

## **Authorization to Proceed (ATP)**

Wayland Drainage  
Abandoned Mine Land (AML) Reclamation Project  
based on Categorical Exclusion (CX)  
Floyd County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the August 11, 2011, request for ATP with construction activity on the Wayland Drainage Abandoned Mine Land Reclamation Project prepared by the Kentucky Department for Natural Resources, Division of Abandoned Mine Lands (DAML).

OSM found that the appropriate request documents were submitted and appear to support the need for the proposed construction activity. OSM confirmed that the required information for this project has been included in the electronic AML Inventory System (e-AMLIS) for Problem Areas (PA) # KY-002272-SGA. OSM has approved this PA within the e-AMLIS system on August 11, 2011.

OSM reviewed the Categorical Exclusion Determination (CX) NEPA environmental review document prepared by the Division of Abandoned Mine Lands for the AML reclamation project. We have determined that the currently proposed activity requested is adequately considered in the approved CX NEPA environmental review document. In addition, the proposed activity conforms with 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 compliance. We have prepared and I have signed a CX for this project. We recommend that appropriate consideration be given to the recommendations and comments provided in the response letters from the consultation agencies. Please give special attention to the following recommendation (s).

- With the exception of trees directly impacted by the AML problem, there is no purposeful removal of standing trees larger than 5 inches diameter at breast height or standing snags with loose bark that are 9 inch or greater diameter at breast height and at least 10 feet in height, during the period of April 1 to November 15, and provided the activity does not occur in "Known Indiana Bat Habitat".
- If tree cutting is required outside of the non-AML features, a habitat assessment or presence /absence survey will be required, and must be performed by a certified biologist.

Accordingly, pursuant to Section 5-11-20D.3 of the Federal Assistance Manual and my signature on this notification document, DAML is authorized to proceed with the construction activity for this project as described in the ATP request documents

submitted by DAML for this project and further conditioned in this notification, and  
expend Federal funds in accordance with AML grant terms and conditions.

 "Acting FO" 

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

8/22/11

Date

Memorandum

Date: August 22, 2011

To: Wayland Drainage Abandoned Mine Land (AML) Reclamation Project File  
SubAccount# 99.124030000

From: Corey Miller, Program Specialist  
Lexington Field Office (LFO), Program Support Branch (PSB)

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

The Branch recommends that the Field Office Director (FOD) authorize the State of Kentucky to proceed with the construction activity proposed on the Wayland Drainage AML Reclamation Project. The Branch prepared an ATP letter, Categorical Exclusion (CX), for the FOD review. The Branch recommends that the FOD sign the CX and ATP in the space provided on each document. The original signed ATP letter will be sent to the Division of Abandoned Mine Lands (DAML) Director, along with associated approval documents consisting of a copy of the LFO review memorandum and CX. A scanned copy of these authorization documents will be attached to an email to the Department for Natural Resources (DNR) Commissioner.

The Kentucky DAML ATP request dated August 11, 2011, was received at LFO attached to an email on August 11, 2011. The ATP was processed within 7 working days; therefore, the customer service target of 14 working days to process an ATP was met. The ATP was processed in 11 calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP was met.

The project area may be centrally located on the Wayland, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle map(s) at 37° 26' 44" North Latitude and 82° 48' 20" West Longitude near the community of Wayland, 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-002272-SGA. The project involves reclamation of AML conditions consisting of Vertical Openings and Dangerous Slides at one site.

DAML did not designate a funding source under the budget category entitled Project Costs (Non-Water Supply) of any of Kentucky's AML Annual Construction Grants (ACG). In previous discussions, DNR indicated they would assign projects to a grant before they go to construction. Until a final AG and Location Code are assigned the LFO Project/Site ID # 99.124030000 was assigned to the project file for LFO tracking purposes until actual AG and Location Code numbers are assigned by DAML and can be inserted in the appropriate positions at the beginning and end of the LFO Project #. No bid advertisement, bid opening, or construction completion dates were provided by DAML in the ATP request letter, therefore I inserted dates in the database based on the ATP request letter stating that these activities will occur as soon as possible. The

following proposed dates were assigned and entered by LFO for database tracking purposes: Bid Advertisement Date was entered as September 1, 2011, Contract Award was entered as October 1, 2011, and Contract/Construction Completion was entered as October 1, 2012.

