

Authorization to Proceed (ATP)
Linda Bailey Abandoned Mine Land (AML) Reclamation Project
based on Categorical Exclusion (CX)
Letcher County, Kentucky

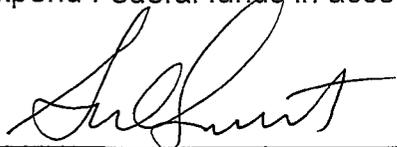
The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the October 20, 2011, request for ATP with construction activity on the Linda Bailey AML Reclamation project, prepared by the Division of Abandoned Mine Lands (DAML) of the Kentucky Department for Natural Resources. OSM found that the appropriate request documents were submitted and appear to support the need for the proposed construction activity. OSM confirmed that the required information for this project has been included in the AML Inventory System as PA # KY-004171-SGA.

OSM reviewed the categorical exclusion (CX) certification prepared by DAML for this project. OSM determined that the construction activity requested under this project conforms to the exclusion criteria in 516 DM 2 and 13, does not involve any of the general exceptions in 516 DM 13.5(A)(33) or extraordinary circumstances listed in 516 DM 2, Appendix 2, and is excluded from further NEPA environmental review. As a result, I have signed the Categorical Exclusion Determination (CX) Finding of No Significant Impact (FONSI) for this project.

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

- The DAML project request notes that no 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 is proposed/anticipated at this time outside the AML problem areas, but that if tree removal is needed in these areas it will only take place after a habitat assessment or a presence/absence survey will be required.
- No cave or cliffline disturbance or mine portal/shaft closures are proposed or authorized under this project.

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

 Acting For

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

10-25-11

Date

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

State: Kentucky PA: KY 4171 SGA
Project Name: Linda Bailey AML Reclamation Project
Project Description: Installation of soil nails to stabilize a slope

I. GENERAL EXCEPTIONS

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

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

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

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

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

Highly controversial environmental effects? No Yes

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

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

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

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

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

Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Wetlands Protection) or The Fish and Wildlife Coordination Act?	No [x]	Yes []
Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment?	No [x]	Yes []

III. RESOURCE IMPACT EXCEPTIONS

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

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

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: Steve Hohmann Date: 10/20/11

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

VI. OSM DETERMINATION

10-25-11

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

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

Signature: Joseph L. Blackburn Acting For Date: 10-25-11

Name and Title: JOSEPH L. BLACKBURN, FIELD OFFICE DIRECTOR

Memorandum

Date: October 25, 2011

To: Linda Bailey Abandoned Mine Land (AML) Reclamation Project File ID# 99.144030000

From: Steve Cassel, Sr., AML Program Specialist *SC 10-25-11*
Lexington Field Office (LFO), Program Support Branch (PSB)

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

The Branch recommends that the Field Office Director (FOD) authorize the State of Kentucky to proceed with the construction activity proposed on the Linda Bailey AML Reclamation Project with a construction budget of \$40,352.00. The Branch prepared an ATP notice for the FOD review. The Branch recommends that the FOD sign the Categorical Exclusion Determination (CX) and ATP notice in the space provided on each document. The original signed ATP notice will be filed in the LFO AML project construction files and a copy will be sent to the Division of Abandoned Mine Lands (DAML) Director attached to a transmittal email, with an attachment of associated approval documents, consisting of a copy of the LFO review memorandum and CX. Additionally, the transmittal email will be copied to the Department for Natural Resources (DNR) Commissioner.

The Kentucky DAML ATP request dated October 20, 2011, was received at LFO on October 20, 2011. The ATP was processed within 3 working days; therefore, the customer service target of 14 working days to process an ATP has been met. The ATP was processed in 5 calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP has been met.

The project area may be centrally located on the Jenkins West, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map at 37° 11' 02" North Latitude and 82° 38' 40" West Longitude near the community of Dunham, 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-004171-SGA. The project involves reclamation of AML conditions consisting of stabilizing an unstable slope behind the Linda Bailey residence by installing soil nails and mesh.

