

Authorization to Proceed (ATP)
Mary-Bethany Flat Phase II Water Supply
Abandoned Mine Land (AML) Reclamation Project
based on Finding of No Significant Impact (FONSI)
Wolf County, Kentucky

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of the September 7, 2011, request for ATP with construction activity on the Mary-Bethany Flat Phase II Water Supply 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 water supply construction activity. OSM confirmed that the required information for this project has been included in the AML Inventory System.

OSM thoroughly reviewed the environmental assessment (EA) prepared by DAML for this project. OSM determined that the EA adequately discusses the environmental issues and impacts associated with the construction of the project. Based on the analysis in the EA, I have determined that reclamation of this abandoned mine site would not have significant effects on the quality of the human environment. Therefore, I conclude that no environmental impact statement is necessary. As a result, I have signed the Finding of No Significant Impact (FONSI) for this project. 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/anticipated at this time for this project, but that if tree removal is needed it will only take place between October 15 and March 31, or a habitat assessment or a presence/absence survey will be required.
- DAML staff determined that a floodplain encroachment permit to "Construct Across or Along a Stream" should be applied for and obtained as necessary.
- In the ATP request letter and EA, DAML notes that the local government agency administering construction of this project and the engineers they retain, will acquire a;; permits/certification prior to the funding of construction. However, it must be noted that the State is ultimately responsible to OSM under the grant conditions to ensure that the necessary permits/certifications are obtained and compliance is fully met throughout the life of the project.

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

 "Acting For"

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

10-7-11
Date

Cassel, Steven R. "Steve"

From: Cassel, Steven R. "Steve"
Sent: Tuesday, October 11, 2011 10:09 AM
To: Miller, Corey T.
Subject: RE: ATP Transmittal: Mary-Bethany Flat Phase II Water Supply ATP, Wolfe County

Thanks for asking, as a matter of fact I thought I had this fixed, but apparently not, thanks for the copy, it did not end up in my Sent folder. I guess I will check the template again.

Thanks

From: Miller, Corey T.
Sent: Friday, October 07, 2011 1:17 PM
To: Cassel, Steven R. "Steve"
Subject: RE: ATP Transmittal: Mary-Bethany Flat Phase II Water Supply ATP, Wolfe County

Did you get this one in your "sent" folder?? Do you need me to forward this to you as a .pdf?

[Corey Miller](#)
Program Specialist
Office of Surface Mining-LFO
2675 Regency Road
Lexington, Kentucky 40503

(Phone) 859-260-3916
(Fax) 859-260-8410

From: Cassel, Steven R. "Steve"
Sent: Friday, October 07, 2011 11:26 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: Mary-Bethany Flat Phase II Water Supply ATP, Wolfe County

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of your September 7, 2011, request for ATP with construction activity on Mary-Bethany Flat Phase II Water Supply AML Reclamation project, prepared by the Division of Abandoned Mine Lands (DAML). The request does 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 conducted on September 20, 2011, for field verification under the EY 2012 Oversight Agreement. The proposal was recommended for approval with one concern for extension of the line into Devil Creek from Umber Fork Road. DAML indicated that the majority of the waterline in Umber Fork road, from the Morton Gilbert Road intersection into Devils Creek, was deleted from the project by the county due to maintenance cost reasons. This is further explained in the inspection report. Otherwise the project is recommended for authorization with no further recommendations or concerns identified. Refer to report findings and photos in the LFO State AML Project Database.

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/anticipated at this time for this project, but that if tree removal is needed it will only take place between October 15 and March 31, or a habitat assessment or a presence/absence survey will be required.
- DAML staff determined that a floodplain encroachment permit to “Construct Across or Along a Stream” should be applied for and obtained as necessary.
- In the ATP request letter and EA, DAML notes that the local government agency administering construction of this project and the engineers they retain, will acquire a;; permits/certification prior to the funding of construction. However, it must be noted that the State is ultimately responsible to OSM under the grant conditions to ensure that the necessary permits/certifications are obtained and compliance is fully met throughout the life of the project.
- 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 has signed an ATP notice and the Finding of no Significant Impact for the Environmental Assessment for the project. A copy of each of these documents and the LFO review memorandum are scanned into the attachment to this 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.

Please ensure that the e-AMLIS information regarding Problem Area’s (PA) # KY-004149-SGA is updated to reflect the authorization of this project by moving the appropriate Units and Cost from Unfunded to Funded category. This will update the e-AMLIS for use in generating the Annual Report to Congress and other inquiries of the database.

