
AES Ohio
1900 Dryden Road
Dayton, Ohio 45439

September 1, 2021

Chairman Jenifer French
Ohio Power Siting Board
180 East Broad Street
Columbus, Ohio 43215

Re: **Sugarcreek-Normandy Circuit Addition Project**
Ohio Power Siting Board Case No. 21-0496-EL-BLN
Notification of USACE, NPDES Authorizations

Dear Chairman French,

The Dayton Power and Light Company (“DP&L”) doing business as “AES Ohio” submits this notice to inform you of the following approvals and agency correspondence to satisfy Conditions 2 through 6 related to the August 19, 2021 OPSB Approval of the above referenced project:

- On July 8, 2021, the U.S. Army Corps of Engineers (“USACE”) determined that the above referenced project meets the criteria for authorization under Nationwide Permit (NWP) No. 57 under the January 13, 2021 Federal Registrar, Notice of Reassurance of NWPs (86 FR 2744). (Enclosure 1).
- On July 28, 2021, the Nature Conservancy in Ohio confirmed reservation of 0.7 forested wetland credits for the above referenced project within the Middle Ohio-Laughery Watershed, related to compliance with USACE NWP approval (Enclosure 2). The sale of the 0.7 wetlands credits was confirmed on August 30, 2021 (Enclosure 6).
- On November 16, 2020, the U.S. Fish and Wildlife Service provided an informal consultation letter. (Enclosure 3).
- On January 11, 2021, the Ohio Department of Natural Resources provided an informal consultation letter. (Enclosure 4).
- On July 16, 2021, the Ohio Environmental Protection Agency determined that the above referenced project meets the criteria for authorization under National Pollutant Discharge Elimination System (NPDES) – Construction Site Stormwater General Permit OHC000005. (Enclosure 5).

AES Ohio anticipates that construction of the Project will begin September 2, 2021. The Project’s construction schedule is reported as September 2, 2021 – June 30, 2022 and does not anticipate any impacts to the Black-Crowned Night Heron, Northern Harrier, or Loggerhead Shrike habitats during the dates outlined by the ODNR. There is currently an overlap window between the start of the nesting seasons and the end of construction, but all vegetation clearing is scheduled to end by April 1, 2021.

Please feel free to contact me if you have any questions regarding this notification letter.

Respectfully submitted,

ss:/ *Randall V. Griffin*

Randall V Griffin (Ohio Bar No. 0080499)
Chief Regulatory Counsel
The Dayton Power and Light Company
937-259-7221
Randall.griffin@aes.com

Enclosures: (1) U.S. Army Corps of Engineers authorization letter; (2) The Nature Conservancy in Ohio letter of credit availability and reservation; (3) U.S. Fish and Wildlife Service informal consultation letter; (4) Ohio Department of Natural Resources informal consultation letter; (5) Ohio EPA NPDES authorization letter; (6) The Nature Conservancy in Ohio letter of acknowledgement of credit purchase



DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

REPLY TO
ATTENTION OF

July 8, 2021

Regulatory Division
North Branch
LRH-2021-443-LMR-UT to Sugar Creek

NATIONWIDE PERMIT NO. 57 VERIFICATION

Ms. Amanda Foti
AES Ohio
1900 Dryden Road
Dayton, Ohio 45439

Dear Ms. Foti:

I refer to the pre-construction notification (PCN), submitted on your behalf by GAI Consultants, Inc., and received in this office on May 27, 2021, concerning the Sugar Creek to Normandy Circuit Addition Project. You have requested Department of the Army (DA) authorization to discharge dredged and/or fill material into approximately 0.46 acre of one (1) wetland. The project site begins at the existing Sugar Creek Substation traversing west approximately 4.0 miles to the existing Normandy Substation, in the City of Centerville, Sugar Creek Township, Greene and Montgomery Counties, Ohio (Origin: 39.60142° N, 84.09740° W; Terminus: 39.615028° N, 84.169903° W). On-site waters flow to Sugar Creek, a direct tributary to the Little Miami River, a navigable water of the United States. We have assigned the following file number to your PCN: LRH-2021-443-LMR-UT to Sugar Creek. Please reference this file number on all future correspondence related to this subject proposal.