DAML did not designate a funding source for the construction work under the budget category entitled Project Costs (Non-Water Supply) of any of Kentucky's AML Annual Construction Grants (AG). In previous discussions, DNR indicated they would assign projects to a grant before they go to construction. The LFO Project/Site ID # 99.144030000 was assigned to the project file for LFO tracking purposes until actual AG and Location Code numbers are assigned by DAML and can be inserted in the appropriate positions at the beginning and end of the LFO Project #. No specific proposed bid advertisement, bid opening, or construction completion dates were Linda

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 December 1, 2011, Contract Award was entered as January 1, 2012, and Contract/Construction Completion was entered as January 1, 2013.

An office review of the request documents was conducted. The documents consisted of; a project description, location maps, a National Environmental Policy Act (NEPA) review documented in a CX with agency consultation documentation; and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms, with engineer cost estimates for PA#s KY-004171-SGA. A pre-approval field inspection of the proposed project was deemed unnecessary, since no unique characteristics warranting special field verification were noted and it wasn't selected for field verification under the EY 2012 Oversight Agreement.

The CX submitted for the construction activity at the site was reviewed and found to adequately document the environmental review of the construction activity within the current NEPA review guidance. The use of a CX is acceptable for the construction activity proposed in this project because all items on the CX have a response of "No." The project type does not meet any of the ten general exceptions, in 516 DM 13.5(B)(33), that would require preparation of an Environmental Assessment.

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

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

No significant impacts have been reported to this office or identified by the Branch. The Branch recommends that the Office of Surface Mining Reclamation and Enforcement (OSM) accept the CX submitted by the Kentucky DAML. The State's ATP request correspondence and attachments discussed the responses from agencies consulted for the NEPA review and discussed appropriate resolution of all their concerns and

recommendations. The responses from agencies consulted for the NEPA review include the following comments and/or recommendations.

The Kentucky Department of Fish and Wildlife Resources (KDFWR) identified one known federally threatened/endangered fish and wildlife, the Blackside Dace, within a 10 mile radius of the project area. They also identified two records of state listed species of concern within 1 mile radius of the project area. KDFWR does not anticipate any significant impacts on wildlife due to the nature of the project.

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

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

After review of the ATP documents for this project, 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 project activities meet the following conditions noted in the MOA to ensure protection of federally listed species; specifically the Indiana bat, Gray bat, and freshwater fishes and mussels:

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

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

The Office of State Archaeology found that their records did not indicate any known archaeological sites directly in the project area, no systematic archaeological survey has been conducted in the immediate project area, and past disturbance to the project area make it unlikely that archaeological sites will be preserved. The Kentucky Heritage Council (KHC) and State Historic Preservation Officer (SHPO) were not consulted further for the current construction activity, since this project activity falls under the "exempt projects" provisions in the Programmatic Agreement that DAML signed on January 3, 2011, with the KHC. Exempt projects are "Routine and recurring projects whose impacts [under Section 106 of the Natural Historic Preservation Act] are "foreseeable and cause little or no ground disturbance or that have a low probability of

affecting known or unknown historic properties..." Under the agreement KHC requires no consultation beyond DAML's determination that the project is an exempt project.

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

Under a 2005 agreement with the Kentucky Division of Water (DOW) Floodplain Management Section (FMS) of the Water Resources Branch, DOW authorized DAML to apply DOW floodplain standards in lieu of a DOW review. In this agreement, DAML will directly consult with DOW if it appears a permit may be required. DAML has acquired a set of Federal Emergency Management Agency (FEMA) floodplain maps that include the project area. DAML's Design Branch personnel researched these maps and have determined that the project is not within the base floodplain and no floodplain permits are required. This statement is contained in the ATP request letter and the project description.

The comments from the Kentucky State Clearinghouse, Kentucky's "Single Point of Contact" (SPOC) pertaining to AML Non-Water Supply projects included no comments that affect this proposal. The information to update PA # KY-004171-SGA was directly input into the AMLIS by the DAML initially on (date). This information reflects the changes in units and costs based upon the design and classification of the unfunded category. I confirmed this by LFO review of the AMLIS data and a PAD summary website screen printout from the OSM HDQ AMLIS database. KY-004171-SGA represents a "new Problem Area" requiring FOD approval under OSM Directive AML-1-2 (signed June 22, 2007). A FOD approval form was not prepared for the PA, since the new e-AMLIS is operational, with electronic OSM FOD approval, which eliminated the need for the FOD approval form. Under the authority of the Lexington Field Office Director, I approved the PA on October 25, 2011.

