



# United States Department of the Interior



OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
710 Locust Street, 2<sup>nd</sup> Floor  
Knoxville, Tennessee 37902

## **CATEGORICAL EXCLUSION AUTHORIZATION TO PROCEED**

Upper Hurricane Fork Portals Project  
Site No. 14514  
Grant No. GR417510 Sub-account No. 51403

Priority 1: Portals (2)  
Estimated Cost: \$10,000  
Dickenson County, Virginia

The Virginia Department of Mines, Minerals and Energy (DMME), Division of Mined Land Reclamation (DMLR), Abandoned Mine Land Section submitted an Authorization to Proceed (ATP) request for Federal Abandoned Mine Land (AML) FY 2014 grant funds to the Office of Surface Mining Reclamation and Enforcement (OSMRE), Knoxville Field Office (KFO) for the Upper Hurricane Fork Portals Project. The ATP request consists of a Categorical Exclusion Certification and Determination (CE), with eligibility documentation, consultation correspondence, project description, location map, and e-AMLIS forms.

The Upper Hurricane Fork Portals Project site is located on Route 745 approximately 0.5 miles from intersection with State Route 670, 1.5 miles south of the community of Birchleaf in Dickenson County, Virginia. Coordinates for the project location center are latitude 37° 09'22.4"N, and longitude 82°16'8.9"W. Project area mapping is comprised of the Haysi USGS 7.5 Min. Quadrangle. The project site is within the Skillet Branch Creek Problem Area, VA-000394.

Reclamation activities will protect the public health and safety by eliminating the hazards associated with two open portals. Portal 1 is approximately fifteen feet from a public road. There is a 3'6" x 10' opening and a bat gate will be installed. Portal 2 is also approximately fifteen feet from a public road and has some woody vegetation in front of the portal. Additionally, material has washed down through the middle of the opening leaving two 3'X3" openings into the old works and a bat gate will be installed. Strict erosion and sediment control measures will be implemented throughout constructions and all disturbed areas will be promptly revegetated using seed mixtures agreed upon by state and federal agencies.

Based on the analysis in the CE, OSMRE finds reclamation to abate the Priority 1 AML project of two open portals, with less than 1.0 acre of land being disturbed, conforms to the exclusion criteria in 516 DM 6, Appendix 8, and is excluded from further NEPA review; reasons for this determination are as follows:

DMLR's review of DMME records found map scan CMF724 for Mine ID No. 01895, Owens Brothers Coal Company, map posted date of July 16, 1964, mining in the Kennedy seam and shows un-named mine openings adjacent and to the east in the project portal area. The AML features designated within this project are a result of mining conducted prior to August 3, 1977. There is no continuing responsibility for any individual, firm, or organization to reclaim this site; therefore DMLR finds the site eligible for AML funding.

DMLR's CE documents the required NEPA consultation to assess potential impacts to resource values under the proposed alternatives. Consultation was initiated in July of 2014. The following is a summary of the items identified by each agency from consultation:

1. The Virginia Department of Conservation and Recreation's Division of Natural Heritage (DCR) indicated according to their files, the McClure-Russell-Frying Pan Creek Stream Conservation Unit (SCU) has been given a biodiversity ranking of B3, which represents a site of high significance. The natural heritage resources associated with this site are Big Sandy crayfish and Teays River crayfish. To minimize adverse impacts to the aquatic ecosystem as a result of the proposed activities, DCR recommends the implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations. Due to the legal status of the Big Sandy crayfish, DCR also recommends coordination with Virginia's regulation authority, Virginia Department of Inland and Game Fisheries (VDGIF), for the management and protection of the Big Sandy Crayfish, to ensure compliance with the Virginia Endangered Species Act. DCR recommends the mine openings be assessed for bat use prior to closure and survey efforts coordinated with the US Fish and Wildlife Service (FWS) and the VDGIF. DCR also indicated that there are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity, nor will the activity affect any documented state-listed plants or insects. Furthermore, they recommend no stockpiling of spoil removed from the reclaimed site and immediate disposal in an approved upland site, along with use of seed mix including native plant species appropriate for the region, free of invasive species.
2. The Virginia Department of Environmental Quality (DEQ) responded that the portals present an immediate threat to human safety. The proposed project is in VAS-Q10R, Section 4 Class IV waters. No water quality impairments are known. The DEQ specified no objections provided the project complies with the following:
  - Minimizes short-term impacts to water quality from surface runoff through Best Management Practices.
  - Abides by all applicable state, Federal and local laws and regulations.
  - Obtains all permits and approvals are obtained prior to construction.
  - Incorporates features which prevent significant adverse impacts on ambient air quality, water quality, wetlands, historic structures, fish wildlife, and species of plants, animals or insects listed by state agencies as rare, threatened or endangered.