The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328, including the amendment to 33 CFR 328.3 (85 Federal Register 22250), and 33 CFR 329. Section 404 of the Clean Water Act (Section 404) requires a DA permit be obtained prior to the discharge of dredged or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 (Section 10) requires a DA permit be obtained for any work in, on, over or under navigable water.

The proposed project, as described in the submitted information, has been reviewed in accordance with Section 404 and Section 10. Based on your description of the proposed work, and other information available to us, it has been determined that this project will not involve activities subject to the requirements of Section 10. However, this project will include the discharge of dredged or fill material into waters of the United States subject to the requirements of Section 404.

In the submitted PCN materials received in this office on May 27, 2021, you have requested DA authorization for the permanent discharge of dredged and/or fill material and conversion of


0.28 acre of Wetland A. Additionally, you have requested to temporarily discharge dredged and/or fill material into 0.18 acre of Wetland A for temporary access in conjunction with the Sugar Creek to Normandy Circuit Addition Project. The proposed project will consist of the construction of approximately 4.0 miles of 69kV overhead utility line. All work will be completed as proposed in the enclosed "*Figure 1 – Erosion and Sediment Control Plan*" drawings, dated May 4, 2021, and submitted with the PCN materials. In order to compensate for the permanent discharge and conversion of 0.28 acre of one (1) wetland (Wetland A), you have agreed to provide a total 0.7 acre of forested wetland mitigation credit from the Nature Conservancy In-Lieu Fee Program. We have determined your compensatory mitigation proposal is acceptable.

Based on your description of the proposed work, it has been determined the proposed discharge of dredged and/or fill material into waters of the United States for the construction of the Sugar Creek to Normandy Circuit Addition Project meets the criteria for authorization under Nationwide Permit (NWP) No. 57 under the January 13, 2021 Federal Register, Notice of Reissuance and Modification of NWPs (86 FR 2744) provided you comply with all terms and conditions of the enclosed material and the special conditions. Please be aware this NWP verification does not obviate the requirement to obtain any other federal, state or local assent required by law for the activities. A copy of this NWP can be found on our website at <http://www.lrh.usace.army.mil/Missions/Regulatory.aspx>

This verification is valid until the expiration date of the NWPs, unless the NWP authorization is modified, suspended, or revoked. The verification will remain valid if the NWP authorization is reissued without modification or the activity complies with any subsequent modification of the NWP authorization. The 2021 NWPs published January 13, 2021 in the Federal Register (86 FR 2744), are scheduled to be modified, reissued, or revoked on March 14, 2026. Prior to this date, it is not necessary to contact this office for re-verification of your project unless the plans for the proposed activity are modified. Furthermore, if you commence or under contract to commence this activity before March 14, 2026, you 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.

A copy of the NWP and this verification letter must be kept at the site during construction. Upon completion of the activities authorized by this NWP verification, the enclosed certification must be signed and returned to this office. If you have any questions concerning the above, please contact Kyle Moore at (513) 825-3444, by mail at the above address, or by email at kyle.m.moore@usace.army.mil.

Sincerely,



Cecil M. Cox
Regulatory Project Manager
North Branch

Enclosures

cc: via email
Mr. Tyler Rankin
GAI Consultants, Inc.
t.rankin@gaiconsultants.com

| Table 1. Authorized discharge of dredged and/or fill material into waters of the U.S. associated with the construction of the Sugar Creek to Normandy Circuit Addition Project. | | | | |
|--|-------------------------------|--------------------------------|--------------------------|--|
| Aquatic Resource ID | Latitude and Longitude | Cowardin Classification | Fill in Acre (ac) | Other Pertinent Information |
| Wetland A | 39.601324, -84.096869 | Forested | 0.22 | Permanent Conversion from PFO to PEM for right-of-way and Two Permanent Utility Poles. |
| Wetland A | 39.601374, -84.097776 | Scrub Shrub | 0.06 | 0.05 acre for Permanent Conversion from PSS to PEM for right-of-way and 0.006 acre for Temporary Equipment Access. |
| Wetland A | 39.601773, -84.096354 | Emergent | 0.18 | 0.17 acre for Temporary Equipment Access & 0.01 acre for Three Permanent Utility Poles |

**SPECIAL CONDITIONS FOR
NATIONWIDE PERMIT NO. 57 VERIFICATION
SUGAR CREEK TO NORMANDY CIRCUIT ADDITION PROJECT
LRH-2021-443-LMR-UT TO SUGAR CREEK**

