

EPCAMR



EPCAMR Program Staff

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Re: Work Progress Report on the Hicks Creek AMR Natural Stream Channel Restoration Grant

Eastern PA Coalition for Abandoned Mine Reclamation- Hicks Creek AMR Natural Stream Channel Restoration Grant

Update Work Progress Report-PD060048 (November 17th, 2007 thru November 1, 2008)

EPCAMR Staff in the Fall of 2007 were only at the point in time which we needed to begin to negotiate our contracts with both Borton-Lawson Engineering and Skelly & Loy for the design phase of the project, so our focus during the First Quarter of 2008, were to get the contracts in place that will allow for the sub-contractors to begin their field work, survey work, and design work in early Spring 2008. EPCAMR Staff followed up with our Project Officer in mid-November to let him know of our intentions over the Winter 2007 and how we would proceed with our Scope of Work into the Spring & Summer 2008. During the Winter 2007, EPCAMR Staff completed the Routine Wetlands Identification Report.

On November 16th, EPCAMR requested an updated Application for Reimbursement Form from Tran Triet, PA DEP Growing Greener Grants Center.

On November 19th, EPCAMR Coordinator followed up with the Skelly & Loy and Borton & Lawson Engineering, the two firms that will be assisting on the project to begin the conversations to negotiate the final contracts with both firms for the desired Scope of Work. EPCAMR had informed them that we'd just received our Working capital funds in late August, set up our financial account, and were ready to negotiate the contracts. A meeting will be planned for after the Winter Holidays of 2007.

EPCAMR Staff recently attended a Public Meeting for the Draft H & H where it was brought up about our project needing to be included with the report, but after thinking about it, our entire planning process wasn't far enough along to include it since we don't have the design complete yet for the natural channel design structures that may be placed within the channel. Paul DeBarry-Borton-Lawson Engineering agreed that our project can just continue to move forward independently of the H & H Study for now, however as we get further along, we have an opportunity to use our GG funds for construction of the natural stream channel design structures as a possible match for some other funds that might come into the watershed. We now have the flows from the H&H study to do the restoration design.

The Hicks Creek NSCD project really won't alter the flows, just stability. EPCAMR Staff will follow up with Jim Brozena, P.E., County Engineer about this. Maybe our projects, though they are only two of many, can compliment each other and have some matching fund abilities for some other funds that the County might be looking for as well?

On November 18th, 2007, EPCAMR received confirmation that our Ben Meadows supplies for the Wetlands Delineation and our flow meters were shipping.

On November 20th, 2007, Dennis Palladino-PA DEP BAMR Project Officer informed EPCAMR on how the Working Capital funds should be utilized over the course of the grant; Working capital funds can be held until the 85% of the project is completed and then it should be drawn down.

On November 21st, 2007 EPCAMR Regional Coordinator has to make a written request to move additional funds from one category to another to cover some equipment and supplies.

On January 4th, 2008, EPCAMR Staff began to throw out some tentative dates for a meeting to negotiate the contracts for the two engineering firms;

On January 22nd, 2008, Mike attended a Hicks Creek Watershed Association Meeting to keep the volunteers informed on the progress to date with the NSCD Project

On February 7th, EPCAMR Regional Coordinator was able to meet with Borton-Lawson Engineering and conference call in with Gerald Longenecker-Skelly & Loy to discuss the draft contract language and payment schedules, along with the reporting requirements for the grant; EPCAMR had e-mailed off a copy of the draft contract language for further review by the engineering firms legal departments; Discussed with Project Officer the fact that our budget had been cut nearly \$100,000 from our request and that has put us in a predicament to cut the budgets of the engineering firms or shorten the reach in which we can actually construct the NSCD Project; After discussions with all parties, it was determined that we should complete the full engineering design for Reach 4 and place as many NSCD structures as possible depending on the outcome of the construction costs and bids and possibly look to secure additional funds through another grant to complete the entire construction phase of the project

On February 20th, EPCAMR received revisions from Borton-Lawson Engineering to the draft contract; EPCAMR Regional Coordinator agreed with the revisions minus one error in the Sub-Contract Number and asked Amber Wallace to forward two copies for our EPCAMR Board Signatures; John King was going to review the budget numbers and submit the two contracts to EPCAMR for signatures

On February 21st, EPCAMR Regional Coordinator reviewed Mike's initial draft of the Wetlands Delineation Report that was developed by the EPCAMR Staff and OSM/VISTA Carly Trumann; It's nearly 98% completed and the Staff are putting the finishing touches on it early next week; There are no wetlands in the project area. There is a question that EPCAMR does have concerning the types of permits or permit waivers that this project may fall under. EPCAMR has documented a review of the types of permit waivers for this type of project under the Ch. 105 program and have referenced them in the Wetlands Report.