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.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Mary-Bethany Flat Phase II Water Supply Abandoned Mine Lands (AML) Project Wolf County, Kentucky

The Commonwealth of Kentucky submitted an Authorization to Proceed with Construction Activity (ATP) request for Federal AML grant funds to the Office of Surface Mining Reclamation and Enforcement (OSM) for this project. The ATP request consists of a request letter, Environmental Assessment (EA) with consultation correspondence, project description, location map, AML Inventory System (AMLIS) Problem Area (PA) Description forms, and other supporting enclosures. The project area may be centrally located on the Campton and Landsaw, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle maps at 37° 41' 14" North Latitude and 83° 30' 56" West Longitude near the community of Mary and Bethany, 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-004149-SGA. The project involves reclamation of AML conditions consisting of providing potable domestic water supply to 123 residences by extending an existing public water supply by constructing about 107,280 linear feet of new water service lines, a pump station, and water tank.

OSM has thoroughly reviewed the EA prepared for this project by the Kentucky Division of Abandoned Mine Lands (DAML) and determined that it adequately discusses the environmental issues and impacts as required by the National Environmental Policy Act (NEPA) for OSM abandoned mine lands reclamation grant construction activities for authorization purposes.

Based on the analysis in the EA, I find that the construction activity performed under this project will not have significant impacts on the quality of the human environment. Therefore, I conclude that a detailed Environmental Impact Statement is unnecessary. My specific reasons are as follows:

The alternative to not fund the project would result in no favorable impacts and the adverse impacts would continue unabated. The long-term beneficial impact of the proposed action will result in the protection of the health, safety, general welfare, and property of the local citizens and other persons who may come in contact with these AML conditions. No long-term adverse impacts are anticipated. Short-term environmental impacts are limited to sedimentation, noise, and inconvenience to the local residents while the project is constructed. Sedimentation will be controlled by using silt control and prompt revegetation of the disturbed area. Noise, dust, and other inconveniences to local residents are unavoidable impacts related to construction activities.

All appropriate government agencies were consulted or their review criteria applied by agreement. As a result, it was determined that the project area does not contain or significantly affect threatened or endangered species or their habitat, jurisdictional wetlands, cultural or historic values, prime and unique farmland values, recreational resources, or Class I air quality regions. To reduce impacts from the project, the recommendations made by the agencies consulted were considered and, as appropriate, incorporated into the EA prepared by DAML and/or as an element of their request for ATP with construction submitted for OSM authorization. The responses from agencies consulted for the National Environmental Policy Act (NEPA) review include the following comments and/or recommendations:

The Kentucky Department of Fish and Wildlife Resources (KDFWR) identified no known federally threatened/endangered or state listed species of concern within close proximity of the project disturbance, and recommended that erosion control measures be installed and maintained..

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

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

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

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

- The project does not propose 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, however, the DAML ATP request letter and biological review memorandum note that if any removal of trees 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;
- The project activity does not occur in "Known Indiana Bat Habitat" identified on the map attached to the MOA and the GIS files provided by USFWS KFO on November 2, 2009, used to generate the map (a copy of a section of the MOA GIS layer map on which the project coordinates are located is attached to the DAML biological review memorandum as proof of this determination);
- No caves or clifflines will be disturbed;
- No mine portal/shaft closures are proposed;
- No purposeful filling or crossing of streams using heavy equipment or the removal of riparian vegetation using heavy equipment within the Tradewater, lower Ohio, upper Cumberland, Green, and Licking River basins;
- In order to avoid/reduce indirect impacts, erosion and sediment control plans will be implemented and monitored until permanent vegetation has become established in the above listed watersheds and all other watersheds as may be appropriate.

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 and no systematic archaeological survey

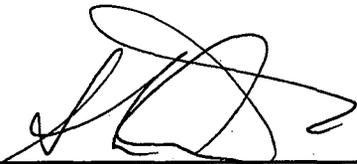
has been conducted in the immediate project area, however, since they have insufficient information to determine the likelihood that archaeological sites may be present or potentially impacted by construction of the water supply, they recommended coordination with the State Historic Preservation Officer (SHPO) before beginning construction activities. The Kentucky Heritage Council (KHC) and State Historic Preservation Officer (SHPO) were consulted previously on portions of the project area which identified no historic properties affected by the project. In addition the project construction 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 National 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. Therefore, historic preservation consideration is satisfied.

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

Under a 2005 agreement with the Kentucky Division of Water (DOW) Floodplain Management Section (FMS) of the Water Resources Branch, DOW authorized DAML to apply DOW floodplain standards in lieu of a DOW review. In this agreement, DAML will directly consult with DOW if it appears a permit may be required. DAML has acquired a set of Federal Emergency Management Agency (FEMA) floodplain maps that include the project area. DAML's Design Branch personnel researched these maps and have determined that the project is within the base floodplain and a stream construction permit to "Construct Across or Along a Stream" will not be required.

