



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, LOUISVILLE DISTRICT
600 DR. MARTIN LUTHER KING JR PL
LOUISVILLE, KY 40202

December 2, 2024

Regulatory Division
South Branch
ID No. LRL-2017-01046-jwr

Louisville Gas and Electric Company (LG&E)
c/o: Mr. Nate Beckman
820 W. Broadway
Louisville, Kentucky 40202

Dear Mr. Beckman:

On April 18, 2022, the U.S. Army Corps of Engineers (Corps) received a letter from the U.S. Fish and Wildlife Service (Service) recommending the Corps request re-initiation of formal Endangered Species Act (ESA) consultation for the LG&E Bullitt County Pipeline project (USACE ID# LRL-2017-01046-jwr). The Service's recommendation was based on new information received since the original Biological Opinion (FWS Log #: 04EK1000-2021-F-0296, dated June 09, 2021) was completed by the Service. The previous verification for the proposed activities under the terms and conditions of Nationwide Permit (NWP) No. 12 – Oil and Gas Pipeline Activities, issued August 26, 2021, was suspended by the Corps on August 20, 2022, in consideration of General Condition #18 of all Nationwide Permits and regulations at 33 CFR 330.5. As per 33 CFR 330.5(d)(2), a suspended Nationwide Permit may either be reinstated, modified, or revoked upon completion of all required procedures. The Corps has concluded its coordination with the Service under Section 7 of the Endangered Species Act and has determined General Condition #18 has been satisfied.

In addition, the previous NWP verification was issued in conjunction with an Approved Jurisdictional Determination issued under the Navigable Waters Protection Rule (NWPR) on August 26, 2021. Upon completion of a review of aquatic resources in the project area, a preliminary jurisdictional determination (PJD) was issued, dated October 1, 2024, to address aquatic resources previously determined to be non-jurisdictional under the NWPR. As a result, a modified Nationwide Permit verification letter is required to account for additional aquatic resource impacts under the PJD issuance. LG&E submitted a modified Nationwide Permit Pre-construction Notification for the proposed activities on October 4, 2024.

In accordance with 33 CFR 330.5(d), the previously suspended Nationwide Permit verification is hereby modified. This modified verification letter authorizes the discharge of dredged and/or fill material into "Waters of the United States" in association with the installation of a 12-inch natural gas distribution pipeline along a 12-mile reach located in Bullitt County, Kentucky. Proposed impacts to "Waters of the United States" include 63 tributaries that consist of 6,253 linear feet of temporary impacts and 18 linear feet of permanent impacts to perennial, intermittent, and/or ephemeral tributaries. In addition, temporary impacts to 0.07 acre of open water aquatic resources and impacts to 0.43 acre of wetlands (consisting of 0.27 acre of temporary impacts to emergent wetlands and 0.16 acre of permanent impacts to forested wetlands) would be required. All impacts identified as temporary must be returned to pre-construction contours upon completion of the installation activities, as required under general condition #13 of the Nationwide Permits.

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 404 of the Clean Water Act. Your project includes a discharge of dredged or fill material into waters of the United States associated with the construction, maintenance, repair, and removal of oil and natural gas pipelines and associated facilities. The project is authorized under the provisions of 33 CFR 330 Nationwide Permit (NWP) No. 12, Oil or Natural Gas Pipeline Activities, as published in the Federal Register January 13, 2021. Under the provisions of this authorization, you must comply with the enclosed Terms and General Conditions for NWP No. 12, and the following Special Conditions:

Special Condition 1: The Permittee shall comply with all conditions of the Section 401 Water Quality Certification No. 2021-055-7, dated June 30, 2021, issued by the Kentucky Division of Water, which are incorporated herein by reference.

Special Condition 2: This nationwide permit authorization does not authorize you to take an endangered species, in particular the Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and Kentucky glade cress (*Leavenworthia exiqua* var. *laciniata*). In order to legally take a listed species, you must either have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit), or comply with “incidental take” provisions included in a Biological Opinion (BO) issued by the U.S. Fish and Wildlife Service under ESA Section 7. The enclosed U.S. Fish and Wildlife Service BO entitled Biological Opinion and Conference Opinion, The U.S. Army Corps of Engineer’s Authorization of Louisville Gas and Electric’s Bullitt County Pipeline Project, FWS Log # 2023-0052626, dated 2024.09.30, contains mandatory requirements associated with “incidental take” that is also specified in the BO. Your authorization under this nationwide permit is conditional upon your compliance with all of the mandatory requirements associated with incidental take of the attached BO, which requirements are incorporated by reference in this permit. Failure to comply with the requirements associated with incidental take in the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your nationwide permit authorization. The U.S. Fish and Wildlife Service is the appropriate authority to determine compliance with the requirements of its BO, and with the ESA.

Special Condition 3: LG&E shall submit quarterly ledgers to the United States Fish and Wildlife Service that identify both habitat removal and Imperiled Bat Conservation Fund contributions. Required ledgers shall clearly identify the Corps and LG&E’s monitoring and reporting requirements as outlined in sections 8.4, 8.4.1, and 8.4.2 of the issued BO.

Special Condition 4: If the proposed corridor alignment changes or 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 Corps, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Corps will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

Special Condition 5: When directional boring or horizontal directional drilling under waters of the U.S., including wetlands, the Permittee shall closely monitor the project for hydraulic fracturing or “fracking” and material from the drilling operation leaching to the surface and into

jurisdictional waters. Any discharge from fracking or leaching into waters of the U.S., including wetlands, shall be reported to the Corps within 48 hours of discovery. Restoration and/or mitigation may be required as a result of any unintended discharges.

Special Condition 6: Prior to initiating the authorized work, the Permittee shall provide verification to the U.S. Army Corps of Engineers that 0.2 wetland mitigation bank credits have been purchased from the Rolling Fork Mitigation Bank (LRL-2008-969). The required verification shall reference this project's permit number (LRL-2017-1046).

This verification is valid until the NWP is modified, reissued, or revoked. NWP No. 12 will be modified, reissued, or revoked on March 14, 2026. It is incumbent upon LG&E to remain informed of changes to the NWPs. If LG&E commences or is under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have 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 must be submitted to the District Engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later. Please note that we also perform periodic inspections to ensure compliance with our permit conditions and applicable Federal laws. A copy of this letter will be forwarded to the KDOW and to the appropriate coordinating agencies.

If you have any questions, please contact Mr. Jason Rhoades directly at 502-315-2643 or jason.w.rhoades@usace.army.mil. Any correspondence on this matter should refer to our ID Number LRL-2017-01046-jwr.

Sincerely,



Date: 2024.12.02
06:55:08 -05'00'

Jason Rhoades
Regulatory Biologist, South Branch
Regulatory Division

Attachments:

1. Permit Drawings
2. Nationwide Permit #12 and General Conditions
3. USFWS Biological Opinion

Copies Furnished:

Ms. Samantha Vogeler
Kentucky Division of Water
401wqc@ky.gov

Mr. Seth R. Bishop
U.S. Fish and Wildlife Service
seth_bishop@fws.gov

Compliance Certification:

Permit Number: LRL-2017-01046-jwr

**Name of Permittee: Louisville Gas and Electric Company (LG&E)
820 W. Broadway
Louisville, Kentucky 40202**

Date of Issuance: December 2, 2024

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