An office review of the request documents was conducted. The documents consisted of; a project description, a location map, a National Environmental Policy Act (NEPA) review documented in a CX with agency consultation response letters attached; and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms, with engineer cost estimates for PA# KY-002272-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 waste areas were previously disturbed as mine benches, and residential yards. 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 EA prepared by the State and the State's ATP request letter summarized the responses from agencies consulted for the NEPA review and discussed appropriate resolution of all their concerns and recommendations. The responses from agencies

consulted for the NEPA review 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 (Indiana bat) within a 10 mile radius of the project area. They state that since no tree removal is anticipated, the KDFWR does not foresee impacts to the Indiana bat or its associated critical habitat. They also identified one records of state listed species of concern (Black bear) within 1 mile radius of the project area. The KDFWR believes the impacts to this species are highly unlikely. They recommended coordination with the U.S. Fish and Wildlife Service's Kentucky Field Office concerning their additional concerns for the Indiana bat within Kentucky.

The DAML staff biologist reviewed the Kentucky State Nature Preserves Commission's (KSNPC) BIOTICS database in lieu of further consultation. The findings are noted in the ATP request letter and an attached memorandum. DAML found that KSNPC data indicated one federally listed threatened or endangered species within a 10-mile radius and no species of State concern, but within a 1-mile radius of the project. DAML listed and discussed the species in the biologist's memorandum and their ATP request letter, finding that the noted species will not be impacted, since the project will not result in a significant negative impact to their critical habitat and/or suitable habitat does not exist within the project area to support the species. No reason was identified to dispute their determination.

The DAML Biologist also noted that the federally listed endangered Indiana bat, although not indicated to exist in the project vicinity; by his and the KDFWR reviews, would not be disturbed by the project. This is based on the fact that the project proposes to disturb no mine portals, cliffs, or caves, and proposes no disturbance of forested areas that could be utilized as roosting sites other than that area impacted by the AML problem that is creating a threat to the public; and in the event that any trees that represent potential Indiana bat habitat need to be removed, removal will only occur between October 15 and March 31 to avoid potential impacts to the Indiana bat. However, DAML biologist also state that since tree clearing in not anticipated in the project area, construction should not impact the species regardless of the timing of construction. The project is not located in an area identified as a area of "Known Habitat" for the Indiana bat. A map depicting this was provided by the DAML staff biologist.

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

is being protected. It was agreed to by all parties, acknowledging that LFO would retain the final review to determine if the NEPA documentation is complete.

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

The conditions in the MOA are met because:

- There will be no purposeful removal of standing trees larger than 5 inches diameter at breast height or standing snags with loose bark that are 9 inch or greater diameter at breast height and at least 10 feet in height, during the period of April 1 to October 14, and the proposed activity does not occur in "Known Indiana Bat Habitat".
- No caves or clifflines will be disturbed;
- The project proposes to disturb no mine portals.
- No purposeful filling or crossing of streams using heavy equipment or the removal of riparian vegetation using heavy equipment within the Tradewater, lower Ohio, Upper Cumberland, Green, and Licking River basins.
- In order to avoid/reduce indirect impacts, erosion and sediment control plans will be implemented and monitored until permanent vegetation has become established in the above listed watersheds and all other watersheds as may be appropriate.

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

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

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

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

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

According to the project description, all of the project area has been impacted by items 1, 2, 4 and 5 in the above list; therefore, the project is exempt from further consultation with the KHC. This fulfills the responsibility to consult with the SHPO under the Section 106 review process. Neither agency recommended conducting archeological surveys/investigations or mitigation measures.

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

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

As a result, DAML applies each responsible agency's criteria by agreement or physically consults with the DMP and DOW concerning CWA 401 WQC and floodplain permits to "Construct Across or Along a Stream", and with the COE concerning CWA 404 permits. This review has been centralized with DAML's Design Branch, whose staff has previous experience in this area and with the Kentucky DOW. DAML determined from the written

description that the project does not impact a stream, wetland, or floodplain that requires a 401 WQC, a 404 CWA permit, or a DOW floodplain permit. DAML further notes in their ATP letter that they will request a copy of all necessary permits prior to expending AML funds.

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-002272-SGA was directly input into the AMLIS by the DAML. This was confirmed by LFO's review of the e-AMLIS data and the PA was approved on August 11, 2011.

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 2272 SGA  
Project Name: Wayland Drainage AML Reclamation Project  
Project Description: Install drainage structures to alleviate drainage problems

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 <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>

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 Date: 8/11/11

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: Joseph L. Blackburn, Field Office Director



Steve Cassel <scasselsr@gmail.com>

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## ATP Request Package for Wayland Drainage AML Reclamation Project (Floyd County)

1 message

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**Bill Overman** <kyaml2008@gmail.com>

**Thu, Aug 11, 2011 at 3:21 PM**

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

Please see attached ATP request package for the Wayland Drainage AMLRP.

