Authorization to Proceed (ATP)

Back Branch & Ishmael Higgins
Abandoned Mine Land (AML) Reclamation Project
based on Categorical Exclusion (CX)
Magoffin County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the January 9, 2013 request for ATP with construction activity on the Back Branch & Ishmael Higgins AML 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 AML Inventory System (AMLIS) for Problem Areas (PA) #s KY-004129-SGA & KY-4230-CIA.

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 established tree cutting time period, a habitat assessment or presence /absence survey will be required, and must be performed by a certified biologist.

- Any utility structures encountered during construction must be protected, repaired or replaced as directed. Please mindful to minimize impacts to these structures during construction to lessen any potential liability.
- Please follow all appropriate provisions included in the DAML Erosion and Sediment Control Best Management Practices (BMP) Plan guidance document throughout the construction activity at this site.

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.

Robert S. Evans, Acting Field Office Director
OSM Lexington Field Office

1/25/13 Date
State: Kentucky  
PA: KY 4129 SGA & KY 4230 CIA  
Project Name: Back Branch & Ishmael Higgins AMLRP  
Project Description: Stabilization of slopes and installation of drainage controls at two locations.

<table>
<thead>
<tr>
<th>I. GENERAL EXCEPTIONS</th>
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<td>Does the project type specifically require an EA in 516 DM 6, Appendix 8, as specified in Item I of the attached instructions?</td>
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<th>II. DEPARTMENT OF INTERIOR EXCEPTIONS</th>
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<td>Will the project have any of the following:</td>
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<td>A significant adverse effect on public health or safety?</td>
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<td>An adverse effect on any of the following unique geographic characteristics? If 'yes,' check the ones that apply:</td>
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<tr>
<td>[ ] Parks (state, local or National)</td>
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<td>[ ] Recreation or Refuge Lands</td>
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<tr>
<td>[ ] Wilderness Areas</td>
</tr>
<tr>
<td>[ ] Ecologically Significant or Critical Areas</td>
</tr>
<tr>
<td>[ ] Prime Farmlands</td>
</tr>
<tr>
<td>Highly controversial environmental effects?</td>
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<tr>
<td>Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks?</td>
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<tr>
<td>A precedent for future action or a decision in principle about future actions with potentially significant environmental effects?</td>
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<tr>
<td>Directly related to other actions with individually insignificant but cumulatively significant environmental effects?</td>
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<tr>
<td>Adverse effects on properties listed or eligible for listing on the National Register of Historic Places?</td>
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<tr>
<td>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?</td>
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Require compliance with Executive Order 11988 (Floodplain Management),
Executive Order 11990 (Wetlands Protection) or The
Fish and Wildlife Coordination Act?  
\[ \text{No [x] Yes [ ]} \]

Threaten to violate a Federal, State, Tribal or local law or requirement imposed for
the protection of the environment?  
\[ \text{No [x] Yes [ ]} \]

### 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.  
\[ \text{No [x] Yes [ ]} \]

- [ ] 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: Robert P. Scott  
Date: \(1/09/2013\)

Name and Title: Robert F. Scott, Director  
Division of Abandoned Mine Lands

### VI. OSM DETERMINATION

\[ \text{[X]} \]
This project conforms with the exclusion criteria in 516 DM 6, Appendix 8, and is excluded from further NEPA compliance.

\[ \text{[ ]} \]
This project does not conform with the exclusion criteria in 516 DM 6, Appendix 8, and requires an environmental assessment.

Signature: Robert S. Evans  
Date: \(1/25/13\)

Name and Title: Robert S. Evans, Acting Field Office Director