

Authorization to Proceed (ATP)
Victor Arnett Drainage and Landslide High Priority (HP)
Abandoned Mine Land (AML) Reclamation Project
based on Categorical Exclusion (CX)
Perry County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the June 29, 2011, request for ATP with construction activity on the Victor Arnett Drainage & Landslide HP AML Reclamation project, prepared by the Division of Abandoned Mine Lands (DAML) of the Kentucky Department for Natural Resources. OSM found that the appropriate request documents were submitted and appear to support the need for the proposed construction activity. OSM confirmed that the required information for this project has been included in the AML Inventory System.

OSM 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.

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

- The DAML project request notes that no tree removal is proposed outside the AML problem area. Please note that tree removal restrictions pertain to 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.

The current trees within the waste area are to be avoided, or only removed between October November 15 and March 31, unless an Indiana bat survey is documented by a qualified biologist and approved by the USFWS.

- Due to the need to act on this high priority project there was insufficient time to complete consultation with the Kentucky Department of Fish and Wildlife Resources (KDFWR) and the biological review staff. DAML must take necessary action to complete these consultations and provide a copy of the findings to OSM as soon as possible. If these evaluations identify potential impacts to any federally threatened/endangered fish and wildlife, DAML must immediately notify OSM and modify the project construction activity to mitigate or eliminate the impacts. DAML must also consider and employ as appropriate any comments or suggestions provided by KDFWR.

- The project request documents note that there will be no disturbance of streams or other jurisdictional water body's by this project, and the DAML Design Branch found that no Kentucky Division of Water (DOW) floodplain encroachment permits, U.S. Army Corps of Engineers (COE) Clean Water Act 404 permits, or DOW 401 Water Quality Certifications are necessary, otherwise OSM must be notified and these authorizations will need to be obtained prior to construction activity.

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.



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

6-30-2011

Date

Cassel, Steven R. "Steve"

From: Cassel, Steven R. "Steve"
Sent: Wednesday, July 06, 2011 9:51 AM
To: 'Steve Hohmann (steve.hohmann@ky.gov)'
Cc: 'carl.campbell@ky.gov'; 'mark.meade@ky.gov'; 'Bill.Overman@ky.gov'; 'Howell, Ryan (EEC)'; 'Train, Shannon (EEC)'; Rickwa, Vanna (EEC); Blackburn, Joseph L. "Joe"; Smith, Gail; Turner, Samuel R. "Sam"; Francis, Gary D.; Edwards, Chester L. "Chet"; Holliday, James "Jim"; Miller, Corey T.; Estes, Loren A.
Subject: ATP Transmittal: Victor Arnett Drainage and Landslide High Priority ATP, Perry County
Attachments: AR-M550N_20110706_0921463.pdf

As noted in the email dated June 30, 2011, from Gail Smith, please accept this email as the normal notification that the Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of your June 29, 2011, request for ATP with construction activity on the Victor Arnett Drainage and Landslide High Priority AML Reclamation project, prepared by the Division of Abandoned Mine Lands (DAML).

The June 30, 2011, email transmitted to you a copy of the signed ATP and Categorical Exclusion Determination. This email completes the OSM approval documents by transmitting those documents again, a copy of the June 30, 2011, email and the OSM LFO review memorandum. Along with the memorandum is a copy of a "USFWS Known Indiana Bat Habitat" map prepared by LFO since it was not included in the ATP request documents as normal. In future, please ensure that this information is included in the formal request documentation.

The request did not designate a funding source for the construction work under the Project Costs (Non-Water Supply) of any of Kentucky's Annual AML Construction Grant. OSM requests to be notified of the final funding source and State account number for our records.

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 2011 Oversight Agreement.

It is OSM's recommendation that appropriate consideration be given to the general recommendations and comments provided in the response from the agencies consulted in the National Environmental Policy Act (NEPA) environmental review documented in the Environmental Assessment (EA) prepared by DAML. Please give special attention to the following NEPA consultation recommendation(s)/conditions and ensure compliance with the following provisions in the ATP request documents noted here for emphasis, and/or the authorization of this project is further conditioned as follows:

- The DAML project request notes that no tree removal is proposed outside the AML problem area. Please note that tree removal restrictions pertain to 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.

The current trees within the waste area are to be avoided, or only removed between October November 15 and March 31, unless an Indiana bat survey is documented by a qualified biologist and approved by the USFWS.

- Due to the need to act on this high priority project there was insufficient time to complete consultation with the Kentucky Department of Fish and Wildlife Resources (KDFWR) and the biological review staff. DAML must take necessary action to complete these consultations and provide a copy of the findings to OSM as soon as possible. If these evaluations identify potential impacts to any federally threatened/endangered fish and wildlife, DAML must immediately notify OSM and modify the project construction activity to mitigate or eliminate the impacts. DAML must also consider and employ as appropriate any comments or suggestions provided by KDFWR.

- The project request documents note that there will be no disturbance of streams or other jurisdictional water body's by this project, and the DAML Design Branch found that no Kentucky Division of Water (DOW) floodplain encroachment permits, U.S. Army Corps of Engineers (COE) Clean Water Act 404 permits, or DOW 401 Water Quality Certifications are necessary, otherwise OSM must be notified and these authorizations will need to be obtained prior to construction activity.
- OSM requests copies of any applications for permits/certifications and approval documents required for the construction of this project that were not submitted with the original ATP. This information is needed by OSM to perform oversight and monitor compliance with the NEPA.

The OSM Lexington Field Office Director signed an ATP notice and the Categorical Exclusion Determination. A copy of each of these documents were attachment to the June 30, 2011, email for your information and use. Mr. Carl Campbell, Commissioner, Department for Natural Resources has been notified of this authorization by receiving a copy of this email.

Any questions concerning this ATP or the procedures can be addressed to Steve Cassel at 859-260-3912 or Gail Smith at (859) 260-3908. Thank you.

From: Smith, Gail
Sent: Thursday, June 30, 2011 4:50 PM
To: Howell, Ryan (EEC); Cassel, Steven R. "Steve"; Miller, Corey T.; Estes, Loren A.
Cc: Overman, Bill (EEC); Hohmann, Steve (EEC); Rickwa, Vanna (EEC); Moore, Jesse (EEC)
Subject: RE: Victor Arnett Drainage & Landslide HP AML Reclamation Project ATP request

I know this is not in the correct notification format, but in the interest of time here's the ATP on the Victor Arnett Drainage and Landslide High Priority. Normal notification will follow tomorrow.

Cassel, Steven R. "Steve"

From: Smith, Gail
Sent: Thursday, June 30, 2011 4:50 PM
To: Howell, Ryan (EEC); Cassel, Steven R. "Steve"; Miller, Corey T.; Estes, Loren A.
Cc: Overman, Bill (EEC); Hohmann, Steve (EEC); Rickwa, Vanna (EEC); Moore, Jesse (EEC)
Subject: RE: Victor Arnett Drainage & Landslide HP AML Reclamation Project ATP request
Attachments: AR-M550N_20110630_164404.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

I know this is not in the correct notification format, but in the interest of time here's the ATP on the Victor Arnett Drainage and Landslide High Priority. Normal notification will follow tomorrow.