3. The Department of Historic Resources (DHR) indicated review of inventory files indicates that there are no recorded historic districts, structures or archaeological sites within the project's area of potential effects. DHR's opinion is that no further identification efforts are warranted and based upon the documentation provided; they recommend a finding of No Historic Properties Affected for the proposed project.
4. The Natural Resource Conservation Service (NRCS) responded that the proposed project appears to address their basic environmental and erosion and sediment control concerns. NRCS also noted that the project seems to conform closely to presently practiced reclamation goals and standards and their position is that the project is worthwhile and should be implemented.
5. USFWS does not anticipate adverse effects to federally listed species or federally designated critical habitat if surveys are conducted for bat habitat suitability at the proposed Upper Hurricane Fork Portals project and bat gates are installed if recommended.
6. The Virginia Marine Resources Commission (VMRC) responded that work does not appear to occur within the jurisdiction of the VMRC, and concluded there will be no direct impacts to State-owned submerged lands and accordingly there will be no permit required for the proposed activity.
7. VDGIF did not respond to the consultation request.
8. The U.S. Army Corps of Engineers did not respond to the consultation request.

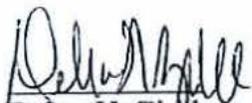
In addition to the agency recommendations above, DMLR:

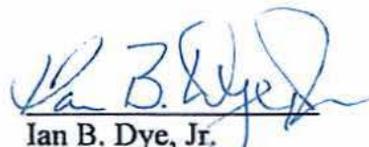
1. Will ensure that strict erosion and sediment control measures using best management practices are utilized throughout the life of the project until an adequate stand of permanent vegetation is established that is uniform, mature enough to survive, and will inhibit erosion. DMLR will ensure the contractor strictly adheres to the erosion and sediment control plan to prevent impacts to down gradient properties and waterways. This is important due to VDGIF listing the Big Sandy Crayfish as being a species that is susceptible to impacts to aquatic environments in the area.
2. Conducted external portal surveys for bat habitat suitability and will install a bat gate closure for the two AML hazard portal features. DMLR provided the habitat surveys to the appropriate agencies.
3. Proposes all work is located in upland areas and no impacts to "Waters of the U.S", will occur where the total drainage area equals or exceeds five (5.0) square miles. Therefore no permit from VMRC/USACE will be required. If for any reason the project scope changes this, USACE will be contacted for a jurisdictional determination.

4. Will ensure the contractor complies with state regulations regarding fugitive dust control. Open burning nor blasting will be allowed and all debris will be disposed of in an appropriate manner.
5. Assures vegetation will be seeded using a reclamation seed mix that is certified weed-free and free of invasive non-native plant species. Revegetation species applied to all disturbed areas will be selected from a list agreed to by state and federal agencies.
6. Assures no off-site borrow or disposal area are anticipated. DMLR will notify OSMRE for approval prior progress of work if borrow or disposal sites become necessary.
7. Will notify OSMRE of any project work scope changes; provide a required eligibility statement, and AMLIS documentation.
8. Prior to authorizing the contractor to commence construction activity, will publish a project notice in a newspaper of general circulation that the agency intends to accomplish a project involving the Upper Hurricane Fork Portals project through its approved AML reclamation program.

Accordingly, pursuant to section 4-160-50D.3 of the FAM, and section 403(b) of SMCRA, you are authorized to proceed with this project and expend Federal funds in accordance with AML grant terms and conditions.

In accordance with OSM Directive AML-1, please update the electronic Abandoned Mine Land Inventory System (eAMLIS) for the Problem Area Description (PAD), Skillet Creek, VA000394, for the Upper Hurricane Fork Portals Project from "unfunded" to "funded" based on your budget estimate for the project.

  
Debra H. Zirkle      3/13/15  
Date  
AML/Regulatory Program Specialist  
Field Oversight Branch  
Knoxville Field Office

  
Ian B. Dye, Jr.      3-17-15  
Date  
Manager  
Field Oversight Branch  
Knoxville Field Office

**YES RESPONSES REQUIRE SUBMISSION OF AN ENVIRONMENTAL ASSESSMENT**

**I. GENERAL EXCEPTIONS**

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

**II. DEPARTMENT OF INTERIOR EXCEPTIONS**

Will the project have any of the following:

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

An adverse effect on any of the following unique geographic characteristics? No (X) 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 (X) Yes ( )

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

A precedent for future action or a decision in principle about future actions with potentially significant environmental effects. No (X) Yes ( )

Directly related to other actions with individually

insignificant but cumulatively significant environmental effects? No (X) Yes ( )

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

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

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

**III. RESOURCE IMPACT EXCEPTIONS**

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

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

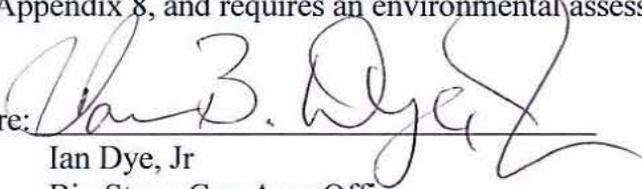
**V. RESPONSIBLE OFFICIAL CERTIFICATION**

Signature: Rondal J. Lydon  
Abandoned Mine Land Program Specialist

Date: February 4, 2015

**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:   
Ian Dye, Jr  
Big Stone Gap Area Office

Date: 3-16-2015