significantly affect the potential recovery of residual coal reserves at the sites. The principal benefits to be derived from the successful completion of the project are the elimination of abandoned mine land problems as described in the attached project description.

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

Sincerely,



Steve Hohmann, Director
Division of Abandoned Mine Lands

SH:BO:RH:vr

Enclosures



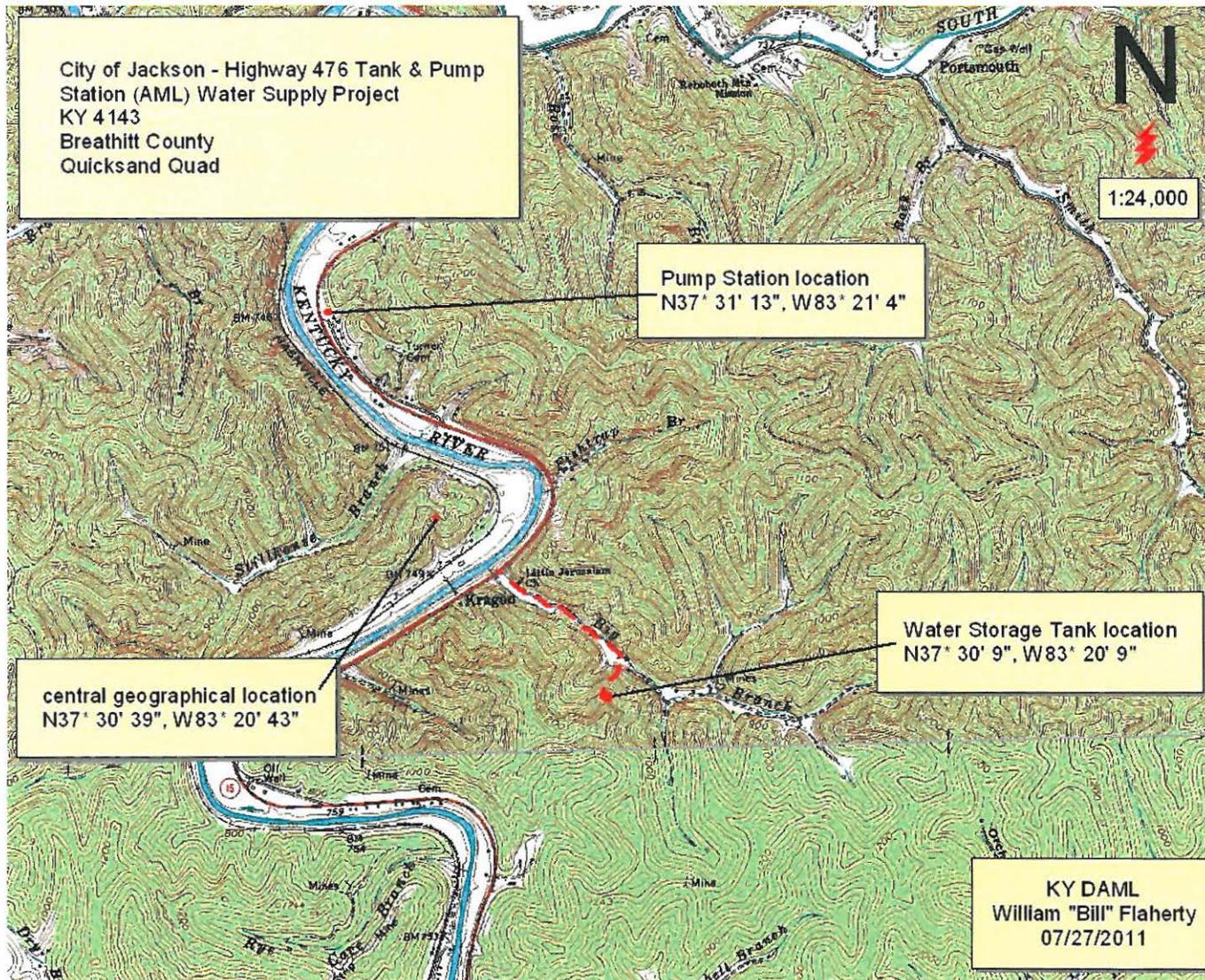
**City of Jackson – HWY 476 Tank & Pump Station
(AML) Water Supply Project
Breathitt County, Kentucky**