From: Howell, Ryan (EEC) [<mailto:Ryan.Howell@ky.gov>]
Sent: Wednesday, June 29, 2011 3:15 PM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Overman, Bill (EEC); Hohmann, Steve (EEC); Rickwa, Vanna (EEC); Moore, Jesse (EEC)
Subject: FW: Victor Arnett Drainage & Landslide HP AML Reclamation Project ATP request

Steve and/or Corey,

Landslide material recently moved over a highwall at the Victor & Doris Arnett residence off of KY 1067, in Perry County. The landslide material struck the back of the Arnett residence and this material and additional material behind the Charlotte Boggs residence has blocked the existing drainage channel at the base of the highwall, which has caused drainage problems at both houses. Drainage is flowing into the unstable areas above the highwall from off of an auger bench that has water ponded on it. Behind the Arnett residence, a gully has formed through coal refuse material that directs the drainage into the unstable area. Additional unstable material exists above the highwall that could move over the highwall and damage or destroy the Arnett residence. Because this slide threatens the safety of all individuals that may be in the residence, the site has been deemed a high priority, and an expedited ATP is being requested.

Attached are a project description, overview map, and close-up maps of the site and waste area that are being sent to OSA and KDFWR for their comments.

Access for the project sites will be through driveways and residentially maintained yards. The two residences are located in front of a highwall, which is not a natural outcrop. This construction would have significantly disturbed the area. The area was also previously disturbed by houseseat construction. Because of these disturbances, it is unlikely there are any archaeological resources that may be negatively impacted at the project site location. The waste area has also been previously disturbed, as it was used during the 5AG Clemons Slide and again during the OSM KY-86-029, Harveyton Refuse Fire Project. For these reasons, KHC was not contacted, as the project is exempt under the Programmatic Agreement between KHC and AML. We will forward any comments that we receive from OSA when we receive them.

A search of the KSNPC database has not been performed yet, as personnel is unavailable to do the search at this time. However; no species of concern should be negatively impacted as the project site is in a residentially maintained yard, no trees will have to be removed at the project site or the waste area, no cave-like structures will be closed, and no work will be performed in a stream. Sediment controls will also be in place to control any runoff. The only trees that could potentially need to be removed are at the project site and in an unstable area, which would be exempt. Attached is a recent aerial photo of the waste area, which shows a few trees within the project limits, but will not have to be removed, as there is enough room to avoid these trees. We will forward any comments we receive from KDFWR, along with a KSNPC memo when it is prepared; however, it is unlikely that any species of concern would be negatively impacted due to the project location and scope of work.

A review of water issues was performed for this project to determine if any permits/certificates will be required. An email that indicates that no floodplain permits, WQC, or COE permits will be required will be sent with a follow-up email, due to size limitations.

The PAD KY 3757 SGA has been prepared and entered into the e-AMLIS by this division. Also, attached is a Categorical Exclusion. The project has not received a formal eligibility determination, but the eligibility letter that was sent for review and will be attached in a following email. This eligibility letter includes the mine history.

Please accept this email as a formal ATP request.

Your expedited response is greatly appreciated.

Thanks,
Ryan Howell

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

State: Kentucky
 Project Name: Victor ~~& Doris Arnett~~ ^{ARNETT DRAINAGE E. LANDSLIDE} PA: KY 3797 SGA
 HP AML Reclamation Project
 Project Description: Remove slide material from behind two residences and construct barrier wall.

I. GENERAL EXCEPTIONS

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

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

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

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

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

Highly controversial environmental effects? No Yes

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

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

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

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

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

Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Wetlands Protection) or The Fish and Wildlife Coordination Act? No Yes

Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment? No Yes

III. RESOURCE IMPACT EXCEPTIONS

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

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

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: Steve Hohmann ^{BY BWO} Date: 6/29/11

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

VI. OSM DETERMINATION

D6-30-11

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: [Signature] Date: 6-30-2011

Name and Title: JOSEPH L. BLACKBURN, OSM LFO DIRECTOR

Memorandum

Date: June 30, 2011

To: Victor Arnett Drainage & Landslide High Priority (HP) Abandoned Mine Land (AML) Reclamation Project File

From: Steve Cassel, Sr., AML Program Specialist *SC* 6-30-11
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 Victor Arnett Drainage & Landslide High Priority (HP) AML Reclamation Project. 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 June 29, 2011, was received at LFO on June 29, 2011. The ATP was processed within 1 working days; therefore, the customer service target of 14 working days to process an ATP has been met. The ATP was processed in 1 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 Hazard North, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map at 37° 21' 0.7" North Latitude and 83° 14' 18.7" West Longitude near the community of Dice, 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-003797-SGA. The project involves the initial phase of reclamation of AML conditions consisting removal of landslide material from behind the Victor Arnett and Doris Stacey residence, and nearby Charlotte Boggs residence, and constructing a steel panel wall behind the Arnett residence.

DAML did not designate a funding source for the construction work under the budget category entitled Project Costs (Non-Water Supply) of any of Kentucky's 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 # 99.113400000 was assigned to the project file for LFO tracking purposes until actual AG and Location Code numbers are assigned by DAML and can be inserted in the appropriate positions at the beginning and end of the LFO Project #. No specific

proposed bid advertisement, bid opening, or construction completion dates were provided by DAML in the ATP request letter, therefore I inserted dates in the database based on the ATP request letter stating that these activities will occur as soon as possible and this is a high priority project. The following proposed dates were assigned and entered by LFO for database tracking purposes: proposed and actual Bid Advertisement and Contract Award Dates were entered as July 1, 2011, and Contract/Construction Completion was entered as September 1, 2011.

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 reference to Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms, with engineer cost estimates for PA# KY-003797-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 2011 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. The waste area was previously disturbed for residential and farm use and as waste area for previous State and Federal reclamation projects. All other areas were previously disturbed by mining, oil and gas development, 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 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 include the following comments and/or recommendations:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) was sent a consultation notification; however, a response had not been received prior to needing to request ATP for the high priority project. The DAML request correspondence noted that they do not anticipate negative impacts on species of concern as the project site is in a residentially maintained yard, the waste area has been previously authorized for use in previous State and Federal AML projects, no trees will have to be removed at the project site or the waste area, no cave-like structures will be closed, no cliffs will be disturbed, no work will be performed in a stream, and routine sediment control will be used to control any runoff. DAML noted that there are a few trees that may need to be removed in the unstable AML problem area, but these are exempt under the MOA with the USFWS, and there are a few trees within the waste area, but there is enough room for project activity and the trees will be avoided.