DAML's ATP request letter and EA note that the local government agency administering construction of this project and the engineers and contractors retained by them for this

project will acquire any needed permits prior to the onset of construction. In addition, DAML states that it will not fund this project until all required permits and authorization are issued prior to the onset of construction. The OSM authorization to proceed with construction activity document will be conditioned to reflect these issues and notify DAML that the State is ultimately responsible to OSM under the grant conditions to ensure that the necessary permits are obtained, to primarily include a DOW Floodplain Encroachment Permit, and that compliance is fully met throughout the life of the project.



OSM Environmental Reviewer
AML Program Specialist

10-7-11
Date



Joseph L. Blackburn
Field Office Director

10-7-11
Date

Memorandum

Date: October 6, 2011

To: Mary-Bethany Flat Phase II Water Supply Abandoned Mine Land (AML) Reclamation Project File ID# 99.134040000

From: Steve Cassel, Sr., AML Program Specialist *SC*, 10-07-11
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 Mary-Bethany Flat Phase II Water Supply AML Reclamation Project. The Branch prepared an ATP notice and Finding of No Significant Impact (FONSI) for the FOD review. The Branch recommends that the FOD sign the FONSI 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 FONSI. Additionally, the transmittal email will be copied to the Department for Natural Resources (DNR) Commissioner. *X*

The Kentucky DAML ATP request dated September 7, 2011, was received at LFO September 7, 2011. The ATP was processed within ~~24~~²³ working days; therefore, the customer service target of 14 working days to process an ATP was not met. The ATP was processed in ~~28~~²⁹ calendar days; therefore, the Federal employee performance appraisal standard of 30 calendar days to process an ATP has been met. *sl*
slf

The project area may be centrally located on the Campton and Landsaw, Kentucky U.S.G.S. 7.5 minute Topographic Quadrangle maps at 37° 41' 14" North Latitude and 83° 30' 56" West Longitude near the community of Mary and Bethany, 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-004149-SGA. The project involves reclamation of AML conditions consisting of providing potable domestic water supply to 123 residences by extending an existing public water supply by constructing about 107,280 linear feet of new water service lines, a pump station, and water tank.

DAML did not designate a funding source for the construction work under the budget category entitled Water Supply Project Costs 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 # 99.134040000 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. The following proposed dates were assigned and entered by LFO for database tracking purposes: Bid Advertisement Date was entered as October 1, 2011, Contract Award was entered as November 1, 2011, and Contract/Construction Completion was entered as November 1, 2012.

An office review of the request documents was conducted. The documents consisted of; a project description, a location map, a National Environmental Policy Act (NEPA) review documented in an Environmental Assessment (EA) with agency consultation documentation; and an Abandoned Mine Land Inventory System (AMLIS) Problem Area Description (PAD) summary and appropriate Priority Documentation Forms, with engineer cost estimates and reference to a water supply study, for PA# KY-004149 - SGA.

A pre-approval field inspection of the proposed project was conducted on September 20, 2011, for field verification under the EY 2012 Oversight Agreement. The proposal was recommended for approval with one concern for extension of the line into Devil Creek from Umber Fork Road. DAML indicated that the majority of the waterline in Umber Fork road, from the Morton Gilbert Road intersection into Devils Creek, was deleted from the project by the county due to maintenance cost reasons. This is further explained in the inspection report. Otherwise the project is recommended for authorization with no further recommendations or concerns identified. Refer to report findings and photos in the LFO State AML Project Database.

The EA submitted for the construction activity at the site was reviewed and found to adequately document the environmental review of the construction activity within the current NEPA review guidance. No significant impacts have been reported to this office or identified by the Branch. The Branch recommends that the Office of Surface Mining Reclamation and Enforcement (OSM) accept the CX EA submitted by the Kentucky DAML. The EA prepared by the State and the State's ATP request correspondence and attachments discussed the responses from agencies consulted for the NEPA review and discussed appropriate resolution of all their concerns and recommendations. The responses from agencies consulted for the NEPA review are summarized in the FONSI prepared by OSM for the EA.

The comments from the Kentucky State Clearinghouse, Kentucky's "Single Point of Contact" (SPOC) pertaining to AML Water Supply projects included no comments that affect this proposal. The information to update PA # KY-004149-SGA was directly input into the AMLIS by the DAML on August 22, 2011, for OSM approval for this ATP. This PAD represents a "new Problem Area" requiring FOD approval under OSM Directive AML-1-2 (signed June 22, 2007). A FOD approval form was not prepared for the PA,

since the new e-AMLIS is operational, with electronic OSM FOD approval, which eliminated the need for the FOD approval form. The e-AMLIS file indicated the PA was approved on October 7, 2011, as documented by a copy of the AMLIS screen shot scanned into the project file pdf file.