EPCAMR thinks that we need to discuss them a little further, because application of any one of them or several will surely expedite the permit review process by the PA DEP. A few questions that have been raised are as follows: Since we have a Watershed Restoration Plan, is it possible for a Restoration Waiver? We've documented several GPs and waivers that fall under the Ch. 105 program (of which there are 16 total). Do we need a JP? The consultants were talking about a Late Fall Permit Review (08) with bids back by X-Mas (08) and construction beginning Winter (08), Spring (09). EPCAMR asked Dennis Palladino for any insights that he might have for us on our project.

Below is some of the text that is in the report that references our questions...

Since the damages that were created within this section of Hicks Creek were caused by severe flooding episodes, EPCAMR and its partners are optimistic that an expedited permitting process will be available through either the PA DEP State Special Protection General Permit-3 (**PASPGP-3**) since the work to be completed is limited to less than one acres of "Waters of the United States", along with an Emergency Permit (**3930-PM-WM0023**) for the encroachments and sediment deposition, sediment removal, and bank stabilization that is going to be necessary to reduce the undercutting of the gravel and sediment banks along Hicks Creek in the project area, and where there is an imminent threat to the public health and safety of downstream residents who live along the Creek.

EPCAMR is not sure whether or not a Bank Rehabilitation, Bank Protection, and Gravel Bar Removal or the General Permit-11 (**GP-11**) or an Abandoned Mine Reclamation (**GP10**) would apply to this project, however, it will have a Permit Review Pre-Application Meeting with the PA DEP BAMR, PA DEP Wetlands & Waterways Division, the Luzerne Conservation District, and our sub-contractors, to determine whether or not any of the US ACE federal permits will be required. An approved E & S Plan will be submitted to the Luzerne Conservation District prior to construction.

In our research and review of the PA DEP's **Water Obstruction and Encroachment Permits**, we have learned that there is a possibility that several waiver exists under **the Chapter 105 Regulations (25 PA Code Section 105.12)**. In most of the waivers reviewed, prior approval by the PA DEP to use a permit waiver is not required, however, EPCAMR intends to discuss several of these options with our PA DEP BAMR Project Officer and the PA DEP NE Regional Office before proceeding to construction. There are 16 waivers referenced and EPCAMR believes that the Hicks Creek Natural Stream Channel Design and Construction Project could fall under several of the following waiver numbers: **2** (*water obstructions located in a stream or floodway where the upstream drainage area is equal to or less than 100 acres in size*), **6** (*water obstructions or encroachments located in, along, across, or projecting into an active Stormwater management or erosion and sedimentation pollution control facility*), **11** (*removal of water obstructions and encroachments*), **15** (*encroachment or water obstruction on an abandoned mine site*), or **16** (*Restoration activities undertaken and conducted pursuant to a watershed restoration plan which has been approved, in writing, by the PA DEP*) It is understood that the PA DEP must review and approve construction and restoration plans prior to the waivers becoming valid.

However, on the permitting issue, BAMR doubts if we can obtain an emergency permit because it has been two years since the Governor declared a state of emergency at the time of the flooding in 2006. The GP's may not be valid because we are affecting more than 500' of stream, so a JP may be needed. A pre app meeting has been discussed with the PA DEP 2nd Floor to go over what may be required.

On February 25th, EPCAMR Regional Coordinator relayed our conversations with PA DEP BAMR on the permitting issues and continued to talk about finalizing the contracts; Dennis said that in his opinion, chances are high and risky that if we were to bid out the construction to stay within the amount of dollars that we have that with rising fuel costs, transportation, materials, hauling, etc., it is very unlikely that we are going to come under budget for construction to get what we had originally estimated nearly two years ago; He didn't seem to flinch when EPCAMR mentioned that we will just have to reduce the overall number of structures for the project and go to a Phase II Construction, if need be, in another grant round; I have no problem with biting the bullet and reducing the size of the project, given the limited amount of construction dollars we were awarded; It's a catch 22

EPCAMR is in this project, to support the local watershed group's efforts (Hicks Creek Watershed Association) and to reduce community flooding concerns as well as to continue to reclaim some of these abandoned mine land features in the Wyoming Valley. If we don't have enough funds to complete the project in its entirety and we can't get any additional funds to support the project from the County prior to the closing out of this grant in 09, the next phase will just have to wait.

