DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
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December 14, 2016

Regulatory Division
South Branch
ID No. LRL-2016-00416-mck

Mr. Stephen Lane
Duke Energy
139 East Fourth Street
Cincinnati, Ohio 45202

Dear Mr. Lane:

This is in response to your request for authorization to construct a new 12-inch natural gas pipeline that would be located Big Bone Pipeline Project would be located in Boone County, Kentucky (center coordinates Latitude N 38.96988° and Longitude W 84.7279°). The proposed pipeline would begin near U.S. Route 25 north of Walton, cross under Interstate 71 and end near Big Bone Lake State Park on Beaver Road. The proposed pipeline would be parallel with Chambers Road, Beaver Road and Richwood Road for approximately 10 miles. The proposed pipeline would temporarily impact unnamed tributaries (UNT) of Big Bone Creek, UNT Mud Lick Creek, UNT Beaver Branch, UNT to Gum Branch and to the main stems of the unnamed tributaries using the open trench method. In addition, portions of nine wetlands (totaling 0.22 acre) would also be temporarily impacted. The proposed stream and wetland crossings would be temporary and would be restored to preconstruction contours once construction is complete. The proposed project would include 60 single and complete crossings of streams and 9 wetland crossings. See the enclosed table titled, "Table 1."

The information supplied by you was reviewed to determine whether a Department of the Army (DA) permit will be required under the provisions of Section 10 of the Rivers and Harbors of 1899 and Section 404 of the Clean Water Act.

This project is considered a discharge of backfill or bedding material for utility lines. The project is authorized under the provisions of Nationwide Permit (NWP) No. 12, Utility Line Activities, as published in the Federal Register February 21, 2012. Under the provisions of this authorization Duke Energy must comply with the enclosed Terms and General Conditions for NWP No.

12 and the following Special Conditions:

1. Should the right-of-way be realigned, the permittee shall be required to perform an additional archaeolgical survey.

2. The permittee must conduct all removal of trees associated with the project between the dates of October 15th to March 31st. If tree clearing must occur outside this timeframe or if additional forested areas not previously considered are to be removed, the permittee shall notify the Corps and the United States Fish and Wildlife Service in advance of tree clearing.

Duke Energy must also comply with the enclosed Individual Water Quality Certification (WQC), issued by the Kentucky Division of Water on October 3, 2016 (WQC#2016-100-7 and AI No. 129933). Duke Energy may proceed with the project without further contact or verification from us.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2017. It is incumbent upon Duke Energy to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if Duke Energy commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, they will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP. The enclosed Compliance Certification should be signed and returned when the project is completed. Note that we also perform periodic inspections to ensure compliance with our permit conditions and applicable Federal laws. A copy of this letter is being sent to your agent and to the KDOW.

Attached to this verification that the project is authorized by NWP No. 12 are a preliminary jurisdictional determination (JD), a Notification of Appeal Process (NAP) fact sheet, and Request for Appeal (RFA) form. However, a preliminary JD is not appealable and impacting "waters of the U.S." identified in the preliminary JD will result in Duke Energy waiving the right to request an approved JD at a later date. An approved JD may be requested (which may be appealed), by contacting me for further instruction.

If you have any questions, please contact this office by writing to the above address, ATTN: CELRL-RDS, or by calling me at 502-315-6709. All correspondence pertaining to this matter should refer to our ID No. LRL-2016-00416-mck.

