

Authorization to Proceed (ATP)

Jerry and Shelia Little
Abandoned Mine Land (AML) Reclamation Project
based on Environmental Assessment (EA)
Pike County, Kentucky

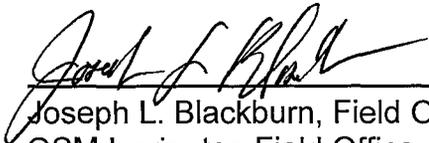
The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the August 23, 2011, request for ATP with construction activity on the Jerry & Shelia Little AMLRP prepared by the Kentucky Department for Natural Resources (DNR), Division of Abandoned Mine Lands (DAML).

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 electronic AML Inventory System (e-AMLIS) for Problem Areas (PA) #OSM has signed approval forms for the new PA #s KY-002141-SGA.

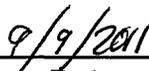
OSM reviewed the EA prepared by DAML documenting the National Environmental Policy Act (NEPA) environmental review of this project. OSM determined that the EA adequately discusses the environmental issues and impacts associated with the construction of the project. Based on the analysis in the EA, I 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 Jerry and Shelia Little AMLRP. Please give special attention to the following recommendation (s).

- With the exception of trees directly impacted by the AML problem, there is no purposeful removal of standing trees larger than 5 inches diameter at breast height or standing snags with loose bark that are 9 inch or greater diameter at breast height and at least 10 feet in height, during the period of April 1 to November 15, and the activity does not occur in "Known Indiana Bat Habitat".
- Due to the location of the project, along Allegheny Road, please use appropriate signs and cautions to reduce impacts to those traveling this road.
- This site does require a floodplain/Stream Construction permit. Please follow all requirements while conducting the construction activity. A request for all other appropriate permits was submitted and a DOW Water Quality Certification nor Corps of Engineers permits was deemed necessary for this project.

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



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



Date

Memorandum

Date: September 01, 2011

To: Jerry & Shelia Little Abandoned Mine Land (AML) Reclamation Project
File SubAccount# 99.130030000

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 Jerry & Shelia Little 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 project area may be centrally located on the Hellier, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 17' 16" North Latitude and 82° 28' 19" West Longitude near the community of Hellier, 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-002141-SGA. The project involves reclamation of AML conditions consisting of dangerous slide at one site. The Kentucky DAML ATP request dated August 23, 2011, was received at LFO attached to an email on August 23, 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 17 calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP was met.

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 # 99.130030000 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 September 15, 2011, Contract Award was entered as October 1, 2011, and Contract/Construction Completion was entered as October 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 response letters attached; and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms, with engineer cost estimates for PA# KY-002141-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 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 included in the Finding of No Significant Impact (FONSI) which is the NEPA document outlining the FOD's decision for this project.

The information to update PA # KY-002141-SGA was directly input into the e-AMLIS by the DAML on August 22, 2011. The PA was previously approved for other work in this Problem Area on September 7, 2001.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Jerry and Shelia Little
Abandoned Mine Lands (AML) Project
Pike 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 Hellier, Kentucky, U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 17' 16" North Latitude and 82° 28' 19" West Longitude near the community of Hellier, 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-002141-SGA. The project involves reclamation of AML conditions consisting of dangerous slide at one site.

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 three known federally threatened/endorsed 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. However, the KDFWR states that due to the nature of the project, KDFWR does not anticipate impacts to these species or their associated critical habitat. KDFWR recommends erosion control measures will need to be installed prior to construction and should be inspected and repaired regularly as needed.

The DAML staff biologist reviewed the Kentucky State Nature Preserves Commission's (KSNPC) BIOTICS database in lieu of further consultation. The findings are noted in the ATP request letter and an attached memorandum. DAML found that KSNPC data indicated one federally listed threatened or endangered species within a 10-mile radius and 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 other than that area impacted by the AML problem that is creating a threat to the public; and in the event that any trees that represent potential Indiana bat habitat need to be removed, removal will only occur between October 15 and March 31, to avoid potential impacts to the Indiana bat. However, since tree clearing is not anticipated within the project site, project related construction should not impact the species, regardless of the timing of the construction. The project also does not fall within "known habitat" of the Indiana bat, as presented in the map prepared by DAML.