PAGE 1 OF 3

1. All work will be conducted in accordance with drawings titled *Figure 1 – Erosion and Sediment Control Plan*, submitted by GAI Consultants, Inc., dated May 4, 2021, and submitted with the PCN materials.
2. Enclosed is a copy of Nationwide Permit No. 57 which will be kept at the site during construction. A copy of the nationwide permit verification, special conditions, and the submitted construction plans must be kept at the site during construction. The permittee will supply a copy of these documents to their project engineer responsible for construction activities.
3. Upon completion of the activity authorized by this nationwide permit verification, the enclosed certification must be signed and returned to this office along with as-built drawings showing the location and configuration, as well as all pertinent dimensions and elevations of the activity authorized under this nationwide permit verification.
4. Should new information regarding the scope and/or impacts of the project become available that was not submitted to this office during our review of the proposal, the permittee must submit written information concerning proposed modification(s) to this office for review and evaluation, as soon as practicable
5. Construction activities will be performed during low flow conditions to the maximum extent practicable. Additionally, appropriate site specific best management practices for sediment and erosion control will be fully implemented during construction activities at the site.
6. No area for which grading has been completed will be unseeded or unmulched for longer than 14 days. All disturbed areas will be seeded and/or revegetated with native species and approved seed mixes (where practicable) after completion of construction activities for stabilization and to help preclude the establishment of non-native invasive species.
7. Section 7 obligations under Endangered Species Act must be reconsidered if new information reveals impacts of the project that may affect federally listed species or critical habitat in a manner not previously considered, the proposed project is subsequently modified to include activities which were not considered during Section 7 consultation with the United States Fish and Wildlife Service, or new species are listed or critical habitat designated that might be affected by the subject project.

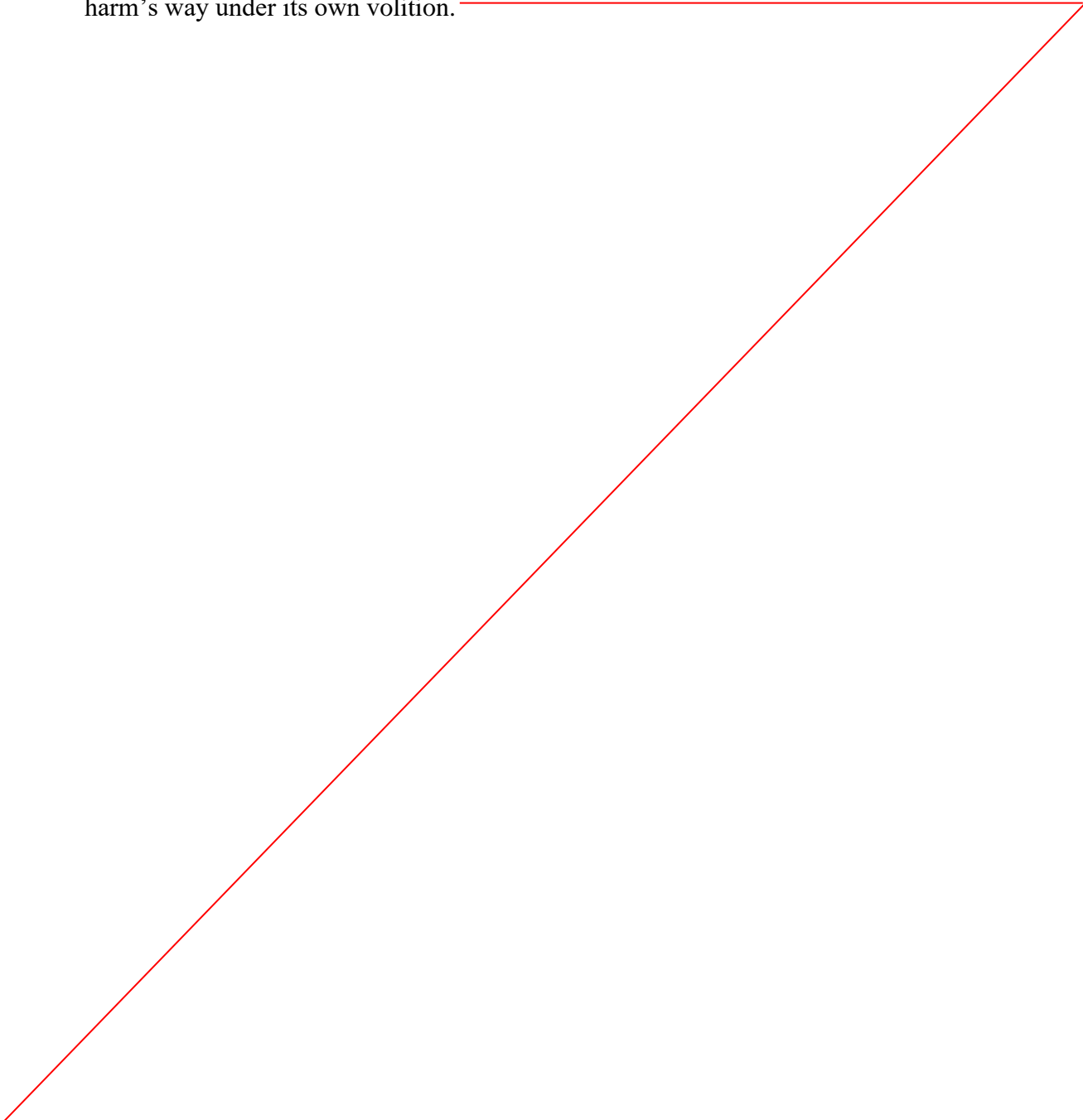
**SPECIAL CONDITIONS FOR
NATIONWIDE PERMIT NO. 57 VERIFICATION
SUGAR CREEK TO NORMANDY CIRCUIT ADDITION PROJECT
LRH-2021-443-LMR-UT TO SUGAR CREEK**