Sincerely,

Meagan Knuckles
Project Manager
South Branch

Enclosures

Table 1: IMPACT TABLE for Walton Big Bone Natural Gas Pipeline Project (LRL-2016-00416-mck)							
Waters Name	**Stream Name**	**Latitude (°N)**	**Longitude (°W)**	**Cowardin Class**	**Impacts (Linear Feet)**	**Impacts (Acreage)**	**Impact Type**
S001	UNT Big Bone Creek	38.888648	-84.751589	Intermittent	28	-	Open Cut-Temporary
S003	UNT Big Bone Creek	38.888194	-84.742755	Intermittent	27	-	Open Cut-Temporary
S004	UNT Big Bone Creek	38.887106	-84.740995	Intermittent	28	-	Open Cut-Temporary
S005	UNT Big Bone Creek	38.886221	-84.739258	Intermittent	28	-	Open Cut-Temporary
S006	UNT Big Bone Creek	38.886054	-84.738946	Ephemeral	37	-	Open Cut-Temporary
S008	UNT Big Bone Creek	38.883806	-84.734229	Intermittent	33	-	Open Cut-Temporary
S009	UNT Big Bone Creek	38.883848	-84.732743	Intermittent	18	-	Open Cut-Temporary
S011	UNT Big Bone Creek	38.88538	-84.728482	Ephemeral	91	-	Open Cut-Temporary
S012	UNT Big Bone Creek	38.885814	-84.723852	Intermittent	10	-	Open Cut-Temporary
S013	UNT Big Bone Creek	38.885824	-84.725235	Ephemeral	8	-	Open Cut-Temporary
S016	UNT Big Bone Creek	38.88448	-84.716437	Ephemeral	50	-	Open Cut-Temporary
S017	UNT Big Bone Creek	38.884484	-84.716351	Perennial	32	-	Open Cut-Temporary
S018	UNT Big Bone Creek	38.883974	-84.71394	Ephemeral	5	-	Open Cut-Temporary
S019	UNT Big Bone Creek	38.883721	-84.712932	Ephemeral	8	-	Open Cut-Temporary
S020	UNT Big Bone Creek	38.883149	-84.710867	Ephemeral	30	-	Open Cut-Temporary
S021	UNT Big Bone Creek	38.883099	-84.71069	Ephemeral	30	-	Open Cut-Temporary
S022	UNT Big Bone Creek	38.8837	-84.712677	Ephemeral	15	-	Open Cut-Temporary
S023	UNT Beaver Branch	38.880417	-84.704449	Perennial	35	-	Open Cut-Temporary
S024	UNT Beaver Branch	38.879475	-84.70174	Ephemeral	138	-	Open Cut-Temporary
S025	UNT Beaver Branch	38.879072	-84.70048	Intermittent	166	-	Open Cut-Temporary
S026	UNT Beaver Branch	38.878827	-84.699772	Ephemeral	11	-	Open Cut-Temporary
S027	UNT Beaver Branch	38.878877	-84.699924	Ephemeral	15	-	Open Cut-Temporary
S028	UNT Beaver Branch	38.879076	-84.699109	Perennial	31	-	Open Cut-Temporary
S029	UNT Beaver Branch	38.879131	-84.698998	Ephemeral	2	-	Open Cut-Temporary
S030	UNT Beaver Branch	38.879131	-84.699113	Ephemeral	29	-	Open Cut-Temporary
S031	UNT Beaver Branch	38.885909	-84.692433	Intermittent	105	-	Open Cut-Temporary
S032	UNT Mud Lick Creek	38.887165	-84.689459	Ephemeral	25	-	Open Cut-Temporary
S033	UNT Mud Lick Creek	38.893733	-84.673369	Intermittent	8	-	Open Cut-Temporary
S035	UNT Mud Lick Creek	38.900786	-84.650065	Ephemeral	17	-	Open Cut-Temporary
S036	UNT Mud Lick Creek	38.900811	-84.650081	Ephemeral	34	-	Open Cut-Temporary
S037	UNT Mud Lick Creek	38.904096	-84.645433	Intermittent	31	-	Open Cut-Temporary
S038	UNT Mud Lick Creek	38.888835	-84.630148	Ephemeral	82	-	Open Cut-Temporary
S041	UNT Mud Lick Creek	38.888275	-84.614664	Ephemeral	1	-	Open Cut-Temporary