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



ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR NATURAL RESOURCES

Steven L. Beshear
Governor

Division of Abandoned Mine Lands
2521 Lawrenceburg Road
Frankfort, Kentucky 40601
www.ky.gov

Leonard K. Peters
Secretary

Carl E. Campbell
Commissioner

September 7, 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: Mary-Bethany Flat Phase II AML Water Supply Project (Wolfe 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 map, 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 4149 SGA has been prepared, entered into the e-AMLIS by the division, and is pending OSM approval. An eligibility determination that finds the proposed project eligible for AML funding has been reviewed and signed by the Office of Legal Services. Support documents for the PAD and the eligibility determination will be made available to you upon request. Also, enclosed is an Environmental Assessment, with three agency consultation response documents and two DAML consultation documents attached.

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

KSNPC species found within 1 mile from the project sites:

- Sharp-shinned Hawk (*Accipiter striatus*)
- Evening Bat (*Nycticeius humeralis*)

USESAs listed species found within 10 miles from the project site:

- Indiana Bat (*Myotis sodalis*)
- White-haired Goldenrod (*Solidago albopilosa*)
- Virginia Big-eared Bat (*Corynorhinus townsendii*)
- Gray Myotis (*Myotis sodalis*)

According to the memorandum by Keith B. Coleman, dated August 16, 2011, none of these species should be negatively impacted by the proposed reclamation work. Although the entire state of Kentucky has been declared to be potential Indiana Bat habitat, since the removal of trees over 5" DBH is not anticipated and no cave-like structures will be closed, no negative impacts should result upon the Indiana Bat, regardless of the timing of construction. Should it become necessary for the clearing of trees over 5" DBH, which also display characteristics such as shaggy, exfoliating bark, or crevices and hollowed-out cavities within their trunks and larger limbs, a habitat assessment or presence-absence survey may be required.

A letter was sent to the DAML floodplain and hydrology staff specialist, soliciting their comments regarding this project. The letter requested comments regarding water quality certification (WQC) and floodplain permit issues. The response stated that a floodplain permit would be required, but no WQC or COE permits will be required as long as the work performed is subsurface (directional boring method). The engineers and/or contractors retained for this project are required to obtain all necessary permits. This Division will not fund this project until all required permits and authorizations are received. The other consulted agencies had no objections or concerns regarding this project.

Overall, the project is a Priority 2. The project is estimated to cost \$2,189,699.00, exclusive of "in-house" personnel costs associated with project administration, design, support, surveying, and bid activities. Completion of the project will not require the acquisition of any land and will not significantly affect the potential recovery of residual coal reserves at the sites. The principal benefits to be derived from the successful completion of the project are the elimination of abandoned mine land problems as described in the attached project description.

Construction contract bidding, awarding, and subsequent construction completion will occur as soon as possible. Should you have any questions regarding this information, please contact us at 502/564-2141.

