

**ATTACHMENT**

**PRELIMINARY JURISDICTIONAL DETERMINATION FORM**

**BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD):** October 7, 2016

**B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:**

Mr. Joseph Van Skaik  
Civil & Environmental Consultants, Inc.  
5899 Montclair Boulevard  
Cincinnati, Ohio 45150

**C. DISTRICT OFFICE, FILE NAME, AND NUMBER:**

LRH-2016-00863-OHR  
Duke Energy – Line D0008 Pipeline Replacement Project

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:**

State: Ohio      County/parish/borough: Hamilton      City: Cincinnati

Center coordinates of site: Latitude: 37.52464° N, Longitude: 81.88416° W

Name of nearest waterbody: Davis Run; see Table 1.

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

Non-wetland waters: 0 linear feet (lf) total

Wetlands: 0 acre (ac) total

Cowardin: Palustrine

Classification 0.77 ac = emergent wetlands (PEM)

2.50 ac = forested wetlands (PFO)

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

None.

**E. REVIEW PERFORMED FOR SITE EVALUATION:**

- ☒ Office (Desk) Determination. Date: October 7, 2016  
☐ Field Determination. Date(s):

1. 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.


2. 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:**

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: *Wetland and Waterbody Delineation Report; Line D0008 Pipeline Replacement Project; Cincinnati, Hamilton County, Ohio; CEC Project 153-230, dated August 25, 2016.*
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☒ Office concurs with data sheets/delineation report. For the streams and wetlands listed in Table 1.
- ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☒ U.S. Geological Survey Hydrologic Atlas:
- ☒ USGS NHD data. USACE ORM NHD Dataset.
- ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). USGS KY – NEWPORT 1:24K Quad.
- ☐ USDA Natural Resources Conservation Service Soil Survey.
- ☒ National wetlands inventory map(s). USACE ORM NWI dataset
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation (National Geodetic Vertical Datum of 1929):
- ☒ Photographs: ☒ Aerial: Google Earth Pro.  
or ☐ Other: in the report referenced above.
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Other information (please specify):

**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.**

 7-OCT-2016  
Signature and date of  
Regulatory Project Manager  
(REQUIRED)

 10/11/2016  
Signature and date of  
person requesting preliminary JD  
(REQUIRED, unless obtaining the  
signature is impracticable)



**Table 1 – On-site Aquatic Resources associated with  
Duke Energy – Line D0008 Pipeline Replacement Project  
LRH-2016-00863-OHR**

Aquatic Resource ID	Local Waterway	Latitude (°N)	Longitude (°W)	Flow Regime / Cowardin Class	Linear Feet (lf) of Stream within the PJD Boundary	Acre (ac) of Wetland within the PJD Boundary	Class of Aquatic Resource
Wetland 1	---	39.079502	84.427626	PEM	---	0.06	Non-section 10 Wetland
		39.081675	84.427267	PFO	---	1.74	
Wetland 2	---	39.082954	84.427681	PFO	---	0.07	Non-section 10 Wetland
		39.083304	84.427484	PEM	---	0.58	
Wetland 3	---	39.090416	84.427253	PEM	---	0.04	Non-section 10 Wetland
Wetland 4	---	39.094268	84.428177	PFO	---	0.42	Non-section 10 Wetland
Wetland 5	---	39.106047	84.435074	PFO	---	0.27	Non-section 10 Wetland
Wetland 6	---	39.112351	84.439812	PEM	---	0.09	Non-section 10 Wetland
Total						<b>0</b>	

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 17-0328-GA-BLN**

Summary: Exhibit Attachment 6 electronically filed by Ms. Emily Olive on behalf of Duke Energy Ohio and Spiller, Amy B. Ms. and Kingery, Jeanne W. Ms.