S044	UNT Mud Lick Creek	38.889085	-84.615166	Perennial	65	-	Open Cut-Temporary
S045	UNT Mud Lick Creek	38.888522	-84.615012	Ephemeral	34	-	Open Cut-Temporary
S046	UNT Mud Lick Creek	38.888731	-84.615091	Intermittent	33	-	Open Cut-Temporary
SKY-CDK-001	UNT Big Bone Creek	38.88303	-84.71081	Ephemeral	34	-	Open Cut-Temporary
SKY-CDK-004	UNT Big Bone Creek	38.883609	-84.71288	Ephemeral	40	-	Open Cut-Temporary
SKY-CDK-005	UNT Big Bone Creek	38.884475	-84.716338	Ephemeral	51	-	Open Cut-Temporary
SKY-CDK-007	Big Bone Creek	38.88496	-84.736193	Perennial	36	-	Open Cut-Temporary
SKY-CDK-009	UNT Gum Branch	38.88786	-84.756352	Ephemeral	296	-	Open Cut-Temporary
SKY-CDK-010	UNT Gum Branch	38.887878	-84.756212	Perennial	26	-	Open Cut-Temporary
SKY-CDK-011	UNT Big Bone Creek	38.889099	-84.74891	Intermittent	27	-	Open Cut-Temporary
SKY-CDK-012	Beaver Branch	38.879394	-84.701392	Perennial	72	-	Open Cut-Temporary
SKY-CDK-013	UNT Mud Lick Creek	38.897369	-84.662568	Perennial	30	-	Open Cut-Temporary
SKY-CDK-014	UNT Mud Lick Creek	38.893747	-84.673277	Perennial	13	-	Open Cut-Temporary
SKY-CDK-015	UNT Beaver Branch	38.879982	-84.697841	Intermittent	58	-	Open Cut-Temporary
SKY-CDK-016	UNT Mud Lick Creek	38.888829	-84.685389	Perennial	33	-	Open Cut-Temporary
SKY-CDK-017	Mud Lick Creek	38.899087	-84.65313	Perennial	30	-	Open Cut-Temporary
SKY-CDK-018	UNT Mud Lick Creek	38.898322	-84.650852	Perennial	180	-	Open Cut-Temporary
SKY-CDK-019	UNT Mud Lick Creek	38.906064	-84.642176	Ephemeral	33	-	Open Cut-Temporary
SKY-CDK-020	UNT Mud Lick Creek	38.895195	-84.648059	Perennial	46	-	Open Cut-Temporary
SKY-CDK-021	UNT Mud Lick Creek	38.891331	-84.643072	Ephemeral	33	-	Open Cut-Temporary
SKY-CDK-022	UNT Mud Lick Creek	38.889844	-84.640177	Perennial	35	-	Open Cut-Temporary
SKY-CDK-023	UNT Mud Lick Creek	38.887761	-84.632876	Ephemeral	30	-	Open Cut-Temporary
SKY-CDK-024	UNT Mud Lick Creek	38.889555	-84.626828	Intermittent	32	-	Open Cut-Temporary
SKY-CDK-025	UNT Mud Lick Creek	38.88976	-84.62581	Ephemeral	36	-	Open Cut-Temporary
SKY-CDK-026	UNT Mud Lick Creek	38.890126	-84.624155	Perennial	31	-	Open Cut-Temporary
SKY-CDK-027	UNT Mud Lick Creek	38.890165	-84.623638	Perennial	43	-	Open Cut-Temporary
W004		38.885708	-84.726986	PEM	-	0.003	Open Cut-Temporary
W005		38.885822	-84.724037	PEM	-	0.004	Open Cut-Temporary
W006		38.885752	-84.722876	PEM	-	0.006	Open Cut-Temporary
W007		38.878859	-84.699792	PEM	-	0.031	Open Cut-Temporary
W008		38.879244	-84.698957	PEM	-	0.055	Open Cut-Temporary
W009		38.889845	-84.640052	PSS	-	0.045	Open Cut-Temporary
W010		38.889389	-84.628650	PEM	-	0.016	Open Cut-Temporary
W011		38.889431	-84.627939	PEM	-	0.032	Open Cut-Temporary
W013		38.889094	-84.615142	PEM	-	0.029	Open Cut-Temporary

Terms for Nationwide Permit No. 12 – Utility Line Activities

12. Utility Line Activities. Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Utility lines: This NWP authorizes the construction, maintenance, or repair of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, provided there is no change in pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead utility line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (See 33 CFR Part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP also authorizes temporary structures, fills, and work necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if any of the following criteria are met: (1) the activity involves mechanized land clearing in a forested wetland for the utility line right-of-way; (2) a section 10 permit is required; (3) the utility line in waters of the United States, excluding overhead lines, exceeds 500 feet; (4) the utility line is placed within a jurisdictional area (i.e., water of the United States), and it runs parallel to or along a stream bed that is within that jurisdictional area; (5) discharges that result in the loss of greater than 1/10-acre of waters of the United States; (6) permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet; or (7) permanent access roads are constructed in waters of the United States with impervious materials. (See general condition 31.) (Sections 10 and 404)

Note 1: Where the proposed utility line is constructed or installed in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, copies of the pre-construction notification and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

Note 2: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 3: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

Note 4: For overhead utility lines authorized by this NWP, a copy of the PCN and NWP verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

US Army Corps of Engineers.
Louisville District

Nationwide Permit Conditions

The following General Conditions must be followed in order for any authorization by NWP to be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the US Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the US.

(c) The permittee understands and agrees that, if future operations by the US require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the US. No claim shall be made against the US on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the US that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the US during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, US Forest Service, US Fish and Wildlife Service).

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification (PCN) to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the PCN must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete PCN. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from Corps.

