



United States Department of the Interior



OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT

710 Locust Street, 2nd Floor
Knoxville, Tennessee 37902

SEP 17 2014

FINDING OF NO SIGNIFICANT IMPACT AUTHORIZATION TO PROCEED

Hurley Regional Water Line Extension Phase V

Site No: 14601

Grant No. GR417510 Sub-account No. 51404

Priority 2: 267 (PWHC) Polluted Water Human Consumption

Estimated Cost: \$4,750,000.00

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 Hurley Regional Water Line Extension, Phase V project from Fiscal Year (FY) 2014 grant funds. DMLR's ATP request consists of an Environmental Assessment (EA), Project Eligibility Documentation, e-AMLIS information, and an AML Application prepared from the Buchanan County Public Service Authority (PSA). The project area is located along State Route (SR) 646 (Guesses Fork Road) beginning approximately 500 feet east of the intersection of SR 643 (Hurley Road) and Guesses Fork Road and extends approximately 5.8 miles to the Virginia/West Virginia State Line. Additionally, the project serves areas along SR 647 (Old Guesses Fork Road) extending approximately 5.0 miles from its intersection with Guesses Fork Road. The total disturbed area will involve approximately 13.0 acres and is located in Problem Areas VA000190, VA000191, VA000192, VA000613, VA000614, and VA000722.

Phase V of the Hurley Water Line Extension involves the installation of approximately 49,000 linear feet (lf) of 8-inch water line, 19,000 lf of 4-inch water line, 15,000 lf of 2-inch water line, one hydropneumatic tank, one pitless booster pump station, one 100,000 gallon water storage tank, and all associated equipment. This project will award \$4,750,000.00 to the Buchanan County Board of Supervisors and will be combined with funding from other sources to generate a total amount of \$7,677,744.00 for the purpose of providing water supply for 267 households. AML funding will not be used for costs associated with providing the residential service lines and meters to homes, legal services, obtaining permits, nor land and right-of-way acquisition.

Land use within the project area is primarily rural, with road and utility right-of-ways and residential buildings. Ground cover within the project area is predominantly second growth scrub and mixed forest. These habitat types support a variety of game and non-game species.

Features for this project resulted from mining operations in the Blair, Eagle, and Splashdam coal seams. Mine history data concludes significant mining activity within the project occurred prior to August 3, 1977. Mining activity is believed to have impacted the fracture flow systems thus adversely impacting water quality and quantity. Levels of iron, manganese, and other contaminants considered typical of groundwater that has been contaminated as a result of past mining operations were common in water samples taken in the project area. Investigations conclude there is a direct connection between pre-1977 mining activity and groundwater issues within the area. These investigations include water quality, mining activity, and residential survey analysis. There is no continuing responsibility for any individual, firm, or organization to reclaim this site; therefore DMLR finds the site eligible for AML funding.

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 2014 AML Grant. Proposed reclamation will protect the public health and safety by eliminating 267 polluted water human consumption AML features. 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 hazards. This alternative would result in continuing hazards from the impacted groundwater. 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 completed in 2009 when the initial EA was conducted for prior phases of this project, and again in 2014 to assure no newly identified resources would be impacted. The following is a summary of the items identified by each agency from 2014 consultation:

1. The U.S. Army Corps of Engineers' preliminary review suggests the project may meet the terms of a Nationwide 12 permit. Recommendations were also made to coordinate with the State Historic Preservation office and to assure there is no effect to endangered or threatened species or cold water habitat.
2. The Department of Agriculture and Consumer Services (VDACS) encourages DMLR to minimize loss to farm and forest land to the highest degree possible. Additionally, VDACS suggests that the BCPSA determine whether Buchanan County has

established any Agricultural and Forestal Districts that may be impacted and receive proper county approval for construction. VDACS also deferred review to DCR for comments on their behalf per a Memorandum of Understanding between the two agencies.