In a meeting held in February 2010 between LFO, USFWS Kentucky Field Office (KFO) and DAML; Steve Hohmann, Director of DAML, offered to coordinate NEPA consultation with the KFO of the USFWS in Frankfort, Kentucky, utilizing the agreements in the September 18, 2009, Memorandum of Agreement (MOA) signed by the OSM, LFO and USFWS, KFO. This document outlined the acceptable conditions that the projects potential impacts can have where the KFO will not need to be further

consulted for comment. When the conditions within the agreement are present, processing of the ATP may proceed with the confidence that the biological environment is being protected. It was agreed to by all parties, acknowledging that LFO would retain the final review to determine if the NEPA documentation is complete.

After review of the ATP documents for this project, which included consultation with the KSNPC and the KDFWR, DAML determined that additional consultation with the USFWS is not required because the proposed project will not adversely affect a federally listed species (Federal Assistance Manual (FAM) Chapter 5-11-15, A. 3.)

The conditions in the MOA are met because:

- There will be no purposeful removal of standing trees larger than 5 inches diameter at breast height or standing snags with loose bark that are 9 inch or greater diameter at breast height and at least 10 feet in height, during the period of April 1 to October 14, and the proposed activity does not occur in "Known Indiana Bat Habitat".
- No caves or cliffines will be disturbed;
- The project proposes to reclaim no mine portals.
- No purposeful filling or crossing of streams using heavy equipment or the removal of riparian vegetation using heavy equipment within the Tradewater, lower Ohio, Upper Cumberland, Green, and Licking River basins.

In order to avoid/reduce indirect impacts, erosion and sediment control plans will be implemented and monitored until permanent vegetation has become established in the above listed watersheds and all other watersheds as may be appropriate.

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

The Office of State Archaeology found that their records did not indicate any known archaeological sites directly in the project area, no systematic archaeological survey has been conducted in the immediate project area, and past disturbance to the project area make it unlikely that archaeological sites will be preserved. The Kentucky Heritage Council/State Historic Preservation Officer (SHPO) was not contacted for this project, based upon the MOA signed on January 3, 2011. The Kentucky Heritage Council (KHC)/State Historic Preservation Officer (SHPO) and the DAML signed an agreement which identified the criteria to be used to determine which projects are exempt from review by the. The agreement defines exempt projects as:

“Routine and recurring projects whose impacts are foreseeable and cause little or no ground disturbance or that have a low probability of affecting known or unknown historic properties...”

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

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

According to the project description, all of the project area has been impacted by items 1 – 6 in the above list; therefore, the project is exempt from further consultation with the KHC. This fulfills the responsibility to consult with the SHPO under the Section 106 review process. Neither agency recommended conducting archeological surveys/investigations or mitigation measures.

Environmental and Public Protection Cabinet (EPPC) (changed to the Environment and Energy Cabinet (EEC) in July 2008) Secretary order dated December 12, 2006, transferred authority for issuance of Clean Water Act (CWA) Section 401 Water Quality Certifications (WQC) associated with surface coal mine operations, to include any reclamation projects proposed by the DAML, to the Kentucky Department for Natural Resources (DNR) DNR. DNR assigned this responsibility to their Division of Mine Permits (DMP). The DMP further delegated this responsibility to DAML, with consultation as needed on a case by case basis. In addition, the DAML Director in a meeting held in February 2010, offered and agreed to coordinate consultation with the U.S. Army Corps of Engineers (COE) concerning CWA 404 (CWA) permits, as DAML had been doing without an agreement in the past. OSM LFO accepted DAML’s offer to conduct this consultation.

