



United States Department of the Interior



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

FINDING OF NO SIGNIFICANT IMPACT AUTHORIZATION TO PROCEED

Elk Creek Landslide Project
Site No: 13514
Grant No. GR317510 Sub-account No. 51303

Priority 1: 1 (DS) Dangerous Slide
Estimated Cost: \$42,500.00
Buchanan 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) grant funds to the Office of Surface Mining Reclamation and Enforcement (OSM), Knoxville Field Office (KFO) for the Elk Creek Landslide Project from Fiscal Year (FY) 2013 grant funds. DMLR's ATP request consists of an Environmental Assessment (EA), Project Eligibility Documentation, e-AMLIS information, and associated NEPA consultation documents. The project area is located south of State Route (SR) 711, on Upper Elk Creek, in Buchanan County, Virginia. The project is located on the Hurley USGS 7.5 Min. Quadrangle, with center coordinates of 82° 2' 44.672" W and 37° 28' 17.36"N. The total disturbed area is less than one acre and is located in Problem Area VA000183, Bubby Branch. The surrounding project area is predominantly residential and forested property.

Features for this project resulted from underground mining operations in the Splashdam coal seam by the R&H Coal Company (Mine Index #03270). Mine index cards show an abandonment date of February 28, 1964 for the mine. In 2007, DMLR completed reclamation of four deep mine entries resulting from this mine, however reclamation did not include handling of the spoil that was created from these entries, cast over the mine bench on onto the down slope below. The spoil downslope is now creating a high risk for a landslide into Elk Creek. This feature is directly related to past coal mining activities conducted prior to August 3, 1977, and there is no continuing responsibility for any individual, firm, or organization to reclaim this site; therefore DMLR finds the site eligible for AML funding.

Work for this project will include; excavation of unstable material in, above, and around the slide area and then stabilizing the area with riprap material, and regrading and revegetation of all areas of disturbance with non-invasive species using plant lists approved by state and federal agencies for AML reclamation projects.

OSMRE has thoroughly reviewed DMLR's EA and determined it adequately addresses the environmental issues and impacts as required by the National Environmental Policy Act (NEPA) for OSMRE abandoned mine lands reclamation grant construction activities for authorization purposes. Based on the analysis in the EA, KFO finds that the construction activities performed under this project will have a positive impact on quality of the human environment and concludes that a detailed Environmental Impact Statement is unnecessary. More Specific reasons for this determination are detailed below.

DMLR considered two alternatives for this site. The first and preferred alternative is to complete the project as an AML project, with authorization from OSMRE and funding from the FY 2013 AML Grant. Proposed reclamation will protect the public health and safety by eliminating a dangerous slide AML feature. Completion of the proposed project will be more beneficial and create fewer future impacts to the resource values affected through reclamation.

The second alternative is to take no action with regards to abatement of the abandoned mine hazard. This alternative would result in continuing hazards from the spoil material. If a landslide were to occur, material would enter Upper Elk Creek, constrict stream flow, and create flooding and damage to nearby property and residences. This alternative does not allow for the positive benefits associated with the proposed action which will protect the public health and safety. This action is not a suitable alternative.

DMLR's EA 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 the Knox Creek SCU is located downstream from the project site, which has been given a biodiversity ranking of B5. This represents a site of general significance; the natural heritage resource associated with this site is the Teays River crayfish. DCR recommends the implementation and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations to minimize adverse impacts. 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) indicated no water quality data was available for Upper Elk Creek in VAS-Q03R, Section 3, Class IV. 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 their archives do not show recorded historic resources within the project area. DHR 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. The U.S. Army Corps of Engineers' reviewed the project and determined all reclamation activities will occur outside the limits of the ordinary high water mark and therefore will not impact jurisdictional waters. No Dept. of Army permit will be required for the proposed work as long as the plan does not deviate significantly from the plan.
 6. The Virginia Marine Resources Commission (VMRC) responded that work does not appear to occur within the jurisdiction of the MRC, 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. The U.S. Fish and Wildlife Service (USFWS) consultation included 22 projects proposed from DMLR. USFWS does not anticipate adverse effects to federally listed species or federally designated critical habitat for the proposed Elk Creek Landslide project.
 8. Virginia Department of Game and Inland Fisheries (VDGIF) did not respond to the consultation request.

In addition to the agency recommendations listed above, DMLR:

1. Will ensure reclamation strict erosion and sediment control measures are utilized in accordance with the most current version of the Virginia Erosion Control and Sediment Handbook.
2. Proposes no construction activities will occur within waters of the U.S. where the drainage area is equal to or greater than five square miles; therefore no permit from VMRC/USACE will be required.

3. Will ensure fugitive dust is minimized through the application of water to suppress dust and by washing off vehicles and paved surfaces near the construction site.
4. Will coordinate with the applicable agencies to obtain all necessary permits prior to construction and will ensure all permit conditions are strictly adhered to during construction.
5. Assures vegetation will be applied 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 borrow or disposal areas are anticipated. Disposal/borrow areas will be identified during the design development if needed and DMLR will notify OSMRE for approval prior to progress of work.
7. Prior to authorizing the contractor commence construction activity, will publish a project notice in a newspaper of general circulation that the agency intends to accomplish a project involving the Elk Creek Landslide project through its approved AML reclamation program.

Accordingly, pursuant to section 4-160-50D.3 of the Federal Assistance Manual, 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 Elk Creek Landslide Project in e-AMLIS from "unfunded" to "funded" based on your budget estimate for the project.


Tonya Mullins

Physical Scientist
Field Oversight Branch
Knoxville Field Office

10/23/14
Date


Ian B. Dye, Jr.

Manager
Field Oversight Branch
Knoxville Field Office

10/27/2014
Date