(d) As a result of formal or informal consultation with the USFWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the US to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.noaa.gov/fisheries.html respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for obtaining any "take" permits required under the USFWS's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the USFWS to determine if such "take" permits are required for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA is complete.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the US to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the US, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the US, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the US are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or USEPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: "When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

_____

(Transferee)

_____

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

31. Pre-Construction Notification (PCN). (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a PCN as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the US expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(4) The PCN must include a delineation of wetlands, other special aquatic sites, and waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the US. The 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of PCN Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP activities that require PCN notification and result in the loss of greater than 1/2-acre of waters of the US, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require PCN notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require PCN notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the PCN notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each PCN notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of PCN notifications to expedite agency coordination.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

ADDRESS FOR COORDINATING AGENCY

Ms. Stephanie Hayes
Kentucky Energy & Environment Cabinet
Division of Water
300 Sower Boulevard, 3rd Floor
Frankfort, Kentucky 40601

ADDRESS FOR AUTHORIZED AGENT

Mr. Mike Frank
CH2M Hill
400 East Business Way, Suite 400
Cincinnati, Ohio 45241

MATTHEW G. BEVIN
GOVERNOR

CHARLES G. SNAVELY
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

AARON B. KEATLEY
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

October 3, 2016

Steve Lane
Duke Energy
139 E 4th Street, Room EM740
Cincinnati, OH 45202

Re: Water Quality Certification # 2016-100-7
Duke Energy Gas Pipeline - Boone Co
AI No.: 129933; Activity ID: APE20160002
USACE ID No.: LRL-2016-00416-mck
Mud Lick Creek, Beaver Branch, unnamed Tributaries of Big Bone Creek, Beaver Branch, Mud Lick Creek, Gum Branch, and adjacent wetlands
Boone County, Kentucky

Dear Mr. Lane:

Pursuant to Section 401 of the Clean Water Act (CWA), the Commonwealth of Kentucky certifies it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 303, 304, 306, and 307 of the CWA, will not be violated by the above referenced project provided that the U.S. Army Corps of Engineers authorizes the activity under 33 CFR part 330, and the attached conditions are met.

All future correspondence on this project must reference **AI No. 129933**. **The attached document is your official Water Quality Certification; please read it carefully**. If you should have any questions concerning the conditions of this water quality certification, please contact me at Stephanie.Hayes@ky.gov or at (502) 782-6970.

Sincerely,

Stephanie Hayes

Stephanie Hayes, Supervisor
Water Quality Certification Section
Kentucky Division of Water

Attachment

cc: Meagan Knuckles, USACE: Louisville (via email: Meagan.C.Knuckles@usace.army.mil)
Lee Andrews, USFWS: Frankfort (via email: Teresa_Hyatt@fws.gov)
Mike Frank, CH2M (via email: Mike.Frank@ch2m.com)
Maggie Vuturo Bosiljevac, CH2M (via email: Maggie.CuturoBosiljevac@ch2m.com)
Chad Von Gruenigen, Licking River Basin Coordinator (via email: Chad.VonGruenigen@ky.gov)
Matt Gross, KDOW Florence Regional Office (via email: Matthew.Gross@ky.gov)

Water Quality Certification

Duke Energy Gas Pipeline - Boone Co

Facility Requirements

Permit Number: WQC# 2016-100-7

Activity ID No.:APE20160002

CTV0000000002 (UTs of Big Bone Cr, Mud Lick Cr, Gum Br, etc) Duke Energy Walton - Big Bone Natural Gas Pipeline Project - AI 129933:

Submittal/Action Requirements:

Condition No.	Condition
S-1	Duke Energy shall submit notification : Due prior to any construction activity to the Kentucky Division of Water, 401 Water Quality Certification Section Supervisor at Stephanie.Hayes@ky.gov or at (502) 782-6970. [Clean Water Act]
S-2	Duke Energy shall submit notification : Due when construction is complete to the Kentucky Division of Water, 401 Water Quality Certification Section Supervisor at Stephanie.Hayes@ky.gov or at (502) 782-6970. [Clean Water Act]

Narrative Requirements:

Condition No.	Condition
Г-1	The work approved by this certification shall be limited to the proposed Duke Energy new 12-inch natural gas pipeline in Walton, Kentucky in Boone County. Proposed impacts to streams and wetlands include the following: - 780 linear feet of 29 ephemeral streams, Unnamed Tributaries of Big Bone Creek, Beaver Branch, Mud Lick Creek, and Gum Branch - 389 linear feet of 15 intermittent streams, Unnamed Tributaries of Big Bone Creek, Beaver Branch, and Mud Lick Creek - 142 linear feet of 18 perennial streams, Unnamed Tributaries of Big Bone Creek, Beaver Branch, Mud Lick Creek, Gum Branch as well as Mud Lick Creek and Beaver Branch. - 0.175 acre of Palustrine Emergent Wetland - 0.090 acre of Palustrine Scrub Shrub Wetland. [Clean Water Act]
Г-2	All work performed under this certification shall adhere to the design and specifications set forth in the following documents: - Application for Permit to Construct Across or Along a Stream and/or Water Quality Certification received April 28, 2016. - Revised table of impacts received August 4, 2016. [Clean Water Act]
Г-3	Duke Energy is responsible for preventing degradation of waters of the Commonwealth from soil erosion. An erosion and sedimentation control plan must be designed, implemented, and maintained in effective operating condition at all times during construction. [Clean Water Act]