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8. In the event any previously unknown historic or archaeological sites or human remains are uncovered while accomplishing the activity authorized by this nationwide permit authorization, the permittee must cease all work in waters of the United States immediately and contact local, state and county law enforcement offices (only contact law enforcement on findings of human remains), the Corps at 304-399-5210 and Ohio State Historic Preservation Office at 614-298-2000. The Corps will initiate the Federal, state and tribal coordination required to comply with the National Historic Preservation Act and applicable state and local laws and regulations. Federally recognized tribes are afforded a government-to-government status as sovereign nations and consultation is required under Executive Order 13175 and 36 CFR Part 800.
9. The project site lies within the range of the Indiana bat (*Myotis sodalis*), a federally-listed endangered species and the northern long-eared bat (*Myotis septentrionalis*), a federally-listed threatened species. Several factors have contributed to the two (2) species decline, including habitat loss, fragmentation of habitat and the disease White Nose Syndrome. During winter, the two (2) bat species hibernate in caves and abandoned mines. Suitable summer habitat for the Indiana bats and the northern long-eared bats consists of a wide variety of forested/wooded habitats where they roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags ≥ 3 inches diameter at breast height (dbh) that have any exfoliating bark, cracks, crevices, hollows and/or cavities), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure. Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within 1,000 feet (305 meters) of other forested/wooded habitat. The permittee will preserve wooded/forested habitats exhibiting any of the characteristics listed above wherever possible. Should suitable habitat be present that cannot be saved during construction activities, any trees ≥ 3 inches dbh will only be cut between October 1 – March 31.
10. To compensate for the permanent discharge and conversion of 0.28 acre of forested and scrub shrub wetlands associated with construction of the proposed project, the permittee will purchase 0.7 acre of forested wetland mitigation credit from the Nature Conservancy In-Lieu Fee Program within the 8-digit HUC 05090202 watershed (Little Miami River). Prior to discharge of dredged and/or fill material into waters of the United States, the permittee must provide to the Corps a copy of the fully executed mitigation purchase agreement with the aforementioned mitigation bank confirming the complete purchase of 0.7 acre of forested wetland mitigation credits.