Project Description

The proposed project (approximately 11.00 acres total) consists of funding the construction costs for the proposed City of Jackson Tank & Pump Station (T&PS). The project is centrally located on the Quicksand Quadrangle at Latitude 37° 30' 39" and Longitude 83° 20' 43" (see the attached map). This T&PS will provide a much needed water supply to the Highway 476 AML Waterline Extension Project located near the community of Hardshell, on Troublesome Creek in rural Breathitt County, Kentucky. The tank and pump will also provide the water pressure required (30 PSI) to support a waterline previously constructed by the City of Jackson in order to serve the upmost reaches of the county currently underserved or with no service. The Highway 476 Project consisting of approximately 250 AML eligible customers are included in the following study areas; Riley Fork Road, Caney Creek, Right Fork Caney Creek, Nix Branch Road, Upper & Lower Beaver Dam Road, Fugates/Laurel Fork, Bethel Church Road, Buckhorn Creek Road including Laurel Fork, Lewis Fork, and Clemons Fork Road, up to the Robinson Fork Camp area at the Perry County line. The project will involve the construction of a booster pumping station located at Latitude 37° 31' 13" and Longitude 83° 21' 04" and a water storage tank located at Latitude 37° 30' 09" and Longitude 83° 20' 09". Only one creek crossing is proposed along Big Branch, and the waterlines will be installed in previously disturbed ditches and shoulders of public road right-of-ways or at cleared private roads, and in mowed residential yards.

Construction disturbances will be kept to a minimum and will be revegetated as soon as practical. Silt-check fencing and prompt establishment of vegetation within all disturbed areas will provide sediment control. Hay bale silt checks will provide additional sediment control throughout the life of the project. All disturbed areas will be revegetated by the recommended rate indicated in the Division of Abandoned Mine Lands Technical Specifications for revegetation. Current plans state that no trees greater than 5" in diameter shall be disturbed at this site. Access to the tank and pump station sites is pre-existing. This Division will not fund this project until all required permits and authorizations are issued.

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.



City of Jackson – HWY 476 Tank & Pump Station AML Waterline Supply Project Breathitt County

Environmental Assessment

A. Description of the Proposed Action:

The Kentucky Division of Abandoned Mine Lands (AML) proposes to fund a portion of the construction for the City of Jackson Tank & Pump Station (T&PS). The project is centrally located on the Quicksand Quadrangle at Latitude 37° 30' 39" and Longitude 83° 20' 43". This T&PS will provide a much needed water supply for the Highway 476 AML Water Supply Project located near the community of Hardshell, on Troublesome Creek in rural Breathitt County, Kentucky. The Highway 476 Project, consisting of approximately 250 AML eligible customers, includes the following study areas; Riley Fork Road, Caney Creek, Right Fork Caney Creek, Nix Branch Road, Upper & Lower Beaver Dam Road, Fugates/Laurel Fork, Bethel Church Road, Buckhorn Creek Road including Laurel Fork, Lewis Fork, and Clemons Fork Road, up to the Robinson Fork Camp area at the Perry County line. The project will involve the construction of a booster pumping station located at Latitude 37° 31' 13" and Longitude 83° 21' 04" and a water storage tank located at Latitude 37° 30' 09" and Longitude 83° 20' 09". The federal Office of Surface Mining (OSM) has requested that all water supply project proposals include an environmental assessment.

B. Need for the Proposed Action:

The approved Highway 476 AML Water Supply Project was proposed to provide water to residents where poor quality well water threatened the health of anyone who drank it. The waterline extension is currently not providing sufficient quantity or pressure to the local customers that have been found to be eligible for AML assistance. This proposed project will correct these problems. The problems proposed to be mitigated by this project are rated as Priority 2. The problems are further described in the priority documentation form for national AML inventory problem area KY 4143-SGA.