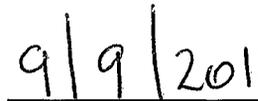
Under a 2005 agreement with the DOW Floodplain Management Section (FMS) of the Water Resources Branch, DOW authorized DAML to apply DOW floodplain standards in lieu of a DOW review. In this agreement, DAML will directly consult with DOW if it appears a permit may be required. DAML has acquired a set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

As a result, DAML applies each responsible agency's criteria by agreement or physically consults with the DMP and DOW concerning CWA 401 WQC and floodplain permits to "Construct Across or Along a Stream", and with the COE concerning CWA 404 permits. This review has been centralized with DAML's Design Branch, whose staff has previous experience in this area and with the Kentucky DOW. DAML determined from the written description that the project does not impact a stream or wetland that requires a 401 WQC or a 404 CWA permit. They did however, determine that the project may impact floodplains, and therefore a DOW Stream Construction permit is required. DAML further notes in their ATP letter and project description that the project will not be funded until all required permits and authorizations are issued.

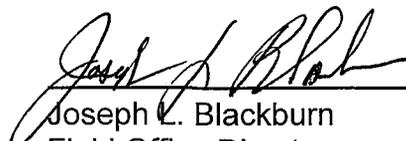
The comments from the Kentucky State Clearinghouse, Kentucky's "Single Point of Contact" (SPOC) pertaining to AML Non-Water Supply projects included no comments that affect this proposal.



OSM Environmental Reviewer
AML Program Specialist



Date



Joseph L. Blackburn
Field Office Director



Date

Cassel, Steven R. "Steve"

From: Cassel, Steven R. "Steve"
Sent: Thursday, August 25, 2011 10:40 AM
To: Francis, Gary D.
Cc: Smith, Gail; Turner, Samuel R. "Sam"; Miller, Corey T.; Edwards, Chester L. "Chet"; Holliday, James "Jim"
Subject: Pre-Authorization Inspection Assignment – Jerry & Sheila Little ATP
Attachments: JERRY AND SHEILA LITTLE 99.130030000.pdf

On *August 23, 2011*, LFO received a request from Kentucky for authorization to proceed (ATP) with construction activity on the *Jerry & Sheila Little* Reclamation Project in *Pike* County with a construction budget of \$ *171,163*. Please conduct a pre-authorization inspection. Please take an adequate number of digital photos of the proposed project area to document the pre-construction conditions for current use and future comparison to the completed project. Please enter the inspection results into the LFO Project tracking database and file digital photos in the LFO Photo Archive so all the project data and photos are available to LFO by *September 9, 2011*.

A copy of the ATP package file is attached to this email. The file is in Adobe Acrobat “.pdf” file format. To open the file just double left click and it should open using the version of Adobe Acrobat you have preloaded on your computer. Call me if you have any trouble opening and printing the file.

If the designated AML Reclamation Specialist cannot complete the assignment please make arrangements for reassignment to another AML Reclamation Specialist or notify Sam Turner and me, Corey Miller, or Gail Smith so other arrangements can be made.

Your primary objective in the pre-authorization inspection and main reason for visiting the project site is to conduct a National Environmental Policy Act (NEPA) environmental evaluation. You must fully evaluate the project proposal's mitigation of comments from the governmental agencies routinely consulted and any others. Then you must make a recommendation on acceptance of the NEPA document.

Evaluate the State prepared NEPA document to ensure that it adequately considers all the environmental conditions at the site and addresses all the concerns/comments contained in the responses from the agencies consulted for their recommendations (consultation responses are attached to the NEPA document). Your report must include statements addressing the consulted agencies concerns and an opinion as to whether the FOD should accept the State prepared NEPA document as OSM's own environmental review of the site.