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



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

October 20, 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: Linda Bailey AML Reclamation Project (Letcher 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. A project description, location maps, and eligibility information for the above-referenced project are included. The PAD for problem area # KY 4171 SGA has been prepared and entered into the e-AMLIS by the division. The PAD information has not been included in this ATP package; however, all necessary information (the problem area description (PAD), supplemental forms, and an engineer cost estimate) can be found online in e-AMLIS for your review. Enclosed is a copy of the eligibility determination that was sent to the Office of Legal Services that finds the proposed project eligible for AML funding. Also, enclosed is a Categorical Exclusion with two agency consultation response documents and two DAML consultation documents attached. The Kentucky Heritage Council was not contacted, as the project site has been previously disturbed and falls under the exemption agreement between AML and KHC.

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

KSNPC Species of Concern

- Curtis' goldenrod (*Solidago curtisii*)
- Elusive Clubtail (*Stylurus notatus*)

USESAs Listed Species

- Blackside Dace (*Chrosomus cumberlandensis*)

Additionally, the entirety of the Commonwealth of Kentucky has been determined, by the United States Fish and Wildlife Service, to be the potential habitat of the Indiana bat (*Myotis sodalis* – USESA Listed Endangered).

As described in the attached memo by Keith Coleman, dated October 14, 2011, these species should not be negatively impacted. The area to be impacted by this project is not within any area held to be the “Known Habitat” of the Indiana bat by the United States Fish and Wildlife Service. No trees are to be disturbed by project-related activities; and no portals or cave-like structures are proposed for closure, so construction should not cause any negative impacts to the Indiana bat, regardless of timing.

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 no WQC, COE, or floodplain permits will be required at any of the sites. The other consulted agencies had no objections or concerns regarding this project.

Overall, the project is a Priority 1. The project is estimated to cost \$40,352.00, 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

**Linda Bailey
AML Reclamation Project
Letcher County**

Project Description

The proposed project (1 acre total) consists of installing soil nails and mesh to address an unstable slope behind the Linda Bailey residence in Letcher County. The project area is centrally located in the Jenkins West Quadrangle at 37° 11' 2.29" latitude and 82° 38' 40.19" longitude. (see the attached map).

An unstable area located behind the Bailey home will be stabilized by installing soil nails and mesh into the slope. The use of fill material or a waste area will not be needed during the reclamation process. Access to the site will be through the existing county roadway (Premier Subdivision) that runs behind the Bailey residence.

Construction disturbances will be kept to a minimum through the use of a stringently formulated sediment and erosion control program, consisting of silt fencing maintained throughout the life of the project and prompt re-vegetation using a residential seed mix for the areas disturbed by the project.

The project site has been previously disturbed by coal mining, residential construction, and road construction. No disturbance of any stream is planned. No construction is proposed within a regulated floodplain. No trees over 5" diameter at breast height are planned to be removed. All necessary permits and/or variances will be procured prior to construction.