.CTV0000000002 (UTs of Big Bone Cr, Mud Lick Cr, Gum Br, etc) Duke Energy Walton - Big Bone Natural Gas Pipeline Project - AI 129933:

Narrative Requirements:

Condition No.	Condition
T-4	The Division of Water reserves the right to modify or revoke this certification should it be determined that the activity is in noncompliance with any condition set forth in this certification. [Clean Water Act]
T-5	If construction does not commence within one year of the date of this letter, this certification will become void. A letter requesting a renewal should be submitted. [Clean Water Act]
T-6	Other permits from the Division of Water may be required for this activity. If this activity occurs within a floodplain, a Permit to Construct Across or Along a Stream may be required. Please contact the Floodplain Section Supervisor (502-564-3410) for more information. If the project will disturb one acre or more of land, or is part of a larger common plan of development or sale that will ultimately disturb one acre or more of land, a Kentucky Pollution Discharge Elimination System (KPDES) stormwater permit shall be required from the Surface Water Permits Branch. This permit requires the development of a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP must include erosion prevention and sediment control measures. Contact: Surface Water Permits Branch (SWPB) Support (502-564-3410 or SWPBSupport@ky.gov)
T-7	Dredging work shall not be conducted during the fish spawning season, April 15th through June 15th. [Clean Water Act]
T-8	Mitigation for impacts shall begin prior to or concurrently with impacts. [Clean Water Act]
T-9	Check dams are not allowed within the stream channel. [Clean Water Act]
T-10	Remove all sediment and erosion control measures after re-vegetation has become well-established. [Clean Water Act]

MATTHEW G. BEVIN
GOVERNOR

CHARLES G. SNAVELY
SECRETARY

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection

AARON B. KEATLEY
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

ATTENTION APPLICANT

If your project involves one or more of the following activities, you may need more than one permit from the Kentucky Division of Water.

***building in a floodplain *road culvert in a stream**
***streambank stabilization *stream cleanout**
***utility line crossing a stream**
***construction sites greater than 1 acre**

- **Construction sites greater than 1 acre will require the filing of a Notice of Intent to be covered under the KPDES General Stormwater Permit. This permit requires the creation of an erosion control plan.**
  Contact: Surface Water Permits Branch (SWPB) Support at SWPBSupport@ky.gov

- **Projects that involve filling in the floodplain will require a floodplain construction permit from the Water Resources Branch.**
  Contact: Ron Dutta at (502) 782-6941

- **Projects that involve work IN a stream, such as bank stabilization, road culverts, utility line crossings, and stream alteration will require a floodplain permit and a Water Quality Certification from the Division of Water.**
  Contact: Stephanie Hayes at (502) 782-6970

A complete listing of environmental programs administered by the Kentucky Department for Environmental Protection is available from Pete Goodmann by calling (502) 782-6956.

GENERAL CONDITIONS FOR WATER QUALITY CERTIFICATION

1. Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.

2. All dredged material shall be removed to an upland location and/or graded on adjacent areas (so long as such areas are not regulated wetlands), to obtain original streamside elevations, i.e. overbank flooding shall not be artificially obstructed.

3. In areas not riprapped or otherwise stabilized, revegetation of stream banks and riparian zones shall occur concurrently with project progression. At a minimum, revegetation will approximate pre-disturbance conditions.

4. To the maximum extent practicable, all instream work under this certification shall be performed during low flow.

5. Heavy equipment, e.g. bulldozers, backhoes, draglines, etc., if required for this project, should not be used or operated within the stream channel. In those instances where such instream work is unavoidable, then it shall be performed in such a manner and duration as to minimize resuspension of sediments and disturbance to substrates and bank or riparian vegetation.

6. Any fill or riprap including refuse fill, shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If riprap is utilized, it is to be of such weight and size that bank stress or slump conditions will not be created because of its placement.

7. If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when work will be done.

8. Removal of existing riparian vegetation should be restricted to the minimum necessary for project construction.

9. Should evidence of stream pollution or jurisdictional wetland impairment and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the Kentucky Division of Water shall be notified immediately by calling 800/928-2380.

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

U.S. Army Corps of Engineers

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): November 15, 2016.

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:

Applicant:	**Agent:**
Duke Energy	CH2M Hill
ATTN: Mr. Stephen Lane	ATTN: Mr. Mike Frank
139 East Fourth Street	400 East Business Way, Suite 400
Cincinnati, Ohio 45202	Cincinnati, Ohio 45241

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Louisville District, Walton-Big Bone Natural Gas Pipeline Project, LRL-2016-00416-mck

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)

State: Kentucky County: Boone City: Walton

Center coordinates of site: Latitude and Longitude (NAD 83): Latitude: 38.96988° North, Longitude: 84.7279° West

Authority: ☑ Section 404 ☐ Section 10

Name of nearest waterbody: Big Bone Creek, Mud Lick Creek, Beaver Branch, Gum Branch

Identify (estimate) amount of waters in the review area:

Non-wetland waters: 4,919 linear feet: width (ft) and/or ft wide, acres.