Sincerely,



Steve Hohmann, Director
Division of Abandoned Mine Lands

SH:BO:RH:vr

Enclosures

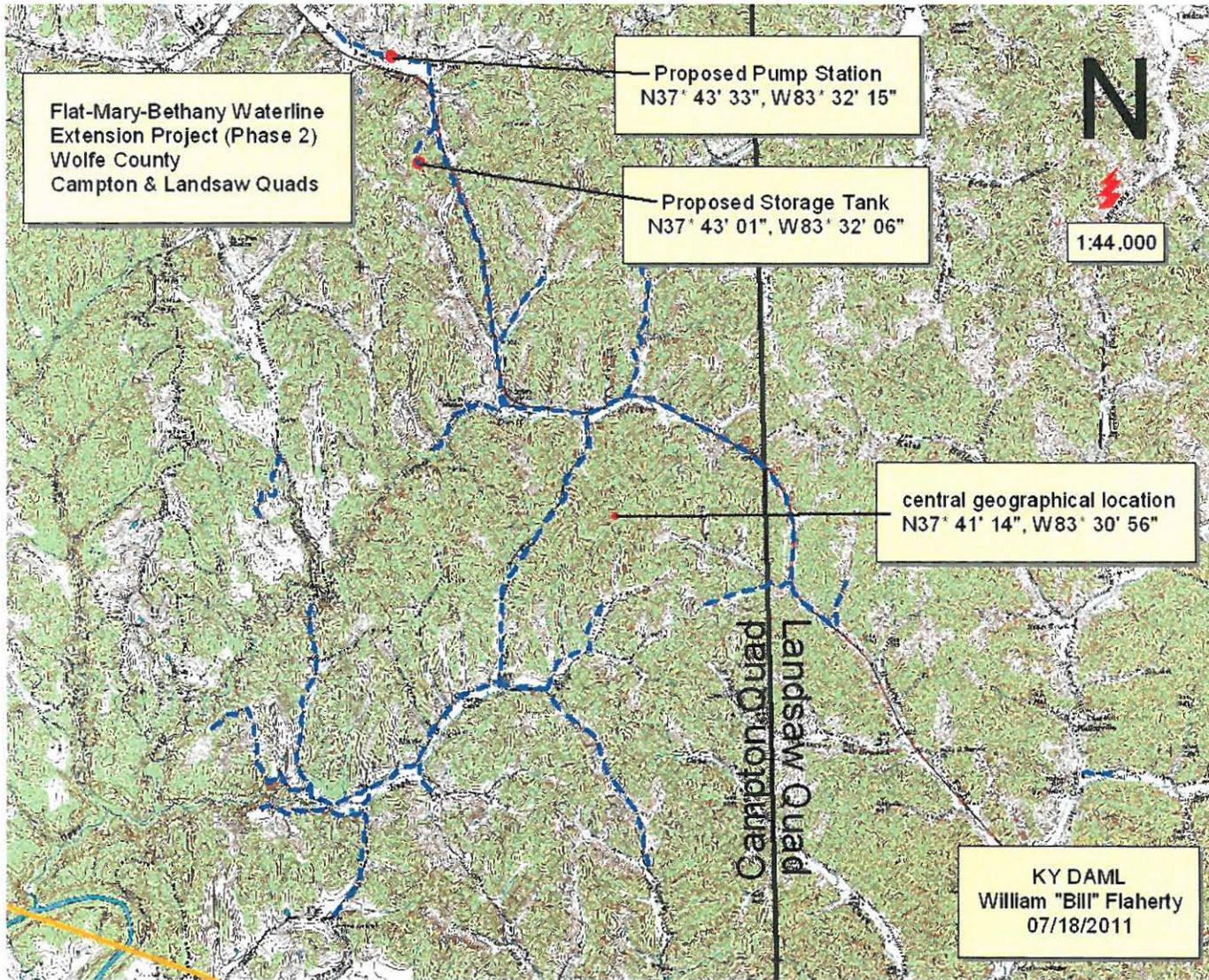
**Mary/Bethany Flat
Phase II AML
Water Supply Project
Wolfe County**

Project Description

Groundwater in the area surrounding the community of Vortex in Wolfe County has been damaged by pre-law coal mining operations. Therefore, this area is eligible for an AML-funded waterline extension project to abate the problems. The project ties into existing waterlines located on the Campton and Landsaw 7.5' United States Geological Survey (USGS) quadrangles at Latitude 37° 41' 14" and Longitude 83° 30' 56" (see the attached map). 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. 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.

A total of approximately 107,280 linear feet of new water supply pipe is proposed for the project. The pipe diameter ranges from 3" to 8". Approximately 123 new water meters will be installed. A booster pumping station located at Latitude 37° 43' 33" and Longitude 83° 32' 15" and water storage tank located at Latitude 37° 43' 01" and Longitude 83° 32' 06" are proposed as part of the project. Several creek crossings are proposed at different locations, and the waterlines will be installed in previously disturbed ditches and shoulders of public road right-of-ways or at cleared private roads, and in mowed residential yards.

Installation and maintenance of hay-bale silt checks and erosion control netting will minimize sedimentation at any critical areas. All construction disturbances will be kept to a minimum and vegetated as soon as practical. Consulting engineering companies retained for this project submitted design plans for this water supply project to the Kentucky Division of Water (DOW) for their review and approval. This approval process includes the identification and notice, to the party submitting the design plans, of all necessary permits, including any floodplain permits and 401 WQC permits required. The engineers and/or contractors retained for this project are required to obtain all necessary permits. This Division will not fund this project until all required permits and authorizations are issued.



Mary/ Bethany Flat Phase II AML Waterline Supply Project

Wolfe County

Environmental Assessment

A. Description of the Proposed Action:

The Kentucky Division of Abandoned Mine Lands (AML) proposes to provide 123 residences with a public water supply, by constructing approximately 107,280' of new water service lines that are located in the Campton and Landsaw, Kentucky 7.5' United States Geological Survey (USGS) quadrangles. The waterline is centrally located at 37° 41' 14", 83° 30' 56" and will connect to existing lines. A pump station is proposed at 37° 43' 33", 83° 32' 15", and a tank site is proposed at 37° 43' 01", 83° 32' 06". The federal Office of Surface Mining (OSM) has requested that all water supply project proposals include an environmental assessment.

B. Need for the Proposed Action:

Poor quality well water threatens the health of anyone who drinks it. The problems proposed to be mitigated by this project are rated as Priority 2. The problems are further described in the priority documentation form for national AML inventory problem area KY 4149-SGA.