**SPECIAL CONDITIONS FOR
NATIONWIDE PERMIT NO. 57 VERIFICATION
SUGAR CREEK TO NORMANDY CIRCUIT ADDITION PROJECT
LRH-2021-443-LMR-UT TO SUGAR CREEK**

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11. This project is within the known range of the eastern massasauga rattlesnake (*Sistrurus catenatus*), a federally listed threatened species. Suitable habitat for this species was identified within or adjacent to the project area. If an eastern massasauga rattlesnake is encountered in the work area(s) during construction, the U.S. Fish and Wildlife Service (USFWS) should be contacted immediately for guidance (614-416-8993). All construction operations at the work area shall temporarily cease and shall not resume until coordination with USFWS has been concluded or the snake has safely moved out of harm's way under its own volition.
- 

CELRH-RD-N-CFO

Permit Number: LRH-2021-443-LMR-UT to Sugar Creek

Name of Permittee: Ms. Amanda Foti
AES Corporation
1900 Dryden Road
Dayton, Ohio 45439

Date of Issuance: July 8, 2021

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

Huntington District
U.S. Army Corps of Engineers
502 8th Street
Huntington, West Virginia 25701-2070
Attn: CELRH-RD-N

Please note that your permitted activity is subject to a compliance inspection by a United States 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

PM: Kyle Moore



The Nature Conservancy in Ohio
6375 Riverside Drive, Suite 100
Dublin, OH 43017-5045

Office: (614)717-2770
www.nature.org/ohio

Ohio Stream and Wetland In-Lieu Fee Mitigation Program
LETTER OF CREDIT AVAILABILITY AND RESERVATION

July 28, 2021

Tyler Rankin
GAI Consultants, Inc
11 Spiral Drive, Suite 8
Florence, KY 41018

Re: Sugarcreek – Normandy Circuit Addition Project

Dear Tyler:

This letter confirms that The Nature Conservancy has wetland mitigation credits available for AES Ohio to purchase in the 05090203 8-digit HUC watershed (Middle Ohio-Laughery). TNC will reserve 0.7 forested wetland credits for the Purchaser in this watershed at a cost of \$71,000 per credit, for a period of 90 days from the date of this letter specifically for Sugarcreek – Normandy Circuit Addition Project. After that time, the Purchaser may request an extension of this reservation, but there is no guarantee of availability beyond this date. If TNC approves the extension, a new Letter of Credit Availability and Reservation will be issued.

This letter does not document payment for impacts. The Conservancy does not assume liability for the above mentioned impacts through this correspondence.

When the applicant is ready to submit payment for the above-mentioned credits, please submit the completed Final Credit Request Form and Conflict of Interest Disclosure Form, along with the payment written out to "Ohio Water Development Authority". Mail both the forms and the check to the Ohio Water Development Authority, Attn: Meg Cline, P.O. Box 73514, Cleveland, OH 44193; and email scanned copies to dschenk@tnc.org.

Sincerely,

A handwritten signature in dark ink that reads "Kevin McConnell".

Kevin McConnell
Finance Manager


The Nature Conservancy
Ohio Stream and Wetland In-Lieu Fee Mitigation Program



Final Credit Request Form

| | | | | | |
|------------------------------------|---|--|--------------|------------|-------|
| Contact information | Purchaser's Name | AES Ohio | | | |
| | Address | 1900 Dryden Road, Dayton, Ohio 45439 | | | |
| | Consultant's Name | GAI Consultants, Inc. | | | |
| | Consultant Project Lead | Tyler Rankin | | | |
| | Address | 11 Spiral Drive, Suite 8 | | | |
| | Phone Number | 859-212-0226 | | | |
| | Email | t.rankin@gaiconsultants.com | | | |
| Project Information | Project Name | Sugarcreek – Normandy Circuit Addition Project | | | |
| | Corps ID No. (if applicable) | LRH-2021-443-LMR-UT to Sugar Creek | | | |
| | Water Quality Certification No. (if applicable) | n/a | | | |
| | Latitude/Longitude | 39.600499°, -84.097565° Purchased from Middle Ohio- | | | |
| | 8-digit HUC | 05090202 – Little Miami River Laughery (05090203) | | | |
| Impacts | Stream (linear feet) | Ephemeral | Intermittent | Perennial | Total |
| | | | | | |
| | 404 Wetlands (acres) | Category 1 | Category 2 | Category 3 | Total |
| | Forested | | 0.28 | | 0.28 |
| | Nonforested | | | | |
| | Isolated Wetlands (acres) | Forested | | | |
| Mitigation Credits Required | Stream Credits | | | | |
| | Wetland Credits/Type | 0.7 credits/ 2.5:1 ration for forested category 2 wetland conversion impacts | | | |
| | Total Purchase Amount (\$) | 49,700 | | | |

By Purchaser's signature, Purchaser agrees to all the terms and provisions of the Purchase Agreement on the back of this form.