Cowardin Class: Riverine

Stream Flow: Ephemeral, Intermittent & Perennial

Wetlands: 0.72 acres.

Cowardin Class: Emergent, Scrub-Shrub, ForestedChoose Class

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal: N/A

Non-Tidal: NA

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☑ Office (Desk) Determination. Date: November 15, 2016

☐ Field Determination. Date(s): *Date*

The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

1. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP

or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. §331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there *"may be"* waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply)
- checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- [x] Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Application Package submitted by CH2M Hill dated April 21, 2016.
- [x] Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - [x] Office concurs with data sheets/delineation report.
  - [ ] Office does not concur with data sheets/delineation report.
- [ ] Data sheets prepared by the Corps: *Click here to enter text.*
- [ ] Corps navigable waters' study: *Click here to enter text.*
- [x] U.S. Geological Survey Hydrologic Atlas: *Click here to enter text.*
  - [x] USGS NHD data.
  - [x] USGS 8 and 12 digit HUC maps.
- [x] U.S. Geological Survey map(s). Cite scale & quad name: 1:24K, KY-UNION, RISING SUN, INDEPENDENCE
- [x] USDA Natural Resources Conservation Service Soil Survey. Citation: Natural Resource Conservation Service (NRCS), Web Soil Survey. 2013. http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx. Accessed April 7, 2016.
- [x] National wetlands inventory map(s). Cite name: *Click here to enter text.*
- [ ] State/Local wetland inventory map(s): *Click here to enter text.*
- [ ] FEMA/FIRM maps: Click here to enter text.
- [ ] 100-year Floodplain Elevation is: *Click here to enter text.*
  (National Geodectic Vertical Datum of 1929)
- [x] Photographs: [x] Aerial (Name & Date): Submitted in Application Package by CH2M Hill.
- [ ] or [ ] Other (Name & Date): *Click here to enter text.*
- [ ] Previous determination(s). File no. and date of response letter: *Click here to enter text.*

☐ Other information (please specify): Click here to enter text.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

11/15/16

Signature and date of Regulatory Project Manager (REQUIRED)

Nov. 15, 2016

Signature and date of person requesting preliminary JD (REQUIRED, unless obtaining the signature is impracticable)

Wetland/Water-body Name	Latitude	Longitude	Cowardin Code/Flow Regime	Estimated Amount of Aquatic Resource in Survey Area [a] (acre)	Estimated Amount of Aquatic Resource in Survey Area (linear ft.)	Class of Aquatic Resource
W001	38.8890	-84.7462	PEM	0.02	—	Non-Section 10 – Wetland
W002	38.8889	-84.7453	PEM	0.01	—	Non-Section 10 – Wetland
W003-PEM	38.8876	-84.7420	PEM	0.09	—	Non-Section 10 – Wetland
W003-PSS	38.8874	-84.7416	PSS	0.10	—	Non-Section 10 – Wetland
W003-PFO	38.8871	-84.7412	PFO	0.05	—	Non-Section 10 – Wetland
W004	38.8857	-84.7270	PEM	0.03	—	Non-Section 10 – Wetland
W005	38.8858	-84.7240	PEM	0.01	—	Non-Section 10 – Wetland
W006	38.8858	-84.7229	PEM	0.01	—	Non-Section 10 – Wetland
W007	38.8789	-84.6998	PEM	0.03	—	Non-Section 10 – Wetland
W008	38.8792	-84.6990	PEM	0.10	—	Non-Section 10 – Wetland
W009	38.8898	-84.6401	PSS	0.08	—	Non-Section 10 – Wetland
W010	38.8894	-84.6287	PEM	0.02	—	Non-Section 10 – Wetland
W011	38.8894	-84.6279	PEM	0.05	—	Non-Section 10 – Wetland
W012	38.8898	-84.6257	PEM	0.06	—	Non-Section 10 – Wetland
W013	38.8891	-84.6151	PEM	0.06	—	Non-Section 10 – Wetland
			Total Wetlands	**0.72 acres**		
S001	38.8886	-84.7516	Intermittent	—	63	Non-Section 10 – Non-Wetland
S002	38.8885	-84.7431	Ephemeral	—	38	Non-Section 10 – Non-Wetland
S003	38.8882	-84.7428	Intermittent	—	60	Non-Section 10 – Non-Wetland
S004	38.8871	-84.7410	Intermittent	—	60	Non-Section 10 – Non-Wetland
S005	38.8862	-84.7393	Intermittent	—	64	Non-Section 10 – Non-Wetland