C. Alternatives Considered:

1. Construct a water pumping station and water storage tank in order to adequately provide safe drinking water to residences and businesses that have had groundwater wells contaminated or destroyed by previous mining.
2. Take no action, allowing the human health hazards to continue.

C.1. Preferred Alternative:

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

The project consists of providing funding for the construction of a water pumping station and water storage tank in order to adequately supply water for the Highway 476 AML Water Supply Project, which is estimated to serve approximately 250 AML eligible customers. Pipes to connect the pump station and storage tank to the existing waterline will be installed in previously disturbed ditches and shoulders of public road rights-of-way. No forested areas will have to be cleared in any of the project areas.

C.2. No Action:

Should the Commonwealth take no action, the residents included in the Highway 476 AML Water Supply Project will continue to have an inadequate supply of safe water, which may cause people to continue to use well water contaminated by pre-law mining, which could cause health problems.

D. Affected Environment:

D.1. General Setting:

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

D.2. Affected Resources:

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 Mine Permits (KDMP) floodplain database
- Kentucky Heritage Council (KHC)
- Kentucky Office of State Archaeology (OSA)
- Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database

Replies from these agencies and a memo addressing the KSNPC database search are attached.

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. Development of an area for residential and business uses usually increases after a public water supply is available, especially for locations with existing poor quality and quantity well water, which may result in more jobs available. Due to the proposed disturbances to install water lines along roads and the need for a floodplain permit, hydrology will be discussed. Due to the possible occurrence of two species monitored by the Kentucky State Nature Preserves Commission (KSNPC), fish and wildlife/plants will be discussed. Due to an archaeological survey being performed at the water tank location, archaeology will be discussed.

E.1.a. Hydrology:

A formulated erosion, sediment, and drainage control plan will be implemented during construction, to minimize sedimentation of receiving streams. This plan includes hay-bale silt checks and silt fences maintained throughout the life of the project, and prompt vegetation of disturbed areas. The completed project will provide non-eroding drainage controls and a vigorous, complete cover of

perennial vegetation, which will result in the same or less stream sedimentation after project construction. The disturbance of sediments and resulting turbidity in streams will be limited to those found during heavy storm events. Therefore, the hydrology of the project areas and downstream areas should not suffer long-term negative impacts due to construction of this project.

As indicated in the attached email dated August 17, 2011, a floodplain permit will be required. Because the waterlines will be installed subsurface using directional boring for any stream crossing, no WQC or COE permits will be required. The engineers and/or contractors retained for this project are required to obtain all necessary permits. This Division will not fund this project until all required permits and authorizations are received.

E.1.b. Fish and Wildlife/Plants:

AML personnel searched the KSNPC BIOTICS database in order to determine if any species that are monitored by the KSNPC are known to occur within the near vicinity (a 1-mile radius) of the project site, and if any federally-listed threatened and endangered species are known to occur within the general area (a 10-mile radius) of the project site. This search revealed one species of state concern monitored by the KSNPC is known to occur within one mile of the project site and one species listed as Threatened and Endangered under the United States Endangered Species Act (USESA) is known to exist within ten miles of the project site. The species noted in the search are:

KSNPC species found within 1 mile from the project sites:

- Evening Bat (*Nycticeius humeralis*)

USESA listed species found within 10 miles from the project site:

- Indiana Bat (*Myotis sodalis*)

The attached memorandum by Keith B. Coleman, dated August 17, 2011, indicates that none of these species should be negatively impacted. Since tree clearing is not anticipated within the water supply project area and no cave-like structures area proposed to be closed, the Indiana Bat should not be negatively impacted regardless of the timing of the construction.