| | | | |
|---|--------------------|---|--------------------|
| AES Ohio [PURCHASER] | | GAI Consultants, Inc. [PURCHASER'S CONSULTING FIRM] | |
| Signature:  | | Signature: Tyler E. Rankin <small><div style="font-size: 8px; color: blue;">Digitally signed by Tyler E. Rankin DN: cn=Tyler E. Rankin, ou=GAI Consultants, DC=GAI Consultants, DC=local Reason: I agree to the terms defined by the placement of my signature on this document. Date: 2021.07.29 12:54:36 -0400</div></small> | |
| Print: Kathryn N. Storm | Date: 8/13/2021 | Print: Tyler Rankin | Date: 7/30/2021 |

Please send form and payment to: the Ohio Water Development Authority, Attn: Meg Cline; P.O. Box 73514, Cleveland, OH 44193; and email scanned copies to dschenk@tnc.org

**Ohio Stream and Wetland In-Lieu Fee Mitigation Program
Mitigation Credit Purchase Agreement**



The Nature Conservancy (TNC) operates the Ohio Stream and Wetland In-Lieu Fee Mitigation Program (the "Program") which is an In-Lieu Fee Mitigation Program approved to sell stream and wetland credits throughout the state of Ohio. AES Ohio (Purchaser) desires to purchase credits from the Program for the Sugarcreek to Normandy Circuit Addition Project (Corps ID No. LRH-2021-443-LMR-UT to Sugar Creek). In so doing, Purchaser hereby agrees to the following terms and conditions:

1. **PURCHASE PRICE:** Purchaser shall, subject to the terms and conditions hereinafter provided, pay to TNC the price per credit set forth in the "Letter of Credit Availability and Reservation" (the "Reservation Letter"). If a Reservation Letter was not received by Purchaser within the last one hundred (100) days, the Purchaser shall contact TNC for confirmation of the Purchase Price. The Purchase Price shall be paid in the following manner:
 - A. Upon signing and delivery of this Form and Agreement, together with the attached completed and signed Disclosure form evidencing no conflicts of interest, Purchaser will submit payment in full of the Purchase Price to TNC.
 - B. Payment should be in immediately available funds in the form of a cashier's check or certified check payable to the 'Ohio Water Development Authority'. If payment is by check not in the form of a cashier's check or certified check, payment shall not be deemed to have been made until the check has cleared.
2. **CREDIT SALE COMPLETION REQUIREMENTS:** The sale of credits identified in the Final Credit Request Form shall be deemed to have occurred upon the completion of ALL of the following requirements: (i) payment in full of the Purchase Price by Purchaser in accordance with the above terms, and (ii) issuance of a Payment Voucher by TNC to Purchaser. Payments for the purchase of credits from the Program are not tax deductible contributions.
3. **NO ENDORSEMENT:** TNC plays no role in the Corps' or OEPA's decision to approve or deny a permit or whether mitigation is a necessary condition of any such permit or whether the permitted activity complies with laws, rules or regulations. Further, provision of any credits by TNC under this Program shall in no event be construed as an endorsement or support for the permitted activity.
4. **NON-REFUNDABLE:** The purchase of mitigation credits is non-refundable.
5. **NO USE OF TNC NAME/LOGO:** Purchaser may not use TNC's name or logo in any way without prior written consent from TNC, except to the extent necessary to comply with legal or contractual requirements to specify the source of the purchase of credits.
6. **CONFLICT OF INTEREST DETERMINATION.** Purchaser represents that to the best of its knowledge the information it has provided on TNC's Disclosure Form attached hereto is true and correct, and that Purchaser does not have any conflicts of interest with TNC. Purchaser shall promptly notify TNC writing if there is any change in that information prior to completion of the sale. If a conflict of interest is determined by TNC or arises, then, at TNC's election, any credit reservation or pending credit sale may be terminated without further recourse to the parties.

The Nature Conservancy

By: _____ Date: _____
Bill Stanley, Ohio State Director

Tyler Rankin

From: Ohio, FW3 <ohio@fws.gov>
Sent: Monday, November 16, 2020 1:49 PM
To: Bradley Rolfes
Cc: Tyler Rankin
Subject: Dayton Power and Light Sugarcreek #2, Greene County Ohio

Follow Up Flag: Follow up
Flag Status: Flagged

EXERCISE CAUTION: This is an External Email Message!