Linda Bailey
AML Reclamation Project
Site Map
Jenkins West
Letcher County

Premier Subdivision

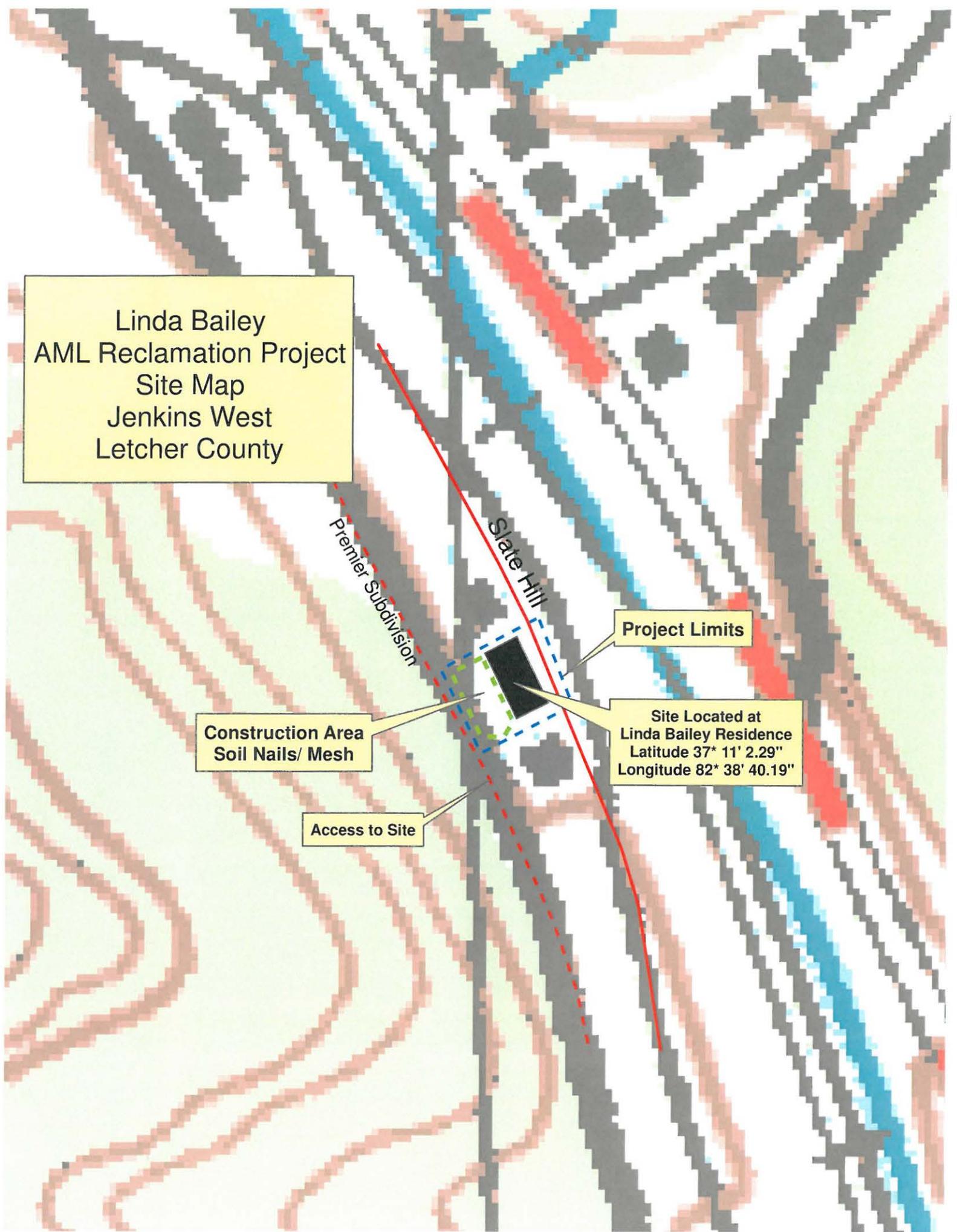
Slate Hill

Project Limits

Construction Area
Soil Nails/ Mesh

Site Located at
Linda Bailey Residence
Latitude 37° 11' 2.29"
Longitude 82° 38' 40.19"

Access to Site



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

State: Kentucky PA: KY 4171 SGA
Project Name: Linda Bailey AML Reclamation Project
Project Description: Installation of soil nails to stabilize a slope

I. GENERAL EXCEPTIONS

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

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

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

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

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

Highly controversial environmental effects? No Yes

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

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

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

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

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

Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Wetlands Protection) or The Fish and Wildlife Coordination Act?

No [x] Yes []

Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment?

No [x] Yes []

III. RESOURCE IMPACT EXCEPTIONS

Are there any unresolved issues or adverse effects requiring specialized mitigation for any of the following resources? If yes, check the ones that apply.

No [x] Yes []

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

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: Steve Hohmann Date: 10/20/11

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

VI. OSM DETERMINATION

- This project conforms with the exclusion criteria in 516 Dm 6, Appendix 8, and is excluded from further NEPA compliance.
- This project does not conform with the exclusion criteria in 516 DM 6, Appendix 8, and requires an environmental assessment.

Signature: _____ Date: _____

Name and Title: _____

Howell, Ryan (EEC)

From: Hall, Samantha (EEC)
Sent: Monday, September 26, 2011 10:14 AM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Rader, Timothy (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain & WQC review for Linda Bailey AMLRP

Floodplain/Stream Construction Permit

No permit is necessary.