Respond accordingly.

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

Thanks,

Vanna  
AML-Frankfort



**Wayland Drainage - ATP Request 8.11.11.pdf**

13085K



**ENERGY AND ENVIRONMENT CABINET**  
**DEPARTMENT FOR NATURAL RESOURCES**

**Steven L. Beshear**  
Governor

Division of Abandoned Mine Lands

2521 Lawrenceburg Road  
Frankfort, Kentucky 40601  
[www.ky.gov](http://www.ky.gov)

**Leonard K. Peters**  
Secretary

**Carl E. Campbell**  
Commissioner

August 11, 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: Wayland Drainage AML Reclamation Project (Floyd County)

Dear Mr. Blackburn:

We are requesting "Authorization to Proceed" with site-specific construction activities on the referenced project, as described in the enclosed package. Enclosed are a project description, location maps, and problem area description (PAD) supplemental form, including a problem description and an engineer cost estimate, for the above-referenced project. The PAD for problem area # KY 2272 SGA has been prepared and entered into the e-AMLIS by the division. An eligibility determination that finds the proposed project eligible for AML funding has been reviewed and signed by the Office of Legal Services. Support documents for the PAD and the eligibility determination will be made available to you upon request. Also, enclosed is a Categorical Exclusion, with two agency consultation response documents and two DAML consultation documents attached. The KHC was not contacted, as the project site is exempt under the Programmatic Agreement with KHC, due to the previous disturbances of the site by road construction, utility installation, and/or houseseat development.

AML Program Development staff conducted a search of the Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database. This search revealed that no 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 is the Indiana bat (*Myotis sodalis* – USESA Endangered). According to the memo by Keith B. Coleman, dated August 1, 2011, this species should not be negatively impacted by the proposed reclamation work. Since no trees or cave-like structures are associated with this project, no impacts should result due to project-related construction, regardless of the construction 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

Office of Surface Mining  
August 11, 2011  
Page Two

permit issues. The response stated that no WQC, COE, or floodplain permits will be required. 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 \$104,000.00, exclusive of "in-house" personnel costs associated with project administration, design, support, surveying, and bid activities. Completion of the project will not require the acquisition of any land and will not significantly affect the potential recovery of residual coal reserves at the sites. The principal benefits to be derived from the successful completion of the project are the elimination of abandoned mine lands 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,

A handwritten signature in blue ink that reads "Steve Hohmann". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Steve Hohmann, Director  
Division of Abandoned Mine Lands

SH:BO:RH:vr

Enclosures

**Wayland Drainage Abandoned Mine Lands (AML)  
Reclamation Project  
Floyd County, KY**

Project Description

The proposed project (1.0 acres total) consists of constructing and installing drainage controls to address and eliminate drainage problems. The project is located along KY 1086, in the community of Wayland, in Floyd County. The project is located at latitude 37° 26' 44" N and longitude 82° 48' 20" W on the Wayland United States Geological Survey (USGS) 7.5' quadrangle (see the attached map). If left unabated, the drainage problems will continue to be a concern for the families in this community.

Reclamation construction will include excavation and the installation of associated drainage control structures. A tank and pump system, a length of subdrain with 12' pipe, and construction of a Class II/III ditch with erosion control blanket (ECB) and filter fabric. The primary waste area is located along a county road, latitude 37° 27' 37.7" N and longitude 82° 45' 9.8", and approximately 6.4 miles to the east of the proposed construction area.

The entire project work area slated for any excavation has been previously disturbed by any or all of the following: coal mining operations, including mine drainage, timber operations, gas/oil well development, residential development, road construction, and/or high velocity water flows associated with heavy rain events and flooding. No perennial or intermittent streams will be disturbed. To minimize sedimentation, a stringent erosion and sediment control plan including such measures as hay-bale silt fences and prompt revegetation will be implemented at all disturbed areas.

No tree removal is anticipated at the project site or in the waste area. All of the proposed construction will be in residential areas. All project access exists and all project areas are previously disturbed by mining, residential development, and road construction.

Wayland Drainage AML Reclamation Project  
Floyd County, KY  
Wayland Quadrangle

This topographic map shows the Wayland area in Floyd County, Kentucky. It features contour lines indicating elevation, with major contours every 200 feet. Several drainage basins are labeled, including Steele Branch, Steeple Branch, and Beaver Branch. The town of Wayland is located in the lower-left quadrant, and the hamlet of Minnie (Gibson Sta) is in the upper-right. A yellow line outlines the project boundary. A north arrow is located on the left side of the map. A red circle with the number 127 is visible near Minnie. Various landmarks such as cemeteries, mines, and an oil well are also marked.