Think before clicking on links, opening attachments, or responding



UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service
Ecological Services Office
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / Fax (614) 416-8994



TAILS# 03E15000-2021-TA-0267

Dear Mr. Rolfes,

We have received your recent correspondence regarding potential impacts to federally listed species in the vicinity of the above referenced project. There are no federal wilderness areas, wildlife refuges or designated critical habitat within the vicinity of the project area. We recommend that proposed activities minimize water quality impacts, including fill in streams and wetlands. Best management practices should be utilized to minimize erosion and sedimentation.

FEDERALLY LISTED, PROPOSED, AND CANDIDATE SPECIES COMMENTS: Due to the project type, size, location, and the proposed implementation of seasonal tree cutting (clearing of trees ≥ 3 inches diameter at breast height between October 1 and March 31) to avoid impacts to the federally listed endangered Indiana bat (*Myotis sodalis*) and threatened northern long-eared bat (*Myotis septentrionalis*), we do not anticipate adverse effects to any federally endangered, threatened, proposed or candidate species. Should the project design change, or during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the U.S. Fish and Wildlife Service (Service) should be initiated to assess any potential impacts.

If there is a federal nexus for the project (e.g., federal funding provided, federal permits required to construct), no tree clearing should occur on any portion of the project area until consultation under section 7 of the Endangered Species Act (ESA), between the Service and the federal action agency, is completed. We recommend that the federal action agency submit a determination of effects to this office, relative to the Indiana bat and northern long-eared bat, for our review and concurrence.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), ESA, and are consistent with the intent of the National Environmental Policy Act of 1969 and the Service's Mitigation Policy. This letter provides technical assistance only and does not serve as a completed section 7 consultation document. We recommend that the project be coordinated with the Ohio Department of Natural Resources due to the potential for the project to affect state listed species and/or

state lands. Contact Mike Pettegrew, Acting Environmental Services Administrator, at (614) 265-6387 or at mike.pettegrew@dnr.state.oh.us.

If you have questions, or if we can be of further assistance in this matter, please contact our office at (614) 416-8993 or ohio@fws.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrice Ashfield". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Patrice Ashfield
Field Office Supervisor



Ohio Department of Natural Resources

MIKE DeWINE, GOVERNOR

MARY MERTZ, DIRECTOR

Office of Real Estate

John Kessler, Chief

2045 Morse Road – Bldg. E-2

Columbus, OH 43229

Phone: (614) 265-6621

Fax: (614) 267-4764

January 11, 2021

Bradley Rolfes
GAI Consultants
6000 Town Center Blvd., Suite 300
Canonsburg, PA 15317

Re: 20-1038; DP&L Sugarcreek No. 2 Project

Project: The proposed project involves the rebuild and installation of new and existing 69 kV line spanning approximately 4.85-miles, from the DP&L Sugarcreek Substation

Location: The proposed project is located in Sugarcreek Township, Greene County, Ohio.

The Ohio Department of Natural Resources (ODNR) has completed a review of the above referenced project. These comments were generated by an inter-disciplinary review within the Department. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the National Environmental Policy Act, the Coastal Zone Management Act, Ohio Revised Code and other applicable laws and regulations. These comments are also based on ODNR's experience as the state natural resource management agency and do not supersede or replace the regulatory authority of any local, state or federal agency nor relieve the applicant of the obligation to comply with any local, state or federal laws or regulations.

Natural Heritage Database: The Natural Heritage Database has the following records at or within a one-mile radius of the project area:

Sugarcreek MetroPark – Five Rivers MetroParks

The review was performed on the project area you specified in your request as well as an additional one-mile radius. Records searched date from 1980. This information is provided to inform you of features present within your project area and vicinity.

Please note that Ohio has not been completely surveyed and we rely on receiving information from many sources. Therefore, a lack of records for any particular area is not a statement that rare species or unique features are absent from that area. Although all types of plant communities have been surveyed, we only maintain records on the highest quality areas.

Fish and Wildlife: The Division of Wildlife (DOW) has the following comments.

The DOW recommends that impacts to streams, wetlands and other water resources be avoided and minimized to the fullest extent possible, and that best management practices be utilized to minimize erosion and sedimentation.