US Army Corps of Engineers Permit (ACOE)

No permit is necessary.

Water Quality Certification

No permit is necessary.

From: Rickwa, Vanna (EEC)
Sent: Thursday, September 22, 2011 3:06 PM
To: Hall, Samantha (EEC)
Cc: Howell, Ryan (EEC); Rader, Timothy (EEC)
Subject: Request for floodplain & WQC review for Linda Bailey AMLRP

Attached please find the project description and maps for the Linda Bailey 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, Tim Rader, and myself of your response.

Thanks,

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



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

Steven L. Beshear
Governor

#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
1-800-858-1549
Fax (502) 564-0506
fw.ky.gov

Marcheta Sparrow
Secretary

Dr. Jonathan W. Gasset
Commissioner

26 September 2011

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

RE: Linda Bailey AML Reclamation Project (Letcher 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-endangered Blackside Dace (*Chrosomus cumberlandensis*) is known to occur within 10 miles of the project site. The American Black Bear (*Ursus americanus*) and Eastern Small-footed Myotis (*Myotis leibii*) are state-listed species known to occur within one mile of the proposed project site. Due to the nature of this project, the KDFWR does not anticipate impacts to listed species or their associated critical habitat. 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 proposal, should be installed prior to construction and periodically maintained during the life of the project. 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: Linda Bailey
AML Reclamation Project

From: Keith B. Coleman
Environmental Technician, AML Program Development Branch
Keith Coleman October 17, 2011

Through: Bill Overman
Manager, AML Program Development Branch

Bill Overman Oct. 17, 2011

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

Date: October 14, 2011

On October 14, 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 2 species of state concern, monitored by KSNPC, are known to occur within one mile, and that one species currently listed as threatened or endangered under the United States Endangered Species Act (USES A) is known to occur within ten miles of the project site.

This project (1 acre total) consists of the installation of a soil-nail, mesh, and concrete retaining structure designed to stabilize the slope behind the Linda Bailey residence. The access route is pre-existing, and no waste areas will be required. No perennial or intermittent streams will be disturbed, and construction has not been proposed within a regulated floodplain. No mine portals will be disturbed. No trees over 5" DBH will need to be cleared from the project area outside of the exempt, AML-impacted slide 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 Species of Concern

Curtis' Goldenrod (*Solidago curtisii*, Pine Mountain 2600' above Jenkins)

Elusive Clubtail (*Stylurus notatus*, Pre-1970 County-wide record)

USES A Listed Species

Blackside Dace (*Chrosomus cumberlandensis*, Poor Fork – Upper Cumberland)

Indiana Bat (*Myotis sodalis*, 11 records between 10-20 miles from site)

Curtis' Goldenrod habitat has been described as within rich, open woods and primarily within upland areas. The project area is near the valley floor, along Elkhorn Creek. In addition to being an unstable area, the slide is within a routinely-maintained portion of a residential yard. Negative impacts to this species are highly unlikely due to project-related construction.

The **Elusive Clubtail** is a dragonfly, the larvae of which inhabit large rivers. Since no disturbances are planned for any stream channels, and since no construction will occur within a regulated floodplain, negative impacts to this species, as a result of project-related construction, are highly unlikely.

The **Blackside Dace** inhabits small, upland streams which are usually well-shaded by dense riparian vegetation. All records of this species (4) within 10 miles from the project site, are within the Upper Cumberland River drainage. As mentioned above, no construction has been proposed within any stream channels or within a regulated floodplain. The project site falls within the Upper Levisa drainage. Negative impacts due to project-related construction are highly unlikely.

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 cavities within their trunks and larger limbs, and hibernates in caves and other similar underground cavities.

The search of the KSNPC BIOTICS database revealed 11 records of capture within 10-20 miles from the project site. 7 of the 11 records are “summer mist-net” records, and the other records include “breeding”, “roost site”, “hibernaculum (?)”, and “maternity area mist-net” records.

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 and since no portals are associated with the 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 30, 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: Linda Bailey AML Reclamation Project (Letcher County)

Dear Mr. Hohmann:

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

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

Sincerely,

A handwritten signature in blue ink that reads 'George M. Crothers'. The signature is written in a cursive style with a large, sweeping flourish at the end.

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