Your secondary objective in the pre-authorization inspection is to validate the information contained in the Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) prepared by the State. Evaluate the AMLIS PAD prepared by the State to ensure that it adequately describes the AML conditions at the site and complies with OSM AML Directive AML-1, such as eligibility, cost estimate, problem type, etc. In the ATP package you will find a standard AMLIS computer printout that is a summary of the first six pages of the full PAD report form. This printout also serves to document that the PAD information has been entered into the AMLIS by the State. Attached to the summary sheet are all the PAD priority documentation forms describing the AML problem to be reclaimed. Your report should note any major discrepancies identified. If you need a copy of the full PAD form please obtain it from your internet access to the AMLIS or please contact me and I will obtain a copy for you.

Your inspection should consider the eligibility, cost estimates, and priority of the site. However, keep in mind that the State has discretion in these areas. If you identify a concern in these areas that is simply a matter of opinion or choice, the State preference is to be accepted as long as it is a viable position. You are encouraged however, to document your opinion in the report to provide the State with additional views for their consideration. If a significant concern is identified in these areas, code a concern so LFO may consider it prior to approval of the ATP.

You are also encouraged to make any other comments concerning the project and current site conditions that will help LFO and/or the State improve the accomplishment of AML program goals on the project.

Thanks



Corey Miller <ctmsbc@gmail.com>

ATP Request Package for Jerry & Sheila Little AML Reclamation Project (Pike County)

Bill Overman <kyaml2008@gmail.com>

Tue, Aug 23, 2011 at 10:41 AM

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

Please see attached ATP request package for the Jerry & Sheila Little AML Reclamation Project.

Respond accordingly.

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

Thanks,

Vanna Rickwa
AML-Frankfort

 **Jerry & Sheila Little - ATP Request 8.23.11.pdf**
12610K



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

August 23, 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: Jerry & Sheila Little AML Reclamation Project (Pike County)

Dear Mr. Blackburn:

We are requesting "Authorization to Proceed" with site-specific construction activities on the referenced project, as described in the enclosed package. Enclosed are a project description, location maps, 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 2141 SGA has been prepared and entered into the e-AMLIS by the division. An eligibility determination that finds the proposed project eligible for AML funding has been reviewed and signed by the Office of Legal Services. Support documents for the PAD and the eligibility determination will be made available to you upon request. Also, enclosed is an Environmental Assessment, with two agency consultation response documents and two DAML consultation documents attached. The KHC was not contacted, as the project site is exempt under the Programmatic Agreement with KHC, due to the previous disturbances of the site by mining activity, houseseat construction, and previous AML reclamation construction.

AML Program Development staff conducted a search of the Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database. This search revealed that 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 Monitored Species

- Squarrose Goldenrod (*Solidago squarrosa*)

USESA Listed Species

- Indiana bat (*Myotis sodalis*)

According to the memo by Keith Coleman, dated August 1, 2011, these species should not be negatively impacted by the proposed reclamation work. Although the entirety of the Commonwealth of Kentucky has been determined, by the United States Fish and Wildlife Service (USFWS), to be the potential habitat of the Indiana bat, tree clearing is not anticipated within the project sites and no cave-like structures are proposed to be closed, so project-related construction should not impact this species, regardless of the timing of the construction.

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 DOW Stream Construction permit would be required, but no WQC or COE permits will be required. This division is applying for all necessary permits, and construction will not start until they have been 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 \$171,163.00, 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 site. 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

Jerry & Sheila Little (AML) Reclamation Project Pike County

Project Description

The proposed project of approximately 2.25 acre involves removing a gabion basket wall, installed during the previous 4AG Hellier Refuse AML Reclamation Project, that has recently failed, and replacing it with a 225' concrete gravity wall. This site is located at approximately Latitude 37° 17' 16.00" N and Longitude 82° 28' 19.00" W in the Hellier 7.5' United States Geological Survey (USGS) quadrangle (see attached map). The back yards of two residences; Jerry and Sheila Little and Amber Little, have been directly affected by the failure of the gabion baskets. The edge of the break is next to a guy wire anchor that stabilizes a large utility pole and within a couple feet of the Amber Little septic tank and leach field. Further erosion could also potentially affect several homes.