Wetland/Water-body Name	Latitude	Longitude	Cowardin Code/Flow Regime	Estimated Amount of Aquatic Resource in Survey Area [a] (acre)	Estimated Amount of Aquatic Resource in Survey Area (linear ft.)	Class of Aquatic Resource
S006	38.8861	-84.7389	Ephemeral	—	45	Non-Section 10 – Non-Wetland
S007	38.8856	-84.7381	Ephemeral	—	22	Non-Section 10 – Non-Wetland
S008	38.8838	-84.7342	Intermittent	—	64	Non-Section 10 – Non-Wetland
S009	38.8838	-84.7327	Intermittent	—	19	Non-Section 10 – Non-Wetland
S010	38.8849	-84.7299	Ephemeral roadside drainage	—	135	Non-Section 10 – Non-Wetland
S011	38.8854	-84.7285	Ephemeral	—	127	Non-Section 10 – Non-Wetland
S012	38.8858	-84.7239	Intermittent	—	20	Non-Section 10 – Non-Wetland
S013	38.8858	-84.7252	Ephemeral	—	21	Non-Section 10 – Non-Wetland
S016	38.8845	-84.7164	Ephemeral	—	50	Non-Section 10 – Non-Wetland
S017	38.8845	-84.7164	Perennial	—	82	Non-Section 10 – Non-Wetland
S018	38.8840	-84.7139	Ephemeral	—	20	Non-Section 10 – Non-Wetland
S019	38.8837	-84.7129	Ephemeral	—	21	Non-Section 10 – Non-Wetland
S020	38.8831	-84.7109	Ephemeral	—	55	Non-Section 10 – Non-Wetland
S021	38.8831	-84.7107	Ephemeral	—	58	Non-Section 10 – Non-Wetland
S022	38.8837	-84.7127	Ephemeral	—	33	Non-Section 10 – Non-Wetland
S023	38.8804	-84.7044	Perennial	—	53	Non-Section 10 – Non-Wetland
S024	38.8795	-84.7017	Ephemeral roadside drainage	—	138	Non-Section 10 – Non-Wetland
S025	38.8791	-84.7005	Intermittent	—	404	Non-Section 10 – Non-Wetland
S026	38.8788	-84.6998	Ephemeral	—	21	Non-Section 10 – Non-Wetland
S027	38.8789	-84.6999	Ephemeral	—	24	Non-Section 10 – Non-Wetland

Wetland/Water-body Name	Latitude	Longitude	Cowardin Code/Flow Regime	Estimated Amount of Aquatic Resource in Survey Area [a] (acre)	Estimated Amount of Aquatic Resource in Survey Area (linear ft.)	Class of Aquatic Resource
S028	38.8791	-84.6991	Perennial	—	61	Non-Section 10 – Non-Wetland
S029	38.8791	-84.6990	Ephemeral	—	36	Non-Section 10 – Non-Wetland
S030	38.8791	-84.6991	Ephemeral	—	29	Non-Section 10 – Non-Wetland
S031	38.8859	-84.6924	Intermittent	—	152	Non-Section 10 – Non-Wetland
S032	38.8872	-84.6895	Ephemeral	—	33	Non-Section 10 – Non-Wetland
S033	38.8937	-84.6734	Intermittent	—	28	Non-Section 10 – Non-Wetland
S034	38.8884	-84.7431	Ephemeral		173	Non-Section 10 – Non-Wetland
S035	38.9008	-84.6501	Ephemeral	—	60	Non-Section 10 – Non-Wetland
S036	38.9008	-84.6501	Ephemeral	—	20	Non-Section 10 – Non-Wetland
S037	38.9041	-84.6454	Intermittent	—	56	Non-Section 10 – Non-Wetland
S038	38.8888	-84.6301	Ephemeral roadside drainage	—	139	Non-Section 10 – Non-Wetland
S040	38.8884	-84.6148	Ephemeral	—	3	Non-Section 10 – Non-Wetland
S041	38.8883	-84.6147	Ephemeral	—	20	Non-Section 10 – Non-Wetland
S042	38.887644	-84.613851	Ephemeral	—	6	Non-Section 10 – Non-Wetland
S044	38.8891	-84.6152	Perennial	—	135	Non-Section 10 – Non-Wetland
S045	38.8885	-84.6150	Ephemeral	—	66	Non-Section 10 – Non-Wetland
S046	38.8887	-84.6151	Intermittent	—	70	Non-Section 10 – Non-Wetland
SKY-CDK-001	38.8830	-84.7106	Ephemeral	—	71	Non-Section 10 – Non-Wetland
SKY-CDK-004	38.8837	-84.7127	Ephemeral	—	80	Non-Section 10 – Non-Wetland