C. Alternatives Considered:

1. Extend existing public waterlines, to replace groundwater wells contaminated or destroyed by previous mining.
2. Drill wells and/or provide and maintain cisterns.
3. Take no action, allowing the human health hazards to continue.

C.1. Preferred Alternative:

An AML-funded ground water study for several areas in Wolfe County (see the attached map) has shown that groundwater in portions of the area are degraded primarily due to pre-law coal mine operations. As a result, portions of the study areas are eligible for AML expenditures to abate the problems.

The project consists of providing full municipal water service to approximately 123 residences. Approximately 107,280' of water-supply pipe will be installed, with pipe diameters ranging from 3" to 8". Pipes will be installed in previously disturbed ditches and shoulders of public road rights-of-way. Meters and service

lines will primarily be located in residential yards. No forested areas will have to be cleared in any of the project areas.

C.2. Drilled Wells:

Should the Commonwealth drill wells and/or provide and maintain cisterns, the cost would be prohibitive, and encountering a good water source by drilling in an area already disturbed by mining is unlikely.

C.3. No Action:

Should the Commonwealth take no action, people drinking well water contaminated by pre-law mining, or drinking contaminated water from other sources after their well was destroyed by pre-law mining, could suffer from health problems.

D. Affected Environment:

D.1. General Setting:

The predominant land uses in the vicinity are residential, commercial (small businesses), agricultural, and forestland. Second growth, unmanaged upland hardwood forest and coal mines are on the steep slopes.

D.2. Affected Resources:

Resources that could, but will not, be negatively affected by the proposed project include:

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

The following agencies and databases were consulted to identify resources that may occur in the project vicinity:

- Kentucky Department of Fish and Wildlife Resources (KDFWR)
- Kentucky Division of Mine Permits (KDMP) floodplain database

- Kentucky Heritage Council (KHC)
- Kentucky Office of State Archaeology (OSA)
- Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database

Replies from these agencies and a memo addressing the KSNPC database search are attached.

E. Environmental Impacts of the Proposed Alternative:

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

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

The proposed project will not adversely impact low income or minority persons. Development of an area for residential and business uses usually increases after a public water supply is available, especially for locations with existing poor quality and quantity well water, which may result in more jobs available. Due to the proposed disturbances to install water lines in drainage ditches, with stream crossings, and right-of-way property along roads and in residential yards, hydrology will be discussed. Due to the possible occurrence of six species monitored by the Kentucky State Nature Preserves Commission (KSNPC), fish and wildlife/plants will be discussed.

E.1.a. Hydrology:

A formulated erosion, sediment, and drainage control plan will be implemented during construction, to minimize sedimentation of receiving streams. This plan includes hay-bale silt checks and silt fences maintained throughout the life of the project, and prompt vegetation of disturbed areas. The completed project will provide non-eroding drainage controls and a vigorous, complete cover of perennial vegetation, which will result in the same or less stream sedimentation after project construction. The disturbance of sediments and resulting turbidity in streams will be limited to those found during heavy storm events. Therefore, the hydrology of the project areas and downstream areas should not suffer long-term negative impacts due to construction of this project.

As indicated in the attached email dated August 5, 2011, a floodplain permit will be required. Because the waterlines will be installed using directional boring for any stream crossing, no WQC or COE permits will be required. The engineers and/or contractors retained for this project are required to obtain all necessary permits. This Division will not fund this project until all required permits and authorizations are received.

E.1.b. Fish and Wildlife/Plants:

AML personnel searched the KSNPC BIOTICS database in order to determine if any species that are monitored by the KSNPC are known to occur within the near vicinity (a 1-mile radius) of the project site, and if any federally-listed threatened and endangered species are known to occur within the general area (a 10-mile radius) of the project site. This search revealed two species of state concern monitored by the KSNPC are known to occur within one mile of the project site and four species listed as Threatened and Endangered under the United States Endangered Species Act (USESA) are known to exist within ten miles of the project site. The species noted in the search are:

KSNPC species found within 1 mile from the project sites:

- Sharp-shinned Hawk (*Accipiter striatus*)
- Evening Bat (*Nycticeius humeralis*)

USESA listed species found within 10 miles from the project site:

- White-haired Goldenrod (*Solidago albopilosa*)
- Virginia Big-eared Bat (*Corynorhinus townsendii*)
- Gray Myotis (*Myotis grisescens*)
- Indiana Bat (*Myotis sodalis*)

The attached memorandum by Keith B. Coleman, dated August 16, 2011, indicates that none of these species should be negatively impacted. Since tree clearing is not anticipated within the water supply project area and no cave-like structures area proposed to be closed, the Indiana Bat should not be negatively impacted, regardless of the timing of the construction.

