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	U· S· DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Number: AML-8 Transmittal Number: 331 Date: 05/08/87

Subject: Abandoned Mine Land Funding Policy for Water Supply Systems

Approval: Ted V. Christensen | Title: Director

1. Purpose. This directive provides guidance on the use of Abandoned Mine Land (AML) funds for State Reclamation Program projects involving the construction of water supply systems.

2. Definitions.

a. AML funds. Funds used for either State or Federal AML programs from appropriations from the Abandoned Mine Reclamation Fund.

b. Water supply system. A specific device, or series of devices, for the collection, purification, transmission, and/or distribution of water from source to consumer.

3. Policy/Procedures.

a. Background. Section 403 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the objectives of the AML program including the prioritization of problems to be considered for reclamation.

The first two priorities involve the protection of the public health, safety, and general welfare from the adverse effects of past coal mining. The third priority focuses upon the restoration of land, water resources and the environment, and the fourth priority upon AML reclamation research. The fifth priority specifically addresses public facilities. Water supply systems would, in most cases, be a sub-category under public utilities, but may also include private utilities and individual water supplies.

The legislative history of Section 403 further clarifies and supports the interpretation that AML reclamation projects which protect, repair, replace, construct, or enhance public facilities, including water supply systems adversely affected by mining practices, are a priority five for AML reclamation funding purposes. However, there are cases where a water supply system may have been significantly affected or damaged by impacts associated with abandoned mine lands, thereby generating health and safety problems to the users of the water supply system.

b. Policy. It is the policy of OSMRE that water supply system projects constitute a priority one or two problem only when (1) the water supply system has been significantly affected by the adverse effects of abandoned mine land, and (2) where it is necessary to protect the public health, safety, and general welfare. In all other cases a water supply system project will be considered a priority five project.

c. Procedures.

(1) Field Offices should carefully scrutinize the scope of proposed water supply system projects to ensure compliance with the requirements of SMCRA and the policy established through this directive. At a minimum the following factors should be considered in making the evaluation:

(a) The extent to which the problems associated with the water supply system resulted from deterioration, through aging, of facilities that are due for normal or routine maintenance or replacement (e.g., sewer lines, dam sedimentation, pumping facilities);

(b) The degree to which the AML problem affected the water supply system. A direct causal connection between mining practices and the damage done to a water supply system is not always clear. Such other factors as public use, weather, materials used, method of construction, or other pollution sources may also have contributed to the degree of damage (e.g., a water supply system may be affected by industrial, agricultural or public waste, agricultural sedimentation, or active mining);

(c) Whether there are other agencies, State or Federal, that could more appropriately handle the water supply project; e.g., publicly owned public utilities or quasi-public commissions, EPA, etc. If the problem was totally AML caused, then AML is probably the appropriate funding source, although we would encourage the State to exhaust other possibilities;

(d) Whether alternative sources of water supply systems are readily available; i.e., public versus private sources, different aquifers, different watersheds, etc.

(e) Whether available AML funds in the State will be sufficient to address higher priority reclamation (i.e., would funding of a priority five water supply system project prevent addressing higher priority problems).

(f) Whether the proposed water supply system project is limited to the restoration of water service to the same number of persons originally served. An enhanced water supply project for a new population or service district would not be acceptable and should not be funded.

(2) Where repair or replacement of a water supply system is incidental to abatement or reclamation of an AML problem, the project may be funded provided the corrective work is necessary and that it is the most cost-effective way of solving the AML problems. The authority that controls the water supply system should be encouraged to participate in the project through cost-sharing. Some examples are:

(a) A water supply reservoir has been filled with sediment as a result of erosion of an abandoned strip mine. If it can be shown that the problem is causally related to the past mining and is a hazard to public health, removal and use of sediment from the reservoir as part of a project to reclaim the AML problems may be beneficial and cost efficient method of solving the problems.

(b) If impact on a water supply system is the direct result of the process of correcting an AML problem, depending on the particular situation, alternate facilities, either temporary or permanent, may be constructed as part of the plan. Such situations should be avoided except where absolutely necessary. For example, if the facility was located within the area subject to a reclamation project and its removal or relocation was necessary to accomplish the project, construction of an alternate facility would be necessary.

(c) If mine subsidence (not associated to an ongoing AML reclamation project) resulted in a serious break in a water line or in a sewer line that would affect an aquifer, the subsidence problem may be abated. The repair to the line could not be funded since the source of pollution to the aquifer is not AML related and there are probably other entities with continuing responsibility.

(d) If a break in a water or sewer line causes or contributes (induces) to a subsidence problem, the mine subsidence problem can be addressed if there is a health and safety impact associated to it. The repair of the water or sewer line is not AML related and therefore may not be funded.

(3) Construction or repair of a water supply system may be classified as either a priority one or two only if:

(a) the quality of the water supply is a public health hazard, and

(b) the problems with the water supply source are directly and predominantly the result of eligible AML, and

(c) reclamation or abatement of the AML problems compared to construction of a water supply system is not cost effective or will not solve the problem, and

(d) the construction of the water supply system will eliminate or greatly minimize the existing danger to the public.

(4) In those instances where the AML problem is not the sole cause of the degraded water supply, funding should reflect that percentage of the project that represents the percentage damage caused by the AML problems. Projects in this category, however, should be classified as a priority five - public facility project.

d. Responsibilities.

(1) Pursuant to a State's approved reclamation program, they are responsible for evaluating and prioritizing AML projects and determining their eligibility as part of the grant submission process. States are required to provide substantial justification for assigning a priority one or two designation to a proposed water supply project.

(2) The Field Offices are responsible for the review, approval and administration of all AML reclamation grants. Field Offices should consult with the technical divisions under the Assistant Directors for Eastern/Western Field Operations (E/W/FO) and Program Policy in reaching a determination of the appropriateness of funding a water project. No water supply project should be included in a grant award without concurrence of the appropriate AD/E/W/FO, after the AD/E/W/FO's consultation with the Deputy Director for Operations and Technical Services.

4. Reporting Requirements. None.

5. References. Surface Mining Control and Reclamation Act of 1977, Sections 403 and 404; and sections on water systems and sewer lines in memorandum dated September 12, 1983, from the Assistant Director for Program Operations and Inspections, to the Field Office Directors.

6. Effect on Other Documents. Replaces the October 25, 1985 letter from the Director of OSMRE to Senator Mitch McConnell.

7. Effective Date. Upon issuance.

8. Contact. Division of Abandoned Mine Land Reclamation, (202) 343-7910.