On March 4, EPCAMR received the final draft of the contract for Skelly & Loy for the Hicks Creek NSCD Project and approved it with a minor change in the Sub-contract Number to differentiate between the two firms; Gerald will be mailing EPCAMR two original copies for signatures by the EPCAMR Board

On April 2nd, EPCAMR Regional Coordinator attended a Hicks Creek Luzerne County Flood Protection Authority Meeting with Jim Brozena and other municipal partners and members of the Hicks Creek Watershed Association to give them an update on our project as well as to receive an update on the Hicks Creek Flooding Project

On April 10th, EPCAMR received the original contracts for signatures from Skelly & Loy Engineering at our EPCAMR Quarterly Board Meeting on April 17, 2008;

On May 28th, EPCAMR had signed both original copies of the contract and mailed them off to Skelly & Loy Engineering; Was informed that John King will no longer be heading up the Project for Borton & Lawson Engineering and that Steve Boone will be picking up where John left off; Had to inform Borton & Lawson Engineering that EPCAMR has not received the signed copies of the sub-contract sine the transition in staff

On July 23rd, received the final contract from Borton-Lawson Engineering for signatures at our 3rd Quarter EPCAMR Board Meeting on July 24th; Sent out in the mail the final contract with signatures on July 29th

Mike submitted a copy of the Wetlands Delineation Report or lack thereof wetlands report to the engineering firms supporting the project; Scheduled a field meeting with the partners and our Project Officer for August 27th and walked the site and discuss the next steps; Mike sent some photos around of the current conditions of the site to all of the partners following the field meeting;

Introduced to Mr. Ragesh Patel, new owner of the Fox Ridge Country Golf Club, who also happens to work for the PA DEP in the Hazardous Sites Cleanup Program, who is more than happy to support the project and will allow us access to his property for any kind of monitoring.

On August 27th, EPCAMR Staff requested that our Project Officer look into PA 2166 to see if some of the features qualified for reclamation funds since we had discovered some collapsed vertical openings within the project limits; There does seem to be a subsidence prone area around where the entries are, however, because these entries are collapsed they pose no risk at this time so they wouldn't rise to a Priority 2 status for PA DEP BAMR to make them a project. Dennis suggested that we have the consultants review the mine maps for these and other potential subsidence problems in the area of the stream and floodplain and utilize that info into their design; On September 2nd, EPCAMR Regional Coordinator forwarded this information on to the consultants

On August 28th, EPCAMR Staff requested standard easement language from our Project Officer that would allow us to develop our landowner easement agreements to access the stream channel during the construction phase of the project for maintenance, if necessary; EPCAMR will work with HCWA to obtain all the necessary property owner consent forms in the Fall 2008 utilizing the Deed Descriptions for Property Owners and the Tax Parcel IDs that Mike Hewitt had researched early on in the grant application process.

On September 15th, EPCAMR received its first invoice from Borton-Lawson Engineering for \$1300.69.; On September 30th, EPCAMR received its first invoice from Skelly & Loy Engineering for \$1070.82. On October 9th, EPCAMR Executive Director submitted the check requests to our Board for signatures and is awaiting their return to mail them to the firms.

On October 14th, EPCAMR Regional Coordinator completed an 11 month recap of the project status report to date; Contracting issues were delayed due to EPCAMR's Board policy on waiting to begin work on a project without a fully executed contract in hand, which didn't come until August 2008.

On October 14th Mike created a private landowners GIS Map for the project and on the 17th, uploaded an image file to Borton-Lawson's ftp site with a map of the property owners that are adjacent to the Hicks Creek that we will need to be in touch with in the near future as well as for the base mapping that will be completed by Borton-Lawson.

On November 1st, 2008, EPCAMR Executive Director completed a reimbursement and Progress Report to be submitted to the Growing Greener Grants Center and our Project Officer, Dennis Palladino.

Respectfully Submitted,

Robert E. Hughes
EPCAMR Executive Director
Luzerne Conservation District AML Program Manager