E.1.c. Archaeology:

The response from OSA indicated that no archaeological resources should be negatively impacted for any portion of this project. Although the pump station and the placement of the waterlines within road-side ditches are areas that have been previously disturbed by road construction, mining activity and/or houseseat development, and are considered exempt under the Programmatic Agreement

between KHC and AML, an archaeological survey was performed at the water tank location. Copies of the survey were sent to KHC for their review.

E.1.d. Cumulative Environmental Impact:

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

E.2. No Action Option:

E.2.a. Hydrology:

If the Commonwealth takes no action, the residents being served by the Highway 476 AML Water Supply Project will continue to have an inadequate amount of safe water.

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

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

E.2.c. Archaeology:

If the Commonwealth takes no action, any archaeological resources would remain undisturbed.

F. Summary:

The Commonwealth considered two options:

1. Construct a water pumping station and water storage tank in order to adequately provide safe drinking water to residences and businesses that have had groundwater wells contaminated or destroyed by previous 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 Mine Permits (KDMP) floodplain database
- Kentucky Heritage Council (KHC)
- Kentucky Office of State Archaeology (OSA)
- Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database

H. Preparers/Reviewers:

Kentucky Division of Abandoned Mine Lands Personnel:

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

 9/8/11
• Steve Hohmann, Director Date

Howell, Ryan (EEC)

From: Hall, Samantha (EEC)
Sent: Friday, August 05, 2011 9:10 AM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Flaherty, William (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain & WQC review of City of Jackson - HWY 476 Tank & Pump Station AML WSP

I should add that no ACOE or WQC is required as long as the water crossing is subsurface.

From: Hall, Samantha (EEC)
Sent: Friday, August 05, 2011 9:04 AM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Flaherty, William (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain & WQC review of City of Jackson - HWY 476 Tank & Pump Station AML WSP

Floodplain/Stream Construction Permit

A floodplain permit will be required.

US Army Corps of Engineers Permit (ACOE)

No permit is necessary.

Water Quality Certification

No permit is necessary.

From: Rickwa, Vanna (EEC)
Sent: Thursday, August 04, 2011 2:04 PM
To: Hall, Samantha (EEC)
Cc: Howell, Ryan (EEC); Flaherty, William (EEC)
Subject: Request for floodplain & WQC review of City of Jackson - HWY 476 Tank & Pump Station AML WSP

Attached please find the project description and map for City of Jackson-HWY 476 Tank & Pump Station AML WSP.

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

Please notify Bill Overman, Ryan Howell, William Flaherty, and myself of your response.

Thanks,

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



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

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

12 August 2011

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

RE: City of Jackson-Hwy 476 Tank & Pump Station AML Water Supply Project (Breathitt 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 close proximity to 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. The KDFWR recommends construction of the creek crossing only during low flow periods to reduce the potential for runoff and erosion. 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: City of Jackson HWY 476 T&P
AML Water Supply 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 17, 2011, I conducted a search of the KSNPC database in order to determine if any species of state concern (monitored by KSNPC) are known to occur within the near vicinity (1 mile radius) of the sites to be disturbed by this project, and if any federally listed "threatened or endangered" species are known to occur within the general vicinity (10 mile radius) of the project sites. 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 sites.

The project (11 acres total) consists of the installation of a booster pump and storage tank as well as approximately 0.5 miles of lines which will tie the storage tank to an existing supply line. All access routes are previously-existing; however, 1 creek crossing will be required for line installation. The project areas consist of roadside right-of-ways, residential yards, and other previously-disturbed areas. No mine portals will be disturbed and no trees over 5" DBH will need to be cleared from project areas. 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

Evening Bat

(*Nycticeius humeralis*, KSNPC Special Concern, pre-1930 record, county-wide buffer)

USESA Listed Species

Indiana Bat

(*Myotis sodalis*, 2 “undetermined” records, 6.0 mi. E & 8.0 mi. SE)

The **Evening Bat** is a colonial species which roosts in trees and houses. No disturbances to trees are anticipated by this project; therefore it is highly unlikely that project related construction will negatively impact this species.

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 cavities.