Once the wall is constructed, most of the rock from the original baskets will be used as backfill. Any material removed during the construction of the wall will be placed in a waste area across the roadway on the property of Jerry and Sheila Little. Site preparation will include the removal of any vegetation, drainpipes, gabion baskets, and disposal of domestic trash within the project limits.

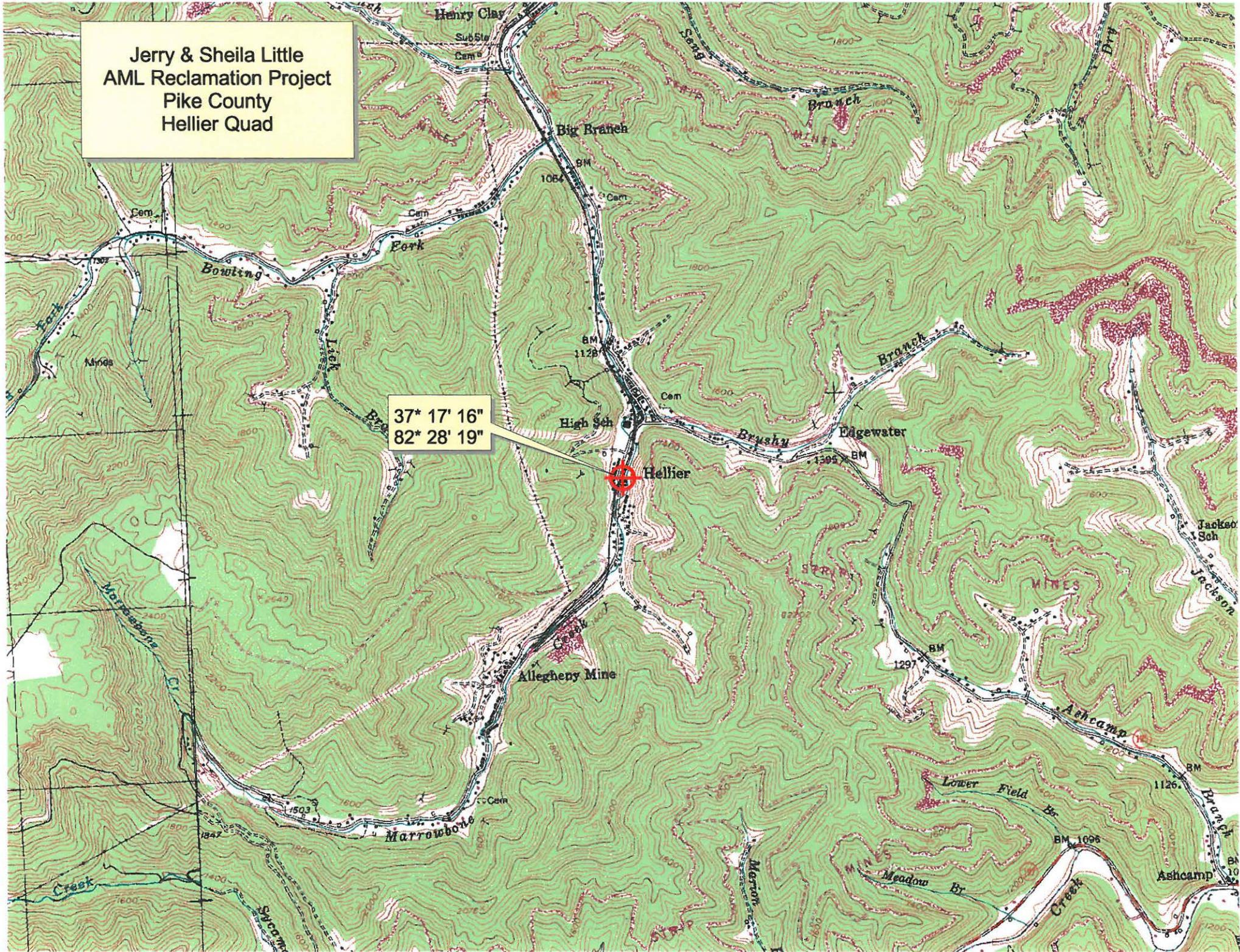
Straw bales, silt fencing and rock checks will be utilized and prompt establishment of vegetation within all disturbed areas will provide sediment control. There are no trees growing along this portion of Marrowbone Creek due in part to residential lawn maintenance, therefore no trees greater than 5" in diameter shall be disturbed at this site. All disturbed areas will be revegetated by the recommended rate indicated in the Division of Abandoned Mine Lands Technical Specifications for revegetation.