It appears there is adequate evaluation of impacts to fish and wildlife at this time to justify authorization of this high priority project. The ATP will be conditioned, that if the consultation response from the KDFWR identifies potential impacts to any federally threatened/endangered fish and wildlife, DAML must immediately notify OSM and modify the project construction activity to mitigate or eliminate the impacts. DAML must also consider and employ as appropriate any comments or suggestions provided by KDFWR.

The designated DAML biological review staff has not had time to review the Kentucky State Nature Preserves Commission's (KSNPC) endangered, threatened and special concern reference databases in lieu of direct consultation prior to needing to request ATP for the high priority project. However, for the same reasons noted above concerning KDFWR consultation, it appears there is adequate evaluation of impacts to fish and wildlife at this time to justify authorization of this high priority project. The ATP will be conditioned, to require DAML to complete a biological review and submit the findings to OSM as soon as possible. If the review identifies potential impacts to any federally threatened/endangered fish and wildlife, DAML must immediately modify the project construction activity to mitigate or eliminate the impacts.

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 DAML determined that additional consultation with the USFWS is not required because the proposed project will not adversely affect a federally listed species (Federal Assistance Manual (FAM) Chapter 5-11-15, A. 3.)

The project activities meet the following conditions noted in the MOA to ensure protection of federally listed species; specifically the Indiana bat, Gray bat, and freshwater fishes and mussels:

- With the exception of trees directly impacted by the AML problem, the project does not include the purposeful removal of standing trees larger than 5 inches diameter at breast height or standing snags with loose bark that are 9 inch or greater diameter at breast height and at least 10 feet in height, during the period of April 1 to October 15;
- The project activity does not occur in "Known Indiana Bat Habitat" identified on the map attached to the MOA and the GIS files provided by USFWS KFO on November 2, 2009, used to generate the map (a copy of a section of the MOA GIS layer map on which the project coordinates are located is attached to this 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 OSM ATP will be conditioned that if any removal of trees not directly impacted by the AML problem is later found to be necessary during the period April 1 to October 15,

a habitat assessment or presence/absence survey will be required by qualified DAML staff.

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

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

Environmental and Public Protection Cabinet (EPPC) (changed to the Environment and Energy Cabinet (EEC) in July 2008) Secretary order dated December 12, 2006, transferred authority for issuance of Clean Water Act (CWA) Section 401 Water Quality Certifications (WQC) associated with surface coal mine operations, to include any reclamation projects proposed by the DAML, to the Kentucky Department for Natural Resources (DNR). DNR assigned this responsibility to the DAML Design Branch. In a meeting held in February 2010 between the OSM Lexington Field Office (LFO), Kentucky Field Office (KFO) in Frankfort, Kentucky, of the U.S. Fish and Wildlife Service (USFWS) and DAML to primarily discuss fish and wildlife issues; Steve Hohmann, Director of DAML, offered to coordinate NEPA consultation with the U.S. Army Corps of Engineers (COE) to assess the need for and compliance with the permit requirements of Section 404 of the Clean Water Act (CWA) by application of criteria provided by the COE. This was beneficial to both offices since these issues are inter-related. The DAML Design Branch determined that neither a 401 WQC nor a 404 CWA permit are needed for the project as proposed. The project request notes that no disturbance of streams is anticipated.

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.

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-003797-SGA was directly input into the AMLIS by the DAML. This information reflects the changes in units and costs based upon the design and classification of the funded category. This was confirmed by LFO review of the AMLIS data and a PAD summary/documentation printout from the OSM HDQ AMLIS database. PA #KY-003797-SGA submitted for this ATP does not represent a "new Problem Area" after December 20, 2006, requiring FOD approval under OSM Directive AML-1-2 (signed June 22, 2007); therefore, no FOD approval forms were prepared for FOD signature and /or the PA was not further approved by OSM in the e-AMLIS.

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.

Attachments:

DAML and LFO correspondence emails

A copy of a section of the MOA GIS layer map on which the project coordinates are approximately located.

Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Thursday, June 30, 2011 7:31 AM
To: Cassel, Steven R. "Steve"
Subject: RE: Victor Arnett Drainage & Landslide HP AML Reclamation Project ATP request

Steve,

I apologize for my mistake on typing in the pad number in my previous email. The PAD number is actually 3797 SGA, and it is in e-AMLIS. The cost of the project is estimated to be \$35,280.00. I'll ask Jason to retype his memo and send to you, as well.

Thanks,
Ryan

From: Cassel, Steven R. "Steve" [mailto:scassel@osmre.gov]
Sent: Wednesday, June 29, 2011 4:00 PM
To: Howell, Ryan (EEC)
Subject: RE: Victor Arnett Drainage & Landslide HP AML Reclamation Project ATP request

Thanks Ryan for the information. Please forward me the eligibility determination when you receive it. Also, it would be good for you to have Jason Robinson send you a new copy of his determination with the "is in an" or "outside the" floodplain correct, I think he meant to delete "is in an" from his template email, as the rest of his email seems to support this.

My real reason for this reply, is that I need a copy of the AMLIS PAD for review. The e-AMLIS only has a PA Jeffery Messer Auger Holes #KY-003757-SGA for nine Priority P's for a cost of \$4,000, and there is no documentation scanned into the Documents of the e-AMLIS for this PA. Your email also does not state the estimated cost of this current project and I had intended to get it from the e-AMLIS while I was confirming that this project is entered in the PA.

Please enter the current project details into the e-AMLIS and add the documentation, and in the meantime forward me a copy of the PAD for my file.

In future please include an estimated cost in your request email and make sure the PA information is in the e-AMLIS.

Thanks

From: Howell, Ryan (EEC) [mailto:Ryan.Howell@ky.gov]
Sent: Wednesday, June 29, 2011 3:15 PM
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Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Thursday, June 30, 2011 7:37 AM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Rickwa, Vanna (EEC); Overman, Bill (EEC)
Subject: FW: Solicitation for OSA comments ref. Victor & Doris Arnett HIGH PRIORITY AML Reclamation Project
Attachments: Victor and Doris Arnett High Priority AML OSA Letter.pdf

Steve and/or Corey,

Here is the OSA letter for the Victor Arnett Drainage & Landslide HP AMLRP that we sent to OSM for an ATP request yesterday.

Thanks,
Ryan

From: Pappas, Christina A [<mailto:Christina.Pappas@uky.edu>]
Sent: Wednesday, June 29, 2011 6:30 PM
To: Rickwa, Vanna (EEC); Overman, Bill (EEC); Howell, Ryan (EEC); Moore, Jesse (EEC)
Subject: RE: Solicitation for OSA comments ref. Victor & Doris Arnett HIGH PRIORITY AML Reclamation Project

Please find attached OSA's comment regarding this project.