Wetland/Water-body Name	Latitude	Longitude	Cowardin Code/Flow Regime	Estimated Amount of Aquatic Resource in Survey Area [a] (acre)	Estimated Amount of Aquatic Resource in Survey Area (linear ft.)	Class of Aquatic Resource
SKY-CDK-005	38.8845	-84.7162	Ephemeral roadside drainage	—	91	Non-Section 10 – Non-Wetland
SKY-CDK-006	38.8850	-84.7297	Perennial	—	93	Non-Section 10 – Non-Wetland
SKY-CDK-007	38.8847	-84.7364	Perennial	—	60	Non-Section 10 – Non-Wetland
SKY-CDK-008	38.8882	-84.7552	Perennial	—	65	Non-Section 10 – Non-Wetland
SKY-CDK-009	38.8878	-84.7569	Ephemeral roadside drainage	—	295	Non-Section 10 – Non-Wetland
SKY-CDK-010	38.8879	-84.7562	Perennial	—	61	Non-Section 10 – Non-Wetland
SKY-CDK-011	38.8889	-84.7489	Intermittent	—	60	Non-Section 10 – Non-Wetland
SKY-CDK-012	38.8794	-84.7014	Perennial	—	98	Non-Section 10 – Non-Wetland
SKY-CDK-013	38.8974	-84.6626	Perennial	—	60	Non-Section 10 – Non-Wetland
SKY-CDK-014	38.8938	-84.6733	Perennial	—	25	Non-Section 10 – Non-Wetland
SKY-CDK-015	38.8793	-84.6989	Intermittent	—	113	Non-Section 10 – Non-Wetland
SKY-CDK-016	38.8889	-84.6854	Perennial	—	65	Non-Section 10 – Non-Wetland
SKY-CDK-017	38.8992	-84.6531	Perennial	—	64	Non-Section 10 – Non-Wetland
SKY-CDK-018	38.8985	-84.6509	Perennial	—	263	Non-Section 10 – Non-Wetland
SKY-CDK-019	38.9062	-84.6423	Ephemeral	—	80	Non-Section 10 – Non-Wetland

Wetland/Water-body Name	Latitude	Longitude	Cowardin Code/Flow Regime	Estimated Amount of Aquatic Resource in Survey Area [a] (acre)	Estimated Amount of Aquatic Resource in Survey Area (linear ft.)	Class of Aquatic Resource
SKY-CDK-020	38.8953	-84.6480	Perennial	—	61	Non-Section 10 – Non-Wetland
SKY-CDK-021	38.8914	-84.6431	Ephemeral	—	64	Non-Section 10 – Non-Wetland
SKY-CDK-022	38.8899	-84.6401	Perennial	—	66	Non-Section 10 – Non-Wetland
SKY-CDK-023	38.8878	-84.6329	Ephemeral	—	61	Non-Section 10 – Non-Wetland
SKY-CDK-024	38.8896	-84.6269	Intermittent	—	57	Non-Section 10 – Non-Wetland
SKY-CDK-025	38.8898	-84.6258	Ephemeral	—	58	Non-Section 10 – Non-Wetland
SKY-CDK-026	38.8902	-84.6242	Perennial	—	50	Non-Section 10 – Non-Wetland
SKY-CDK-027	38.8902	-84.6236	Perennial	—	74	Non-Section 10 – Non-Wetland
				Total Streams	**4,919 feet**	—

Notes: [a] Survey Area consists of all areas surveyed for streams and wetlands during the course of project planning. Several features located in the Survey Area are not within the refined study area and project impact area.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Duke Energy	File Number: LRL-2016-00416	Date: 14 DEC 16
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:	If you only have questions regarding the appeal process you may also contact:
Meagan Knuckles US Army Corps of Engineers – Louisville District PO Box 59, Rm 752 Attn: CELRL-OPF-S Louisville, KY 40201-0059 (502) 315-6709	U.S. Army Corps of Engineers ATTN: Jacob Siegrist Appeal Review Officer CELRD-PD-REG 550 Main Street, Room 10524 Cincinnati, OH 45202-3222 TEL (513) 684-2699; FAX (513) 684-2460

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

	Date:	Telephone number:
_____ Signature of appellant or agent.		

Compliance Certification:

Permit Number: LRL-2016-00416-mck

Name of Permittee: Duke Energy

Date of Issuance: December 14, 2016

Upon completion of the activity authorized by this permit and any mitigation required by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
CELRL-RDS
P.O. Box 59
Louisville, Kentucky 40201

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

_____ _____

Signature of Permittee Date