Access will be via Allegheny Road and the driveways of the two residences. There are no anticipated utility moves for this project. 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.

Jerry & Sheila Little
AML Reclamation Project
Pike County
Hellier Quad

37° 17' 16"
82° 28' 19"



Jerry & Sheila Little AML Reclamation Project

ENVIRONMENTAL ASSESSMENT

A. Description of the Proposed Action:

The Kentucky Division of Abandoned Mine Lands (AML) proposed project (approximately 2.25 acres total) involves removing a gabion wall, installed during the previous 4AG Hellier Refuse AML Reclamation Project, that has recently failed, and replacing it with a 225' concrete gravity wall. The project site is located at approximately Latitude 37° 17' 16.00" N and Longitude 82° 28' 19.00" W in the Hellier 7.5' United States Geological Survey (USGS) quadrangle, in Pike County. This Environmental Assessment is required because a DOW Stream Construction permit will be required.

B. Need for the Proposed Action:

The project as described in the project description is needed to repair failed gabion walls in the stream channel that have clogged the stream and increased the potential for flooding in the area. The proposed project will mitigate problems rated as Priority 2. The problems are further described in the description for national AML inventory problem area # KY 2141 SGA.

C. Alternatives Considered:

- Reclaim the failed gabion walls to decrease the potential for hazards to human safety and property caused by pre-law mining features.
- Take no action, allowing the human health and property hazards to continue.

C.1. Preferred Alternative:

The proposed project (2.25 acres total) involves removing a gabion basket wall, installed during the previous 4AG Hellier Refuse AML Reclamation Project, that has recently failed, and replacing it with a 225' concrete gravity wall. Once the wall is constructed, most of the rock from the original baskets will be used as backfill. Any material removed during the construction of the wall will be placed in a waste area across the roadway on the property of Jerry and Sheila Little. Site preparation will include the removal of any vegetation, drainpipes, gabion baskets, and disposal of domestic trash within the project limits. Straw bales, silt fencing and rock checks will be utilized and prompt establishment of vegetation within all disturbed areas will provide sediment control. Access will be via Allegheny Road and the driveways of the two residences.

C.2. No Action:

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

D. Affected Environment:

D.1. General Setting:

The predominant land uses in the vicinity are residential, commercial (small businesses), agricultural, and forestland. Second growth, unmanaged upland hardwood forest, coal mines and natural gas wells 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 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 disturbance by AML Reclamation construction.

E. Environmental Impacts of the Proposed Alternative:

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

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

The proposed project will not adversely impact low income or minority persons. Due to the need for 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:

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

The database for water quality certification (WQC) and floodplain review researched by AML staff revealed that a DOW Stream Construction permit will be required. This division is applying for all necessary permits and construction will not start until they have been received.

E.1.b. Fish and Wildlife/Plants

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

KSNPC Monitored Species

- Squarrose Goldenrod – (*Solidago squarrosa*)

USESAs Listed Species

- Indiana Bat – (*Myotis sodalists*)

According to the memo by Keith Coleman, dated August 1, 2011, neither of these species should be negatively impacted by the proposed reclamation work. Although the entirety of the Commonwealth of Kentucky has been determined, by the United States Fish and Wildlife Service (USFWS), to be the potential habitat of the Indiana bat, tree clearing is not anticipated within the project site and no cave-like structures are proposed to be closed, so project-related construction should not impact this species, 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 by the 4 AG Hellier Refuse AML Reclamation Project, mining activity, road construction, and/or houseseat construction.