Sincerely,
Christina A. Pappas, MA
Assistant Director
Kentucky Office of State Archaeology
University of Kentucky
1020a Export Street
Lexington, KY 40506
(859)257-1944
christina.pappas@uky.edu

From: Rickwa, Vanna (EEC) [<mailto:Vanna.Rickwa@ky.gov>]
Sent: Wednesday, June 29, 2011 3:38 PM
To: Crothers, George M; Crothers, George M; Pappas, Christina A
Cc: Howell, Ryan (EEC); Moore, Jesse (EEC)
Subject: Solicitation for OSA comments ref. Victor & Doris Arnett HIGH PRIORITY AML Reclamation Project

Please see the attached letter with project description and maps.

Respond accordingly via email or letter.

Send email responses to:

Vanna.Rickwa@ky.gov

Thanks,

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



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

June 29, 2011

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

RE: Victor & Doris Arnett **HIGH PRIORITY** AML Reclamation Project (Perry County)

Dear Mr. Hohmann:

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

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

Sincerely,

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

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

Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Thursday, June 30, 2011 7:59 AM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Rickwa, Vanna (EEC); Overman, Bill (EEC)
Subject: FW: Correction for Arnett project

From: Robinson, Jason (EEC)
Sent: Thursday, June 30, 2011 7:45 AM
To: Howell, Ryan (EEC)
Subject: Correction for Arnett project

The project's waste area is outside the 100-year floodplain and is designated as "no special flood hazard" on the FEMA FIRM map. No streams will be impacted so no water quality certification (WQC), Army Corps of Engineers (ACOE), DOW Floodplain permits will be required.

*Jason Robinson
Project Management Branch
KY Division of Abandoned Mine Lands
2521 Lawrenceburg Rd
Frankfort, KY 40601
502-564-2141*

A search of the KSNPC database has not been performed yet, as personnel is unavailable to do the search at this time. However; no species of concern should be negatively impacted as the project site is in a residentially maintained yard, no trees will have to be removed at the project site or the waste area, no cave-like structures will be closed, and no work will be performed in a stream. Sediment controls will also be in place to control any runoff. The only trees that could potentially need to be removed are at the project site and in an unstable area, which would be exempt. Attached is a recent aerial photo of the waste area, which shows a few trees within the project limits, but will not have to be removed, as there is enough room to avoid these trees. We will forward any comments we receive from KDFWR, along with a KSNPC memo when it is prepared; however, it is unlikely that any species of concern would be negatively impacted due to the project location and scope of work.

A review of water issues was performed for this project to determine if any permits/certificates will be required. An email that indicates that no floodplain permits, WQC, or COE permits will be required will be sent with a follow-up email, due to size limitations.

The PAD KY 3757 SGA has been prepared and entered into the e-AMLIS by this division. Also, attached is a Categorical Exclusion. The project has not received a formal eligibility determination, but the eligibility letter that was sent for review and will be attached in a following email. This eligibility letter includes the mine history.

Please accept this email as a formal ATP request.

Your expedited response is greatly appreciated.

Thanks,
Ryan Howell

Cassel, Steven R. "Steve"

From: Cassel, Steven R. "Steve"
Sent: Wednesday, June 29, 2011 4:00 PM
To: 'Howell, Ryan (EEC)'
Subject: RE: Victor Arnett Drainage & Landslide HP AML Reclamation Project ATP request

Thanks Ryan for the information. Please forward me the eligibility determination when you receive it. Also, it would be good for you to have Jason Robinson send you a new copy of his determination with the "is in an" or "outside the" floodplain correct, I think he meant to delete "is in an" from his template email, as the rest of his email seems to support this.

My real reason for this reply, is that I need a copy of the AMLIS PAD for review. The e-AMLIS only has a PA Jeffery Messer Auger Holes #KY-003757-SGA for nine Priority P's for a cost of \$4,000, and there is no documentation scanned into the Documents of the e-AMLIS for this PA. Your email also does not state the estimated cost of this current project and I had intended to get it from the e-AMLIS while I was confirming that this project is entered in the PA.

Please enter the current project details into the e-AMLIS and add the documentation, and in the meantime forward me a copy of the PAD for my file.

In future please include an estimated cost in your request email and make sure the PA information is in the e-AMLIS.

Thanks

From: Howell, Ryan (EEC) [mailto:Ryan.Howell@ky.gov]
Sent: Wednesday, June 29, 2011 3:15 PM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Overman, Bill (EEC); Hohmann, Steve (EEC); Rickwa, Vanna (EEC); Moore, Jesse (EEC)
Subject: FW: Victor Arnett Drainage & Landslide HP AML Reclamation Project ATP request

Steve and/or Corey,

Landslide material recently moved over a highwall at the Victor & Doris Arnett residence off of KY 1067, in Perry County. The landslide material struck the back of the Arnett residence and this material and additional material behind the Charlotte Boggs residence has blocked the existing drainage channel at the base of the highwall, which has caused drainage problems at both houses. Drainage is flowing into the unstable areas above the highwall from off of an auger bench that has water ponded on it. Behind the Arnett residence, a gully has formed through coal refuse material that directs the drainage into the unstable area. Additional unstable material exists above the highwall that could move over the highwall and damage or destroy the Arnett residence. Because this slide threatens the safety of all individuals that may be in the residence, the site has been deemed a high priority, and an expedited ATP is being requested.

Attached are a project description, overview map, and close-up maps of the site and waste area that are being sent to OSA and KDFWR for their comments.

Access for the project sites will be through driveways and residentially maintained yards. The two residences are located in front of a highwall, which is not a natural outcrop. This construction would have significantly disturbed the area. The area was also previously disturbed by houseseat construction. Because of these disturbances, it is unlikely there are any archaeological resources that may be negatively impacted at the project site location. The waste area has also been previously disturbed, as it was used during the 5AG Clemons Slide and again during the OSM KY-86-029, Harveyton Refuse Fire Project. For these reasons, KHC was not contacted, as the project is exempt under the Programmatic Agreement between KHC and AML. We will forward any comments that we receive from OSA when we receive them.

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A search of the KSNPC database has not been performed yet, as personnel is unavailable to do the search at this time. However; no species of concern should be negatively impacted as the project site is in a residentially maintained yard, no trees will have to be removed at the project site or the waste area, no cave-like structures will be closed, and no work will be performed in a stream. Sediment controls will also be in place to control any runoff. The only trees that could potentially need to be removed are at the project site and in an unstable area, which would be exempt. Attached is a recent aerial photo of the waste area, which shows a few trees within the project limits, but will not have to be removed, as there is enough room to avoid these trees. We will forward any comments we receive from KDFWR, along with a KSNPC memo when it is prepared; however, it is unlikely that any species of concern would be negatively impacted due to the project location and scope of work.

A review of water issues was performed for this project to determine if any permits/certificates will be required. An email that indicates that no floodplain permits, WQC, or COE permits will be required will be sent with a follow-up email, due to size limitations.