3. The Virginia Department of Conservation and Recreation's Division of Natural Heritage (DCR) recommended the implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulation. DCR identified the potential existence for the Variegate darter in the small creeks and streams within the project area. This species is currently classified as endangered by the Virginia Department of Game and Inland Fisheries (VDGIF), therefore DCR recommends coordination with VDGIF regarding compliance with protected species legislation. 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.
4. The Virginia Department of Environmental Quality (DEQ) indicated Phase V of the Hurley project is in the Guess Fork watershed; the entirety of the drainage is Total Maximum Daily Load (TMDL) listed for both Fish Consumption Use and the main stem of the Guess Fork is listed for Recreation Use. The DEQ also 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.
5. The U.S. Fish and Wildlife Service (USFWS) consultation was performed utilizing the online project review certification process. This review process and coordinating letter certifies the use of the online process is in strict accordance with all instructions provided and that the appropriate determinations were reached. Therefore, USFWS concurred with the "no effect" and "not likely to adversely affect" determinations for listed species and critical habitat and "no Eagle Act permit required" determination for eagles. Additional coordination was not necessary.
6. The Virginia Coastal Resource Management Program (VCRM) provided no response to the consultation letter.
7. The Department of Historic Resources (DHR) indicated their archives do not show recorded historic resources within or adjacent to the new water line along SR 647. DHR finds their previous recommendation of no historic properties affected remains valid for the amended project. No additional study or consultation is warranted at this

time. In accordance with Federal regulations, should unexpected archaeological resources be encountered during project implementation, all work in the immediate area should cease and DHR should be contacted to provide guidance.

8. The Virginia Department of Transportation (VDOT) responded that the project will have no impact to transportation infrastructure except during construction. Several requirements must be addressed in the construction design; all above ground items in the right of way shall be installed outside the clear zone of the roadway or protected by appropriate guardrail treatment, all construction within the right of way must be in compliance with the Virginia Work Area Protection Manual, and a VDOT land use permit must be obtained from the Lebanon Regional Office.
9. The Virginia Marine Resources Commission (VMRC) responded that VMRC maintains jurisdiction over all waters of the Commonwealth. Typically, jurisdiction is only asserted over stream crossing with at contributing drainage area of five square miles or greater. If the upstream drainage area is less than five square miles, no permit is required.
10. Virginia Department of Game and Inland Fisheries (VDGIF) reviewed the project and recommended that impact sites within one mile upstream of the designated waters adhere to the Time of Year Restrictions (TOYR). VDGIF is likely to review the project and provide comments as the project moves into the permitting phase, assuming all wetland/stream impact permits are issued.

In addition to the agency recommendations listed above, DMLR:

1. Will ensure design and construction of the waterline extension system will be in accordance with the applicable requirements of the CWA, Virginia Storm Water Management Regulations, State water Control Law, and the Virginia Erosion and Sedimentation Control Regulations.
2. Will require all studies, notifications, and associated permits with the DEQ, VMRC, DCR, and USACE be prepared prior to construction related activities. All required mitigation will be incorporated into the design and construction phases of the project.
3. Will ensure all in-stream work in Knox Creek and its tributaries will adhere to a time of year restriction from March 15 through July 31 of any year. In-stream conditions will be conducted during low or no flow conditions, construction areas will be revegetated with native vegetation, and strict erosion and sedimentation control measures will be adhered to.
4. Will require all site personnel be instructed to be aware of the potential for encountering historical resources and to report and protect any resources potentially encountered during construction activities.

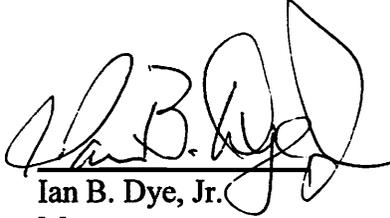
5. Will ensure all above ground items in the right of way shall be installed outside the clear zone of the roadway or protected by appropriate guardrail treatment. All construction within the right of way must be in compliance with the Virginia Work Area Protection Manual. The contractor will obtain a VDOT land use permit from the Lebanon Regional Office.
6. 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.
7. 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.
8. 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.
9. 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 Hurley Phase V Water Line through its approved AML reclamation program.

Accordingly, pursuant to section 4-160-140D.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 Hurley Regional Water Line Extension Phase V 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

9/16/14
 Date


 Ian B. Dye, Jr.
 Manager
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9/17/2014
 Date