E.1.c. Cumulative Environmental Impact:

No significant environmental impacts should occur as a result of construction of the preferred alternative in the watersheds where the proposed construction sites are located. No previous AML projects have been found to significantly negatively impact the environment- the projects are designed to reclaim human safety problems where the land has been disturbed by abandoned coal mining, with insignificant negative environmental impacts during and after these

reclamation projects. Therefore, as neither previous projects, nor the proposed alternative, will have any significant impact upon the environment within these watersheds, there will be no cumulative negative impact as a result of the construction of this proposed AML project.

E.2. Drilling Wells Alternative:

E.2.a. Hydrology:

Drilling wells and/or providing and maintaining cisterns is unlikely to significantly change existing hydrologic conditions.

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

Drilling wells and/or providing and maintaining cisterns is unlikely to significantly change the habitats for existing plant and animal species.

E.3. No Action Option:

E.3.a. Hydrology:

If the Commonwealth takes no action, existing hydrologic conditions would remain unchanged.

E.3.b. Fish and Wildlife/Plants:

If the Commonwealth takes no action, existing plant and animal species would remain unchanged.

F. Summary:

The Commonwealth considered three options:

1. Extend public waterlines to replace wells damaged by pre-law mining.
2. Drill wells and/or provide and maintain cisterns.
3. Take no action.

The first option was selected due to its overall advantages.

G. Consultations:

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

- Kentucky Department of Fish and Wildlife Resources (KDFWR)
- Kentucky Division of Mine Permits (KDMP) floodplain database
- Kentucky Heritage Council (KHC)
- Kentucky Office of State Archaeology (OSA)
- Kentucky State Nature Preserves Commission (KSNPC) BIOTICS database

H. Preparers/Reviewers:

Kentucky Division of Abandoned Mine Lands Personnel:

- William Flaherty, Environmental Technologist III
- Keith Coleman, Environmental Technician III
- Ryan Howell, Environmental Control Supervisor
- Bill Overman, Program Development Branch Manager

 9/7/11

- Steve Hohmann, Director Date

Howell, Ryan (EEC)

From: Hall, Samantha (EEC)
Sent: Friday, August 05, 2011 9:11 AM
To: Rickwa, Vanna (EEC)
Cc: Howell, Ryan (EEC); Flaherty, William (EEC); Overman, Bill (EEC)
Subject: RE: Request for floodplain and WQC review for Mary-Bethany Flat Phase II AML WSP

Floodplain/Stream Construction Permit

A floodplain permit will be required.

US Army Corps of Engineers Permit (ACOE)

No permit is necessary as long as the stream crossings are subsurface.

Water Quality Certification

No permit is necessary as long as the stream crossings are subsurface.

From: Rickwa, Vanna (EEC)
Sent: Thursday, August 04, 2011 11:24 AM
To: Hall, Samantha (EEC)
Cc: Howell, Ryan (EEC); Flaherty, William (EEC)
Subject: Request for floodplain and WQC review for Mary-Bethany Flat Phase II AML WSP

Attached please find the project description and map for Mary-Bethany Flat Phase II WSP.

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

Please notify Bill Overman, Ryan Howell, William Flaherty, and myself of your response.

Thanks,

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



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Office of State Archaeology
College of Arts and Sciences
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Lexington, KY 40506-0024
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September 6, 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: Mary-Bethany Flat Phase II AML Water Supply Project (Wolfe 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 no surveys or sites have been recorded in the project areas. However, the proposed lines pass through areas that have potential for archaeological sites. We do not have sufficient information to determine whether archaeological sites will be impacted by the project. It is my recommendation that you consult with the State Historic Preservation Office to determine whether an archaeological survey is required.

Sincerely,

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

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



STEVEN L. BESHEAR
GOVERNOR

**TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL**

MARCHETA SPARROW
SECRETARY

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PHONE (502) 564-7005
FAX (502) 564-5820
www.heritage.ky.gov

MARK DENNEN
EXECUTIVE DIRECTOR AND
STATE HISTORIC PRESERVATION OFFICER

June 30, 2011

REC'D JUL 18 2011

Michael Williams
Bell Engineering
354 Waller Avenue
Lexington, Kentucky 40504

RE: An Archaeological Survey of 8,200 Feet of Water Lines in Wolfe County, Kentucky, by Jack Schock.

Dear Mr. Williams,

This office has received the above mentioned report for review. The author reports no prehistoric or early historic archaeological sites in the project area and recommends no further archaeological investigation. I concur with these findings. In accordance with 36CFR Part 800.4(d) of the Advisory Council's revised regulations our finding is that there should be **NO HISTORIC PROPERTIES AFFECTED** within the undertaking's area of potential effect. We have no further comments and responsibility to consult with the Kentucky State Historic Preservation Officer under the Section 106 review process is fulfilled.