The PAD KY 3757 SGA has been prepared and entered into the e-AMLIS by this division. Also, attached is a Categorical Exclusion. The project has not received a formal eligibility determination, but the eligibility letter that was sent for review and will be attached in a following email. This eligibility letter includes the mine history.

Please accept this email as a formal ATP request.

Your expedited response is greatly appreciated.

Thanks,
Ryan Howell

Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Wednesday, June 29, 2011 3:15 PM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Overman, Bill (EEC); Hohmann, Steve (EEC); Rickwa, Vanna (EEC); Moore, Jesse (EEC)
Subject: FW: Victor Arnett Drainage & Landslide HP AML Reclamation Project ATP request
Attachments: Victor Arnett proposed reclamation- adj.doc; Overview Map.pdf; VICTOR ARNETT WASTE AREA.pdf; Project Map.pdf; VICTOR ARNETT PLANVIEW.pdf

Steve and/or Corey,

Landslide material recently moved over a highwall at the Victor & Doris Arnett residence off of KY 1067, in Perry County. The landslide material struck the back of the Arnett residence and this material and additional material behind the Charlotte Boggs residence has blocked the existing drainage channel at the base of the highwall, which has caused drainage problems at both houseseats. Drainage is flowing into the unstable areas above the highwall from off of an auger bench that has water ponded on it. Behind the Arnett residence, a gully has formed through coal refuse material that directs the drainage into the unstable area. Additional unstable material exists above the highwall that could move over the highwall and damage or destroy the Arnett residence. Because this slide threatens the safety of all individuals that may be in the residence, the site has been deemed a high priority, and an expedited ATP is being requested.

Attached are a project description, overview map, and close-up maps of the site and waste area that are being sent to OSA and KDFWR for their comments.

Access for the project sites will be through driveways and residentially maintained yards. The two residences are located in front of a highwall, which is not a natural outcrop. This construction would have significantly disturbed the area. The area was also previously disturbed by houseseat construction. Because of these disturbances, it is unlikely there are any archaeological resources that may be negatively impacted at the project site location. The waste area has also been previously disturbed, as it was used during the 5AG Clemons Slide and again during the OSM KY-86-029, Harveyton Refuse Fire Project. For these reasons, KHC was not contacted, as the project is exempt under the Programmatic Agreement between KHC and AML. We will forward any comments that we receive from OSA when we receive them.

A search of the KSNPC database has not been performed yet, as personnel is unavailable to do the search at this time. However; no species of concern should be negatively impacted as the project site is in a residentially maintained yard, no trees will have to be removed at the project site or the waste area, no cave-like structures will be closed, and no work will be performed in a stream. Sediment controls will also be in place to control any runoff. The only trees that could potentially need to be removed are at the project site and in an unstable area, which would be exempt. Attached is a recent aerial photo of the waste area, which shows a few trees within the project limits, but will not have to be removed, as there is enough room to avoid these trees. We will forward any comments we receive from KDFWR, along with a KSNPC memo when it is prepared; however, it is unlikely that any species of concern would be negatively impacted due to the project location and scope of work.

A review of water issues was performed for this project to determine if any permits/certificates will be required. An email that indicates that no floodplain permits, WQC, or COE permits will be required will be sent with a follow-up email, due to size limitations.

The PAD KY 3757 SGA has been prepared and entered into the e-AMLIS by this division. Also, attached is a Categorical Exclusion. The project has not received a formal eligibility determination, but the eligibility letter that was sent for review and will be attached in a following email. This eligibility letter includes the mine history.

Please accept this email as a formal ATP request.

Your expedited response is greatly appreciated.

Thanks,
Ryan Howell

Victor & Doris Arnett HP AML Reclamation Project

Perry County, Hazard North Quad

The Victor & Doris Arnett project (approximately 2.0 acres total) is located in Perry County, in the Hazard North Quadrangle, off of KY 1067 (Fifteenmile Creek) at 37° 21' 0.7" North Latitude 83° 14' 18.7" West Longitude. The proposed project work for this phase of the project involves removing material from behind the Victor and Doris Arnett residence and the neighboring Charlotte Boggs residence, and constructing a steel panel wall behind the Arnett residence.

The material proposed to be excavated originated above the highwall located behind the two residences. This slide material is saturated from water that is drainage off of an auger bench located above the highwall. This auger bench has ponded water on it, and behind the Arnett residence a gully has formed through coal refuse pushover material and feeds into the unstable area above the highwall. The slide material struck the back of the Arnett residence and material has blocked the existing drainage ditch at the base of the highwall at both locations. Water is now standing on both of the houseseats.

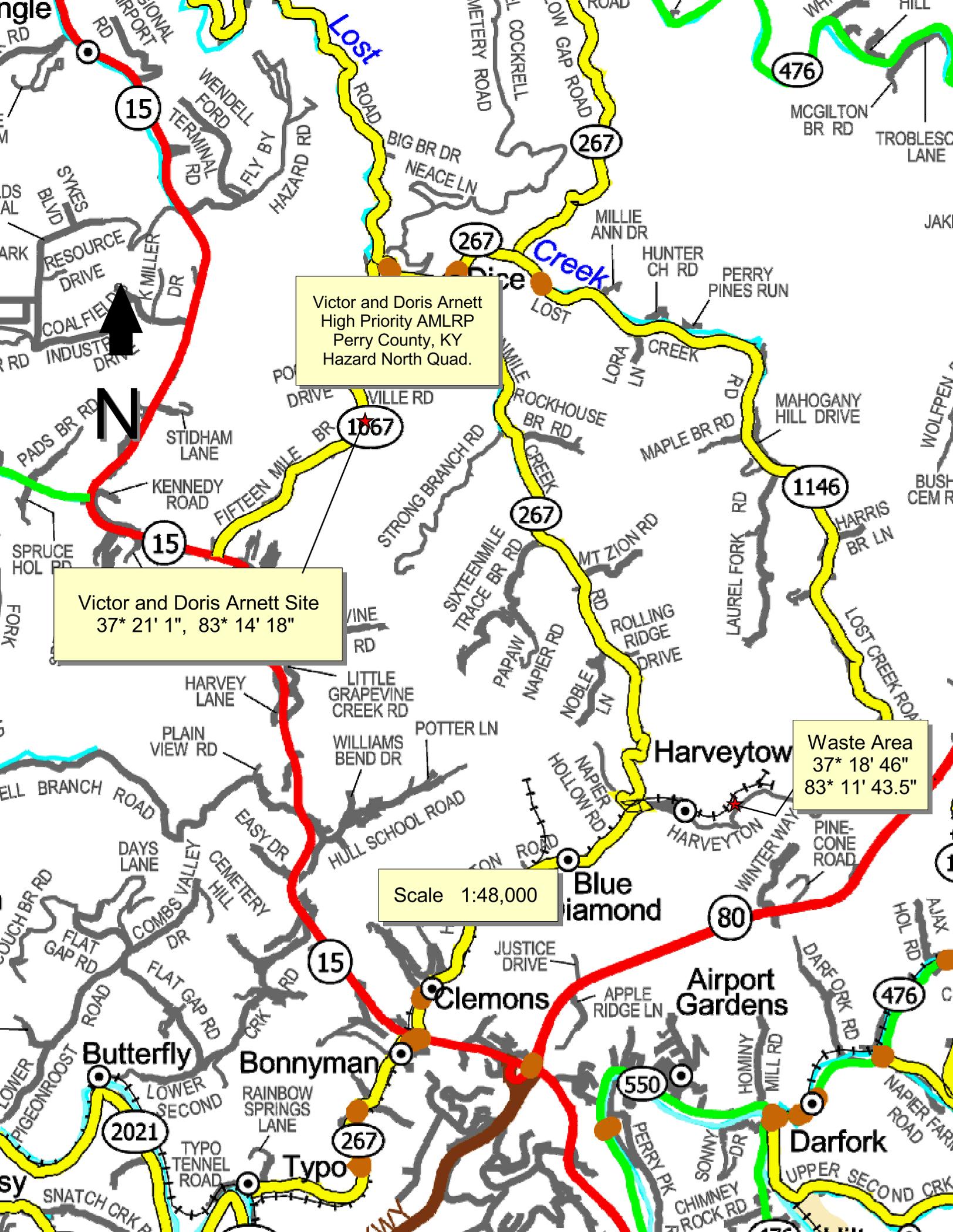
Water continues to flow into the unstable areas, and along with future rains, more material could eventually slide into the Arnett residence and knock the home off of its foundation. The Boggs residence also has material from the highwall that has been deposited behind her residence and needs to be cleared out of the drainage channel, in order to properly control the drainage at the site.