AML plans to construct and install controls for drainage problems in the vicinity.

Waste Area

Project Boundary

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 2272 SGA  
Project Name: Wayland Drainage AML Reclamation Project  
Project Description: Install drainage structures to alleviate drainage problems

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: 8/11/11

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: Joseph L. Blackburn, Field Office Director



**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*

August 4, 2011

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

RE: Wayland Drainage AML Reclamation Project (Floyd 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, reading 'George M. Crothers'. The signature is written in a cursive style with a large, sweeping 'G' and 'C'.

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

## Howell, Ryan (EEC)

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**From:** Hall, Samantha (EEC)  
**Sent:** Monday, August 01, 2011 11:26 AM  
**To:** Rickwa, Vanna (EEC)  
**Cc:** Howell, Ryan (EEC); Moore, Jesse (EEC); Overman, Bill (EEC)  
**Subject:** RE: Request for floodplain & WQC review for Wayland Drainage AML Reclamation Project

### Floodplain/Stream Construction Permit

No permit is necessary for the project site. There is a pre-existing stream construction permit for the waste area.

### US Army Corps of Engineers Permit (ACOE)

No permit is necessary.

### Water Quality Certification

No permit is necessary.

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**From:** Rickwa, Vanna (EEC)  
**Sent:** Friday, July 29, 2011 10:23 AM  
**To:** Hall, Samantha (EEC)  
**Cc:** Howell, Ryan (EEC); Moore, Jesse (EEC)  
**Subject:** Request for floodplain & WQC review for Wayland Drainage AML Reclamation Project

Attached please find the project description and maps for Wayland Drainage AML Reclamation Project.

Please do a floodplain and WQC review 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*



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

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1 August 2011

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

RE: Wayland Drainage AML Reclamation Project (Floyd County)

Dear Mr. Hohmann:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) has received your request for information pertaining to the subject project. The Kentucky Fish and Wildlife Information System indicates that the federally-listed Indiana bat (*Myotis sodalis*) is known to occur within 10 miles of the proposed construction site. Since the project description states that no tree removal is anticipated, the KDFWR does not foresee impacts to the Indiana bat or its associated critical habitat. The Black bear (*Ursus americanus*) is a state-listed species of concern and known to occur within one mile of the proposed project site and waste area, but impacts to this species are highly unlikely. Please be aware that our database system is a dynamic one that only represents our current knowledge of various species distributions.

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

Sincerely,

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

Dan Stoelb  
Wildlife Biologist

Cc: Environmental Section File

## Memorandum

**To:** Wayland Drainage  
AML Reclamation Project

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

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

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

**Date:** August 1, 2011

On August 1, 2011, I conducted a search of the KSNPC database in order to determine if any species of state concern (monitored by KSNPC) are known to occur within the near vicinity (1 mile radius) of the site to be disturbed by this project, and if any federally listed "threatened or endangered" species are known to occur within the general vicinity (10 mile radius) of the project site. This search revealed that no 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. The USESA record is over 10 miles away from the associated waste area.

This project (1 acre total) consists of the installation of a 1,500 linear feet drainage system, including 12" pipe, rock-lined ditches, and a sump-pump. All access routes are previously-existing. The entire project area slated for excavation has been previously disturbed by any or all of the following: coal mining operations, (including mine drainage areas), timber operations, gas/oil well development, residential development, road construction, and/or high velocity water flows associated with heavy rain events and flooding. No perennial or intermittent streams will be disturbed. No mine portals will be disturbed. No trees over 5" DBH will need to be cleared from project areas, including the off-site waste area. To minimize sediment and erosion problems, a stringent control plan, including the utilization of such measures as hay-bale silt checks,

silt fences, erosion control blankets, and prompt vegetation of all disturbed areas, will be implemented and monitored during the construction process.

## USESA Listed Species

Indiana Bat (*Myotis sodalis*, “summer mist-net” record, 9.3 miles NW)

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

The search of the KSNPC BIOTICS database revealed one “summer mist-net” record of this species within 10 miles of the project site (9.3 miles NW from the project site). Two additional records document the Indiana Bat within 10-20 miles from the project site. Of the two records, one is another “summer mist-net” record, and the other is an “undetermined” record. All three of the above-mentioned records are between 10-20 miles from the off-site waste area.

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

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