E.1.d. Cumulative Environmental Impact:

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

E.2. No Action Alternative:

E.2.a. Hydrology:

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

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

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

E.2.c. Archaeology:

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

F. Summary:

The Commonwealth considered two reclamation options:

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

The first option was selected due to its overall advantages.

G. Consultations:

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

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

H. Preparers/Reviewers:

Kentucky Division of Abandoned Mine Lands Personnel:

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



Steve Hohmann, Director 8/23/11
Date

Howell, Ryan (EEC)

From: Hall, Samantha (EEC)
Sent: Monday, August 01, 2011 10:22 AM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Flaherty, William (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain and WQC review for Jerry & Sheila Little AML Reclamation Project

Floodplain/Stream Construction Permit

A DOW Stream Construction 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: Friday, July 29, 2011 11:38 AM
To: Hall, Samantha (EEC)
Cc: Howell, Ryan (EEC); Flaherty, William (EEC)
Subject: Request for floodplain and WQC review for Jerry & Sheila Little AML Reclamation Project

Attached please find the project description, map, and photo for the Jerry & Sheila Little 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, 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*



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August 4, 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: Jerry & Sheila Little AML Reclamation Project (Pike County)

Dear Mr. Hohmann:

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

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

Sincerely,

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



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

Steven L. Beshear
Governor

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Marcheta Sparrow
Secretary

Dr. Jonathan W. Gasset
Commissioner

1 August 2011

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

RE: Jerry & Sheila Little AML Reclamation Project (Pike County)

Dear Mr. Hohmann:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) has received your request for information pertaining to the subject project. The Kentucky Fish and Wildlife Information System indicates that the federally-listed Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and Blackside Dace (*Chrosomus cumberlandensis*) are known to occur within 10 miles of the proposed project. Due to the nature of this project, the KDFWR does not anticipate impacts to these listed species or their associated critical habitat. No state-threatened/endangered species are known to occur within one mile 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: Jerry & Sheila Little
AML Reclamation Project

From: Keith B. Coleman
Environmental Technician, AML Program Development Branch
Keith B. Coleman 8/01/11

Through: Bill Overman
Manager, AML Program Development Branch
Bill Overman 8/1/11

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

Date: August 1, 2011

On August 1, 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 (USESA) is known to occur within ten miles of the project site.

This project (2.25 acres total) consists of the removal of a failing gabion-basket retaining wall which is located behind the Jerry and Sheila Little residence, and the Amber Little residence. A new concrete pile and lagging wall will be constructed. Rock removed from the current wall will be used as backfill. Some waste materials will be placed on-site.

The entire project area has been previously disturbed by any or all of the following: coal mining operations, (including mine drainage areas), previous AML projects, timber operations, gas/oil well development, residential development, road construction, and/or high velocity water flows associated with heavy rain events and flooding. No mine portals will be disturbed. No trees over 5" DBH will need to be cleared from project areas, including the on-site waste area. 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

Squarrose Goldenrod (*Solidago squarrosa*, pre-1941 Historical, county-wide record)

USESA Listed Species

Indiana Bat (*Myotis sodalis*, 1995 “Summer mist-net” record, 8.1 miles E-SE)

The **Squarrose Goldenrod** inhabits rich, dry or rocky open woods, thickets and clearings. The species has not been observed since prior to 1941, and although it is not considered extinct or extirpated within Kentucky, its presence is highly unlikely. The KSNPC rare plants database does not include this species. The project area is not likely habitat, as all portions of land within the project boundary are maintained, residential areas; therefore, AML project-related construction should not 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 in their trunks and larger limbs, and hibernates in caves and other similar underground cavities.

The search of the KSNPC BIOTICS database revealed one “summer mist-net” record of this species within 10 miles of the project site (8.1 miles E-SE from the project site, in Virginia). No other records were found within 20 miles of the project site.

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 within the project site or the associated on-site waste area, and since no portals are associated with this project, project-related construction should not 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.