The material will be removed to a waste area (N37° 18' 46" & W83° 11' 43") in the Harveyton community, in Perry County, approximately 8 miles away. The waste area is an old refuse dump that was previously reclaimed under the 5AG as the Clemons Slide project and as an OSM Emergency Site known as the Harveyton Refuse Fire.

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, AML reclamation, 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.

No trees will be disturbed at the site or at the waste area, and no work will take place within any stream channels. Access is pre-existing for both sites from off of county roads, driveways, and through residentially maintained yards.

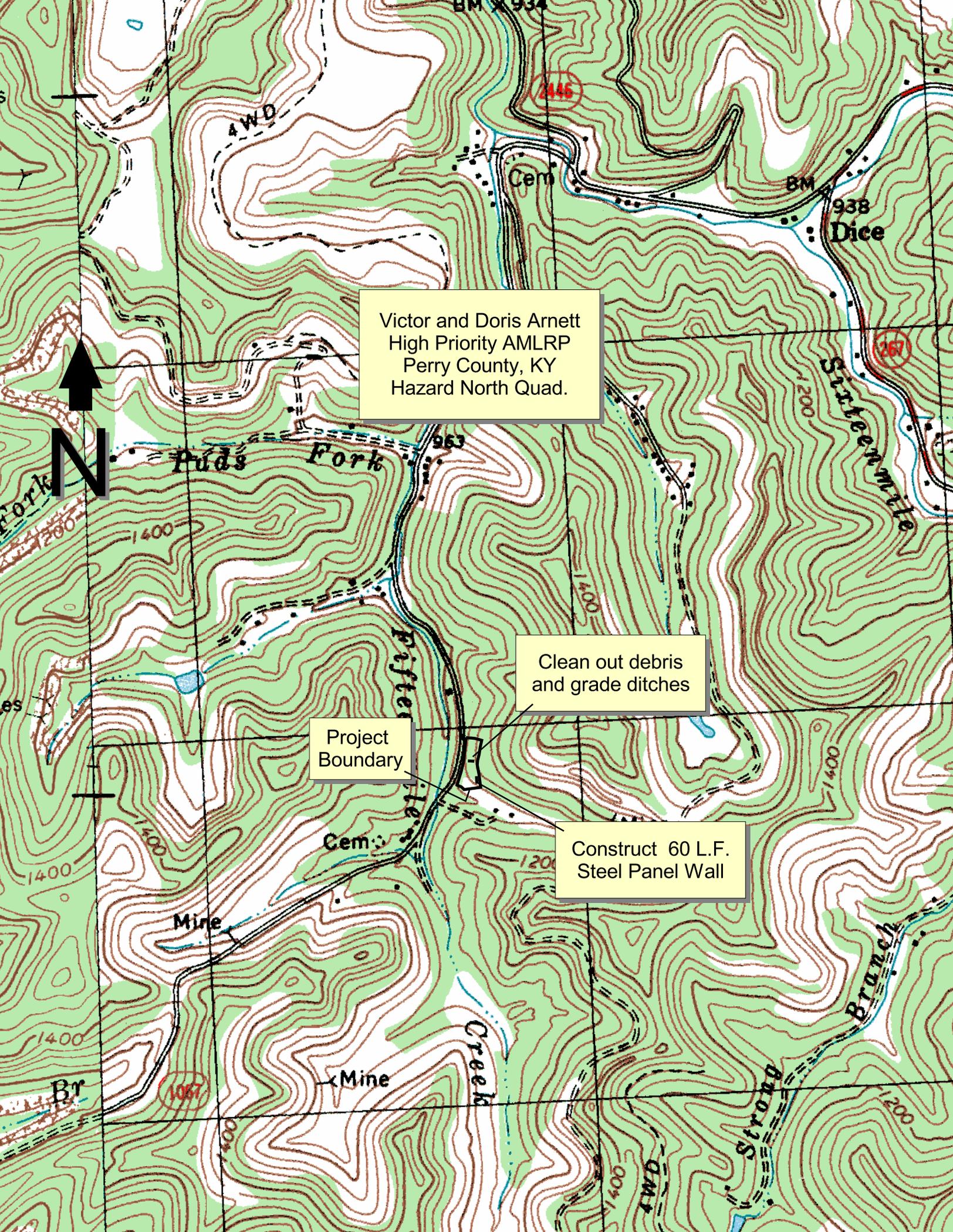


Victor and Doris Arnett
High Priority AMLRP
Perry County, KY
Hazard North Quad.

Victor and Doris Arnett Site
37° 21' 1", 83° 14' 18"

Waste Area
37° 18' 46"
83° 11' 43.5"

Scale 1:48,000



Victor and Doris Arnett
High Priority AMLRP
Perry County, KY
Hazard North Quad.