The search of the KSNPC BIOTICS database two “undetermined” records, one 6.0 miles east and one 8.0 miles southeast from the nearest project site. Two additional records document the Indiana Bat within 10-20 miles from the project site. Both of those records are of “summer mist-net” captures.

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



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: City of Jackson – HWY 476 Tank & Pump Station AML Water Supply Project (Breathitt County)

Dear Mr. Hohmann:

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

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

Sincerely,

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



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 6, 2011

Mr. Lindy Casebier
Acting Director / State Historic Preservation Officer and Deputy Secretary
Kentucky Heritage Council
300 Washington Street
Frankfort, KY 40601

RE: City of Jackson – HWY 476 Tank & Pump Station AML Water Supply Project (Breathitt County)

Dear Mr. Casebier:

The Division of Abandoned Mine Lands is currently preparing for the U. S. Office of Surface Mining (OSM) environmental information relating to the project listed above. We are soliciting environmental information at this time because the project will be submitted in the near future for reclamation funding under one of the Commonwealth's annual grants. (See the attachments for project location map and project description.)

The purpose of this letter is to request a review by your agency of the enclosed archaeological survey. Your reply will be fully considered by our staff and addressed in an Environmental Assessment (EA) or a Categorical Exclusion Determination to be completed for the project. The environmental document will be submitted to OSM as part of the application process.

Completed reclamation of the project should not result in any long-term negative impacts to adjacent lands. Mitigative measures planned for the project include silt control and prompt seeding of work areas to ensure minimal offsite impacts.

Kentucky Heritage Council
September 6, 2011
Page Two

In your response, please refer to the project name as listed in the letter or e-mail if you prefer. If you have any questions regarding this request, please contact Bill Overman or Ryan Howell of our Program Development Branch at (502) 564-2141.

Sincerely,



Steve Hohmann
Director

SH:BO:RH:vr

Attachments

Miller, Corey T.

Subject: FW: KY 4143 City of Jackson pump station & tank

From: Harlow, Brenda (EEC) [<mailto:brenda.harlow@ky.gov>]
Sent: Monday, September 26, 2011 11:16 AM
To: Miller, Corey T.
Cc: Howell, Ryan (EEC); Overman, Bill (EEC)
Subject: KY 4143 City of Jackson pump station & tank

Corey,

According to Mark Meade, we are still waiting for a response from Heritage. I cannot put that pad in until we get all letters back and Heritage is the only one that is "pending".

Let me know if you need anything else!

Brenda L Harlow

*Energy and Environment Cabinet
Division of Abandoned Mine Lands
2521 Lawrenceburg Road
Frankfort, KY 40601*

(502) 564-2141

Miller, Corey T.

Subject: FW:

From: Meade, Mark (EEC) [<mailto:Mark.Meade@ky.gov>]
Sent: Monday, September 26, 2011 11:33 AM
To: Miller, Corey T.
Cc: Harlow, Brenda (EEC)
Subject: RE:

Looks like it will have to wait until tomorrow. I have appealed to KHC for a response and the fellow that has the study is out today but will be in tomorrow.

If I don't get a response I'll have her put it in AMLIS no later than Wednesday.

From: Miller, Corey T. [<mailto:ctmiller@osmre.gov>]
Sent: Monday, September 26, 2011 11:09 AM
To: Meade, Mark (EEC)
Subject: RE:

Sorry, I will await the response. I thought this was the actual response letter. Thanks though.

[Corey Miller](#)
Program Specialist
Office of Surface Mining-LFO
2675 Regency Road
Lexington, Kentucky 40503

(Phone) 859-260-3916
(Fax) 859-260-8410

From: Meade, Mark (EEC) [<mailto:Mark.Meade@ky.gov>]
Sent: Monday, September 26, 2011 11:01 AM
To: Miller, Corey T.
Subject:

FYI

Mark A. Meade

Assistant Director

KY AML

2521 Lawrenceburg Road

Frankfort KY 40601

502-564-2141