

Atkins, Lou (MRC)

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AUG 28 2017

MARINE RESOURCES
COMMISSION

From: Owen, Randy (MRC)
Sent: Monday, August 28, 2017 4:58 PM
To: MRC - jpa Permits
Subject: FW: ESSLog# 22598_14-0343_JamesRiverWaterAuthority_waterline_DGIF_AME20170828

Add'l DGIF comments for 14-0343

From: Ewing, Amy (DGIF)
Sent: Monday, August 28, 2017 4:45 PM
To: Owen, Randy (MRC) <Randy.Owen@mrc.virginia.gov>; Brandon Searcey <Brandon.Searcey@timmons.com>; McGurk, Brian (DEQ) <Brian.McGurk@deq.virginia.gov>
Cc: Watson, Brian (DGIF) <Brian.Watson@dgif.virginia.gov>
Subject: ESSLog# 22598_14-0343_JamesRiverWaterAuthority_waterline_DGIF_AME20170828

Everyone,

Just to recap, since I was out of town last week, and to close any remaining information gaps, I offer the following:

Based on the results of the additional information provided regarding James River Water Authority's proposed waterline project from the intake on the James River in Fluvanna north to the Louisa County Line, we recommend that mussel surveys be performed from 100 meters upstream through 400 meters downstream of proposed crossings known as "Byrd Creek onsite impact" and "Horsepen onsite impact 74". Surveys should be performed by a qualified, permitted biologist, preferably no more than six months prior to the start of construction. All survey and relocation activities should adhere to the mussel survey guidance previously provided. Any relocations should be coordinated with Brian Watson, VDGIF Region II Aquatic Resources Biologist (434-525-7522), and no federally listed species should be relocated without first coordinating with the USFWS (804-693-6694). Survey results should be made available to Amy Ewing in VDGIF's Headquarters office in Henrico and Brian Watson in VDGIF's Forest Office. Upon review of the results, we will make final recommendations regarding the protection of listed species known from the area, including the need for additional surveys at impact IDs 59 (trib of Byrd Creek) and 72 (trib of Horsepen Creek); and/or adherence to TOYR at these sites and/or others. All survey reports should reference the ESSLog# displayed in the subject line of this email.

Assuming work will be performed when the stream is dry (no flow) or in the dry (behind cofferdams), work in intermittent or ephemeral streams does not need to adhere to the recommended TOYR. If you are unable to adhere to working in the dry or when there is no flow in these areas, we recommend additional coordination with DGIF regarding protection of listed mussels.

Please note, as indicated in Brandon's latest email, this discussion is related to the waterline project only. Impacts incurred at the site of the water intake on the James, including impacts upon the James River, Rivanna River, and tribs have been reviewed and commented upon separately. We support Brandon's description that "the mussel survey requirements and application of Time of Year Restrictions are still recommended/required for work in the James River (Impacts 1 & 2) and the Rivanna River crossing (Impact 8). Also, adherence to TOYR on the intermittent stream crossings (Impact 7, 9, 10 & 11), will be required because these streams are located in close proximity and discharge directly into the Rivanna River."

All other comments remain valid.

Thanks, Amy

Amy M. Ewing

Environmental Services Biologist/FWIS Program Manager

Chair, Team WILD (Work, Innovate, Lead and Develop)

804-367-2211 ☎ www.dgif.virginia.gov

"That land is a community is the basic concept of ecology, but that land is to be loved and respected is an extension of ethics" Aldo Leopold, 1948



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From: Owen, Randy (MRC)
Sent: Wednesday, August 23, 2017 1:32 PM
To: Brandon Searcey; McGurk, Brian (DEQ)
Cc: Ewing, Amy (DGIF); Watson, Brian (DGIF)
Subject: RE: ESSLog# 22598_14-0343_JamesRiverWaterAuthority

Yes, agreed. As long as you adhere to the DGIF TOYR's that Brian maintains are needed, no permit modification is needed for Impact 80 on Horsepen Creek given the existing permit language.

From: Brandon Searcey [<mailto:Brandon.Searcey@timmons.com>]
Sent: Wednesday, August 23, 2017 10:28 AM
To: McGurk, Brian (DEQ) <Brian.McGurk@deq.virginia.gov>; Owen, Randy (MRC) <Randy.Owen@mrc.virginia.gov>
Cc: Ewing, Amy (DGIF) <Amy.Ewing@dgif.virginia.gov>; Watson, Brian (DGIF) <Brian.Watson@dgif.virginia.gov>
Subject: FW: ESSLog# 22598_14-0343_JamesRiverWaterAuthority
Importance: High

Brian and Randy,

See the response below from DGIF (Brian Watson – Malacologist). I'm hoping these comments are all that either of you need to modify your permits. Randy...I believe you and I discussed that the VMRC does not need to be formally modified (i.e. rewritten) and the Permittee adhere's to DGIF's recommendations unless waived in writing. Based on DGIF's recent recommendations, the only VMRC jurisdictional impact waived of mussel survey requirements and Time of Year Restrictions is at Impact 80 on Horsepen Creek.