Clean out debris
and grade ditches

Project
Boundary

Construct 60 L.F.
Steel Panel Wall



Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Wednesday, June 29, 2011 3:17 PM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Overman, Bill (EEC); Hohmann, Steve (EEC); Rickwa, Vanna (EEC); Moore, Jesse (EEC)
Subject: Victor Arnett Drainage & Landslide HP AMLRP ATP request follow-up email
Attachments: Victor Arnett Drainage & Landslide - eligibility memo 6.24.11.pdf; CX.PDF; RE: Request for floodplain and WQC review for Victor Arnett Drainage & Landslide HIGH PRIORITY AMLRP

Steve and/or Corey,

Here's the follow-up email with the water comments, CX, and eligibility letter.

Thanks,
Ryan Howell

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 3797 SGA
Project Name: Victor & Doris Arnett HP AML Reclamation Project
Project Description: Remove slide material from behind two residences and construct barrier wall.

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 []

- Topography
- Land Use (includes prime farmland)
- Soils
- Vegetation (includes wetlands)
- Hydrology
- Fish and Wildlife
- Historic and Cultural
- Recreation
- Air Quality
- Noise
- Other (includes socio-economics)

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: Steve Hohmann ^{by B. J. Owen} Date: 6/29/11

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: _____

Cassel, Steven R. "Steve"

From: Robinson, Jason (EEC) [jason.robinson@ky.gov]
Sent: Wednesday, June 29, 2011 1:58 PM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Moore, Jesse (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain and WQC review for Victor Arnett Drainage & Landslide HIGH PRIORITY AMLRP

This project's waste area is in an outside the 100-year floodplain and is designated as "no special flood hazard" on the FEMA FIRM map. No streams will be impacted so no water quality certification (WQC), Army Corps of Engineers (ACOE), DOW Floodplain permits will be required.

*Jason Robinson
Project Management Branch
KY Division of Abandoned Mine Lands
2521 Lawrenceburg Rd
Frankfort, KY 40601
502-564-2141*

From: Rickwa, Vanna (EEC)
Sent: Wednesday, June 29, 2011 1:45 PM
To: Robinson, Jason (EEC)
Cc: Howell, Ryan (EEC); Moore, Jesse (EEC)
Subject: Request for floodplain and WQC review for Victor Arnett Drainage & Landslide HIGH PRIORITY AMLRP

Attached please find the project description and maps for the Victor Arnett Drainage & Landslide **HIGH PRIORITY** AML Reclamation Project.

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

Please notify Bill Overman, Ryan Howell, Jesse K. Moore, 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*

Cassel, Steven R. "Steve"

From: Howell, Ryan (EEC) [Ryan.Howell@ky.gov]
Sent: Friday, July 01, 2011 9:12 AM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Rickwa, Vanna (EEC); Overman, Bill (EEC)
Subject: FW: KDFWR comments ref. Victor & Doris Arnett HP AMLRP (Perry Co.)
Attachments: Comment Letter.pdf

Here's the KDFWR letter for the Victor Arnett Drainage & Landslide HP AMLRP.

Thanks,
Ryan

From: Stoelb, Daniel (FW)
Sent: Friday, July 01, 2011 9:09 AM
To: Overman, Bill (EEC); Howell, Ryan (EEC); Moore, Jesse (EEC); Rickwa, Vanna (EEC)
Subject: KDFWR comments ref. Victor & Doris Arnett HP AMLRP (Perry Co.)

Attached, please find the KDFWR comment letter regarding the subject project. Thanks,

Dan Stoelb
Wildlife Biologist
Fisheries Division - Environmental Section
KY Department of Fish and Wildlife Resources
#1 Sportsman's Lane
Frankfort, KY 40601
Phone: (502) 564-7109 ext. 4453
Fax: (502) 564-4519
www.fw.ky.gov

Did you know...Department of Fish and Wildlife receives NO state tax dollars and manages wildlife for all citizens?

Confidentiality Notice: This e-mail message, including any attachment, is for the sole use of the intended recipient (s) and may contain confidential information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender, by e-mail, and destroy all copies of the original message.



**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

1 July 2011

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

RE: Victor & Doris Arnett HIGH PRIORITY AML Reclamation Project (Perry Co.)

Dear Mr. Hohmann:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) has received your request for information pertaining to the subject project. The Kentucky Fish and Wildlife Information System indicates that no federally or state-threatened/endangered species are known to occur within 10 miles and one mile, respectively, of the 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

Cassel, Steven R. "Steve"

From: Cassel, Steven R. "Steve"
Sent: Wednesday, July 06, 2011 2:53 PM
To: 'Howell, Ryan (EEC)'
Cc: Miller, Corey T.; Edwards, Chester L. "Chet"
Subject: RE: Victor Arnett Drainage & Landslide

Thanks. I will make it part of the project file.

From: Howell, Ryan (EEC) [<mailto:Ryan.Howell@ky.gov>]
Sent: Wednesday, July 06, 2011 2:48 PM
To: Cassel, Steven R. "Steve"; Miller, Corey T.; Smith, Gail; Estes, Loren A.
Cc: Rickwa, Vanna (EEC)
Subject: FW: Victor Arnett Drainage & Landslide

Here is the KSNPC memo for the Victor Arnett Drainage & Landslide HP AMLRP.

Thanks,
Ryan

From: Rickwa, Vanna (EEC)
Sent: Wednesday, July 06, 2011 2:47 PM
To: Howell, Ryan (EEC); Moore, Jesse (EEC)
Subject: Victor Arnett Drainage & Landslide

I have attached the KSNPC response for the Victor Arnett Drainage / Landslide project.

I updated NEPA.

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*

Memorandum

To: Victor Arnett Drainage & Landslide
AML High Priority Reclamation Project

From: Keith B. Coleman
Environmental Technician, AML Program Development Branch
Keith Coleman July 6, 2011

Through: Bill Overman
Manager, AML Program Development Branch
Bill Overman 6/6/11

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

Date: July 6, 2011

On July 6, 2011, I conducted a search of the KSNPC database in order to determine if any species which are monitored by the 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 2 species of state concern, monitored by the KSNPC, are known to occur within one mile of the project sites, and that one species 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 plans (2.0 acres total) consist of the removal of unstable materials near a highwall, and the installation of a pile and sheet metal retaining wall. The project site and the primary waste area will not require the disturbance of any trees over 5" DBH for this portion of the project. Additionally, the waste area has been used previously by both DAML and OSM during other reclamation projects. The entire project area has been described as previously disturbed, and no cave-like structures will be associated with the site reclamation activities. Access routes are pre-existing, and no work will be conducted within any stream channels. In order to minimize sedimentation, a stringent erosion and sediment control plan including such measures as hay-bale silt checks, silt fences and prompt vegetation of all disturbed areas will be implemented.