Should you have any questions, feel free to contact Wes Stoner of my staff at 502-564-7005 ext 151.

Sincerely,

Mark Dennen, Executive Director
Kentucky Heritage Council and
State Historic Preservation Officer

MD: wds

cc: Jack Schock (Arrow)
Dr. George Crothers (KY-OSA)



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

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Marcheta Sparrow
Secretary

Dr. Jonathan W. Gassett
Commissioner

12 August 2011

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

RE: Mary-Bethany Flat Phase II AML Water Supply Project (Wolfe 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 no federally or state-threatened/endangered species are known to occur within close proximity to the proposed project site. Please be aware that our database system is a dynamic one that only represents our current knowledge of various species distributions.

Erosion control measures, as mentioned in the project description, will need to be installed prior to construction and should be inspected and repaired regularly as needed. The KDFWR recommends construction of creek crossings only during low flow periods to reduce the potential for runoff and erosion. 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: Flat Mary – Bethany (Phase II)
AML Water Supply Project

From: *Keith B. Coleman*
Environmental Technician, AML Program Development Branch
Keith B. Coleman 8/16/2011

Through: *Bill Overman*
Manager, AML Program Development Branch
Bill Overman 8/16/11

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

Date: August 16, 2011

On August 16, 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 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 two species of state concern, monitored by KSNPC, are known to occur within one mile, and that four species currently listed as threatened or endangered, under the United States Endangered Species Act (USES A), are known to occur within ten miles of the project site.

The project (approximately 20.3 miles total) consists of the installation of new water supply lines, 123 new water meters, one storage tank, and one booster 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.

KSNPC Monitored Species

Sharp-shinned Hawk (*Accipiter striatus*, KSNPC Special Concern)

Evening Bat (*Nycticeius humeralis*, KSNPC Special Concern, pre-1930 record)

USES A Listed Species

White-haired Goldenrod (*Solidago albopilosa*, USESA Threatened)

Virginia Big-eared Bat (*Corynorhinus townsendii*, USESA Endangered)

Gray Myotis (*Myotis grisescens*, USESA Endangered)

Indiana Bat (*Myotis sodalis*, USESA Endangered)

The **Sharp-shinned Hawk** inhabits forest and open woodland areas, primarily areas within coniferous stands 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 the project, no negative impacts should result due to the above-described project construction. Should tree clearing become necessary for subsequent work, clearing within the winter or late fall months would be advised.

The **Evening Bat** is considered a summer resident of Kentucky, generally within the western 1/3 of the state. They return to the state within the latter part of April and form summer colonies in natural and artificial sites, including hollow trees and barns or other buildings. A few records include roost sites under bridges. Conversion of forested wetlands and logging are believed to be the most direct impacts on roosting and foraging habitat. Summer roosting habitat is similar to that of the Indiana Bat, and the conditions regarding tree removal associated with this project will be addressed below, as part of the Indiana Bat commentary.

White-haired Goldenrod is typically found near sandstone rock-houses and along cliff-lines. As indicated on project maps, areas to be disturbed by construction are

located within valley floors. Since the waterlines, booster pump, storage tank, and water meters will be installed within roadside right-of-ways and/or regularly maintained residential areas, negative impacts to this species due to project-related construction is highly unlikely. In total, there are 39 records of this species, nearly all of which are 5-10 miles NW of the project site, within the Slade and Pomeroyton 7.5' USGS quadrangles.

The **Virginia Big-eared Bat** (10 records within 10 miles, all records reported near caves) and the **Gray Myotis** (8.2 miles N-NW, 1 record within 10 miles) are cave-dwelling species which are seldom reported to have been observed in areas other than caves or cave-like structures. Gray Bats are known to move from one cave to another throughout the year. Since no disturbances to caves or cave-like structures are planned in association with project construction, no negative impacts should result upon either of these species, regardless of the timing of the construction period.

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 two records of this species within 10 miles of the project site (8.9 miles NNW and 6.0 miles W). 29 additional records document the Indiana Bat within 10-20 miles from the nearest project area. Both of the records within 10 miles from the project site are hibernacula records. No maternity areas, maternity colonies, or other records have been documented within 10 miles.

Although the project site does not fall within a buffered USFWS known habitat area (map attached), the Kentucky Indiana Bat Mitigation Guidance suggests that any tree clearing be restricted to between November 15 and March 31, in order to ensure that bats are secure within their hibernacula for the coming winter season.

However, since tree clearing is not anticipated within the project site 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, directly AML-impacted areas become necessary, a habitat assessment or presence-absence survey may be required. Adherence to these best management practices should prevent any negative impacts upon the Indiana Bat.