There was a misunderstanding regarding the information I submitted for DGIF's review, and Brian inadvertently (on his first email at 3:59) recommended survey's at locations along Byrd Creek that are not within the limits of the Project. We had looked at these areas (Byrd Creek 1 (VA 6), Byrd Creek 2 (SR 603), Byrd Creek 3 (SR 667), Upstream of Impact 80 (west of 604)), in an effort to give DGIF more information on Byrd Creek as a whole instead of just focusing on the on-site impacts. I've highlighted the pertinent sections of Brian's original and clarifying emails that, in my opinion, can be used to modify the conditions of the DEQ permit relating to mussels.

Note, Brian recommends conducting abbreviated survey's at two locations:

Byrd Creek – Impact 43

Horsepen Creek – Impact 74

Depending on the results of these survey's (i.e. if T&E mussels are found), there may be the need to perform abbreviated survey's on perennial tributaries in close proximity to Byrd Creek - Impact 43 & Horsepen Creek – Impact 74. He's identified two crossings where this additional work may be needed:

Impact 59 (Trib to Byrd Creek)

Impact 72 (Trib to Horsepen Creek)

Brian doesn't mention this in his recommendations, but the mussel survey requirements and application of Time of Year Restrictions are still recommended/required for work in the James River (Impacts 1 & 2) and the Rivanna River crossing (Impact 8). Also, adherence to TOYR on the intermittent stream crossings (Impact 7, 9, 10 & 11), will be required because these streams are located in close proximity and discharge directly into the Rivanna River. We (Timmons Group) never requested a reconsideration of survey's and TOYRs for this area (Intake to Route 6) of the Project as this is the section that contains the State T&E waters.

Please let me know or DGIF know if you have any questions.

Thank you,

Brandon Searcey, PWD

Sr. Environmental Scientist

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Your Vision Achieved Through Ours

From: Watson, Brian (DGIF) [<mailto:Brian.Watson@dgif.virginia.gov>]

Sent: Tuesday, August 22, 2017 4:18 PM

To: Ewing, Amy (DGIF) <Amy.Ewing@dgif.virginia.gov>

Cc: Brandon Searcey <Brandon.Searcey@timmons.com>

Subject: RE: ESSLog# 22598_14-0343_JamesRiverWaterAuthority

Amy,

Byrd Creek 1, 2 and 3 are not actual instream impacts. I misinterpreted that from the information Brandon submitted. These were additional information to help determine if a survey was needed at Byrd Creek onsite impact. So mussel surveys are needed at just 2 locations – Byrd Creek onsite impact and Horsepen onsite impact 74. Both should be abbreviated surveys (100 m upstream and 400 m downstream) rather than an assessment/survey at Byrd Creek onsite impact as initially recommended. My initial comment was made with the thought 3 surveys would be conducted downstream. With just 1 survey, it is more appropriate to do an abbreviated survey at the site given the information provided.

Brian

From: Watson, Brian (DGIF)

Sent: Tuesday, August 22, 2017 3:59 PM

To: Ewing, Amy (DGIF)

Cc: 'Brandon Searcey'

Subject: ESSLog# 22598_14-0343_JamesRiverWaterAuthority

Amy,

Since you are out this week, I am copying Brandon so he has my comments.

Based on review of the information submitted, the only sites at which mussel surveys are recommended are Byrd Creek 1 (VA 6), Byrd Creek 2 (SR 603), Byrd Creek 3 (SR 667), Byrd Creek onsite impact, and Horsepen onsite impact 74. Horsepen onsite impact 80 and bridge upstream impact 80 looks to be too rocky for mussels so no surveys needed at those two sites unless the survey at onsite impact 74 turns up something significant. I would recommend abbreviated surveys (100 m upstream and 400 m downstream) at Byrd Creek 1, 2 and 3, and Horsepen onsite impact; and a habitat assessment/survey (20 m upstream and 80 m downstream) at Byrd Creek onsite impact. The surveys should be conducted by an approved freshwater mussel surveyor and completed prior to November if done in 2017. If done in 2018, surveys should not be started until after April 1. Based on the results of the surveys, we will then determine if additional mussel relocations and TOYR periods are needed at these sites. Additional surveys may be warranted at perennial streams for which photos were not submitted but the only two sites at which that looks to be likely are impact ID 59 and 72.

For all ephemeral and intermittent streams, no mussel surveys are needed. So long as instream work is done while the channel is dry or done in the dry if the channel is carrying water, no TOYR period for freshwater mussels is needed. This will not change regardless of the results of the mussel surveys in Byrd and Horsepen Creeks. If any of these intermittent channels are carrying water when instream work is scheduled, the project applicant can re-coordinate with DGIF to determine if work in the dry is necessary. Instream work may be quick such that placing a cofferdam will cause just as much disturbance as doing a quick open cut, depending on the amount of water flowing in the channel.

All other standard BMPs apply such as E&S controls, work in the dry, no concrete curing in the wet, etc., should apply.

Brian

Brian T. Watson
Aquatic Resources Biologist/Malacologist
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Forest, VA 24551
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