The two KSNPC species found within 1 mile from the project sites are:

Sharp-shinned Hawk

(*Accipiter striatus* – KSNPC Special Concern, <1 mile from Project Site)

Appalachian Rosinweed

(*Silphium wasiotense* – KSNPC Special Concern, <1 mile from Waste Area)

The USESA listed species found within 10 miles from the project sites is:

Indiana Bat

(*Myotis sodalis* – USESA Listed Endangered, <10 miles from both sites)

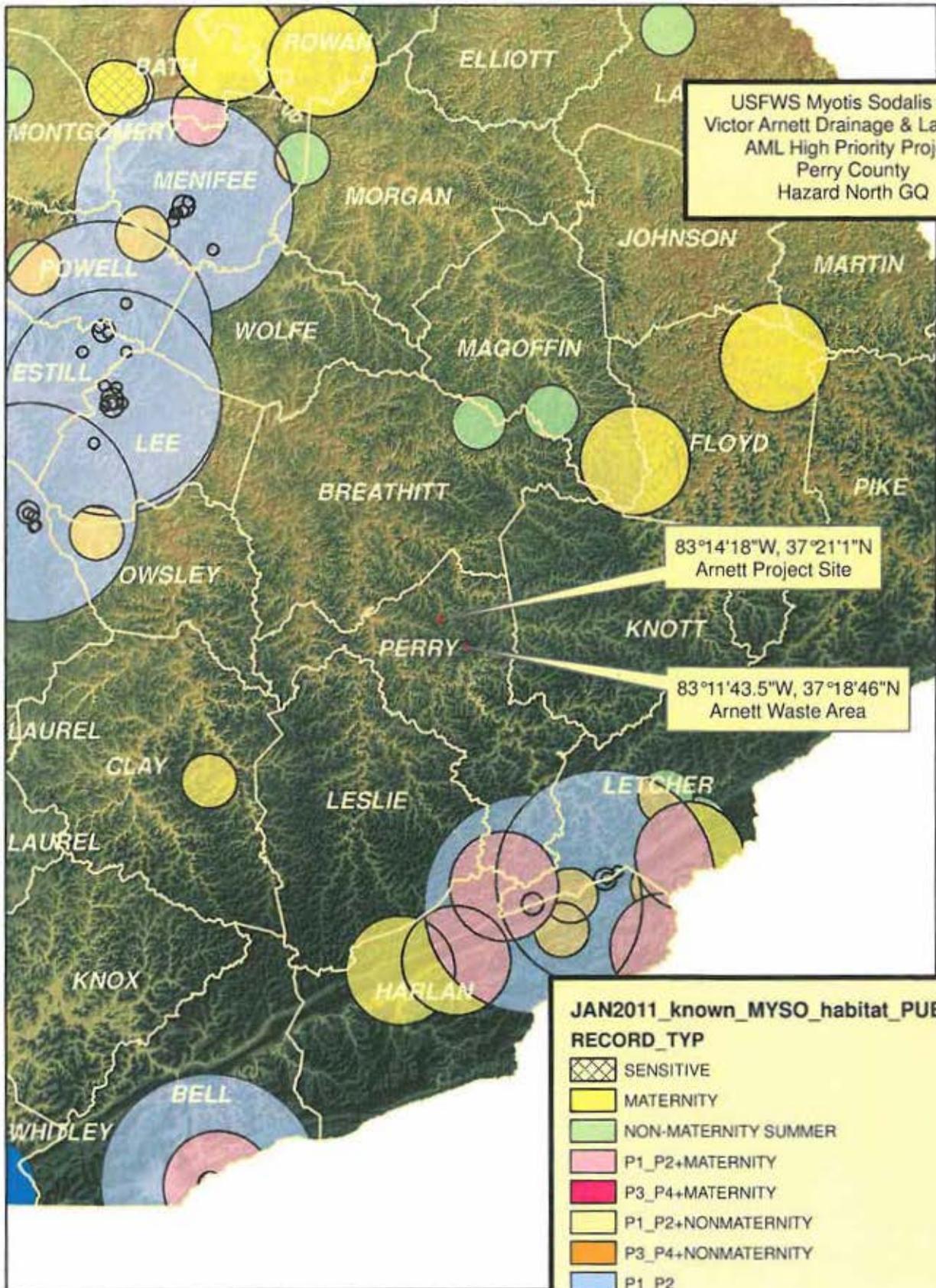
The **Sharp-shinned Hawk** inhabits forest and open woodland areas, primarily within coniferous areas throughout the northern portion of the range. Migration occurs along ridges and shorelines. Breeding within Kentucky most likely occurs between late March – June, and nest areas within the eastern portion of the state have been described as most often being located within extensive tracts of fairly mature forest among hemlocks and pine stands. Since no removal of trees over 5” DBH is anticipated as part of this portion of the project, no negative impacts should result due to the above-described project. Should tree clearing become necessary for subsequent work, clearing within the winter or late fall months would be advised.

Appalachian Rosinweed is a perennial herb of the Asteraceae family which inhabits dry/mesic forested areas which are usually somewhat open due to disturbance. Since all reclamation activities are planned for either residentially maintained yards, actively moving, wet slide areas, or areas which have been recently disturbed due to prior reclamation projects, no negative impacts should occur due to project related construction.

The US Fish and Wildlife Service (USFWS) has declared the whole of the state of Kentucky to be the potential habitat of the **Indiana Bat** (*Myotis sodalis* – USESA Endangered). This species day roosts and establishes maternity colonies in trees with exfoliating bark or splits in their trunks and larger limbs, and hibernates in caves and other similar underground cavities. The above search of the KSNPC BIOTICS database revealed one “undetermined” record of this species within 10 miles of any of the project sites. Three additional records document the species within 10-20 miles from the project sites. The three records within 10-20 miles are “undetermined”, “summer mist-net”, or “Anabat Call” records. No records of maternity areas or hibernacula have been documented within 20 miles of either of the project sites. Since *no* records of hibernacula are within 10 miles of any project area and *no* maternity area records are within 5 miles

from any project area, and since *no* maternity colonies or non-maternity records are within 2.5 miles from any 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 no tree clearing has been described for this portion of the project, and since no cave-like structures will be disturbed, no negative impacts should result due to project related construction, regardless of the timing of the construction. Should tree removal become necessary for subsequent reclamation activities, a habitat assessment or a presence/absence survey may be necessary if the clearing would not occur within the accepted tree removal period (described above). 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.



USFWS Myotis Sodalis Map
 Victor Arnett Drainage & Landslide
 AML High Priority Project
 Perry County
 Hazard North GQ

83°14'18"W, 37°21'11"N
 Arnett Project Site

83°11'43.5"W, 37°18'46"N
 Arnett Waste Area

JAN2011_known_MYSO_habitat_PUBLIC

RECORD_TYP

-  SENSITIVE
-  MATERNITY
-  NON-MATERNITY SUMMER
-  P1_P2+MATERNITY
-  P3_P4+MATERNITY
-  P1_P2+NONMATERNITY
-  P3_P4+NONMATERNITY
-  P1_P2
-  P3_P4