The entire state of Ohio is within the range of the Indiana bat (*Myotis sodalis*), a state endangered and federally endangered species, the northern long-eared bat (*Myotis septentrionalis*), a state endangered and federally threatened species, the little brown bat (*Myotis lucifugus*), a state endangered species, and the tricolored bat (*Perimyotis subflavus*), a state endangered species. During the spring and summer (April 1 through September 30), these species of bats predominately roost in trees behind loose, exfoliating bark, in crevices and cavities, or in the leaves. However, these species are also dependent on the forest structure surrounding roost trees. If trees are present within the project area, and trees must be cut, the DOW recommends cutting only occur from October 1 through March 31, conserving trees with loose, shaggy bark and/or crevices, holes, or cavities, as well as trees with DBH ≥ 20 if possible. If trees are present within the project area, and trees must be cut during the summer months, the DOW recommends a mist net survey or acoustic survey be conducted from June 1 through August 15, prior to any cutting. Mist net and acoustic surveys should be conducted in accordance with the most recent version of the “OHIO DIVISION OF WILDLIFE GUIDANCE FOR BAT SURVEYS AND TREE CLEARING”. If state listed bats are documented, DOW recommends cutting only occur from October 1 through March 31, however, limited summer tree cutting may be acceptable after consultation with DOW (contact Sarah Stankavich, sarah.stankavich@dnr.state.oh.us).

The DOW also recommends that a desktop habitat assessment, followed by a field assessment if needed, is conducted to determine if there are potential hibernaculum(a) present within the project area. Information about how to conduct habitat assessments can be found in the current USFWS “Range-wide Indiana Bat Survey Guidelines.” If a habitat assessment finds that potential hibernacula are present within 0.25 miles of the project area, please send this information to Sarah Stankavich, sarah.stankavich@dnr.state.oh.us for project recommendations. If a potential or known hibernaculum is found, the DOW recommends a 0.25-mile tree cutting and subsurface disturbance buffer around the hibernaculum entrance, however, limited summer or winter tree cutting may be acceptable after consultation with DOW. If no tree cutting or subsurface impacts to a hibernaculum are proposed, this project is not likely to impact these species.

The project is within the range of the following listed mussel species:

Federally Endangered

clubshell (*Pleurobema clava*)

rayed bean (*Villosa fabalis*)

snuffbox (*Epioblasma triquetra*)

State Endangered

pocketbook (*Lampsilis ovate*)

This project must not have an impact on freshwater native mussels at the project site. This applies to both listed and non-listed species. Per the Ohio Mussel Survey Protocol (2020), all Group 2, 3, and 4 streams (Appendix A) require a mussel survey. Per the Ohio Mussel Survey Protocol, Group 1 streams (Appendix A) and unlisted streams with a watershed of 5 square miles or larger above the point of impact should be assessed using the Reconnaissance Survey for Unionid Mussels (Appendix B) to determine if mussels are present. Mussel surveys may be recommended for these streams as well. This is further explained within the Ohio Mussel Survey Protocol. Therefore, if in-water work is planned in any stream that meets any of the above criteria, the DOW recommends the applicant provide information to indicate no mussel impacts

will occur. If this is not possible, the DOW recommends a professional malacologist conduct a mussel survey in the project area. If mussels that cannot be avoided are found in the project area, as a last resort, the DOW recommends a professional malacologist collect and relocate the mussels to suitable and similar habitat upstream of the project site. Mussel surveys and any subsequent mussel relocation should be done in accordance with the Ohio Mussel Survey Protocol. The Ohio Mussel Survey Protocol (2020) can be found at:

<http://wildlife.ohiodnr.gov/portals/wildlife/pdfs/licenses%20&%20permits/OH%20Mussel%20Survey%20Protocol.pdf>

The project is within the range of the channel darter (*Percina copelandi*), a state threatened fish. The DOW recommends no in-water work in perennial streams from April 15 through June 30 to reduce impacts to indigenous aquatic species and their habitat. If no in-water work is proposed in a perennial stream, this project is not likely to impact this or other aquatic species.

The project is within the range of the eastern massasauga (*Sistrurus catenatus*), a state endangered and federally threatened snake species. The eastern massasauga uses a range of habitats including wet prairies, fens, and other wetlands, as well as drier upland habitat. Due to the location, the type of habitat within the project area, and the type of work proposed, this project is not likely to impact this species.

The project is within the range of the Kirtland's snake (*Clonophis kirtlandii*), a state threatened species. This secretive species prefers wet meadows and other wetlands. Due to the location, the type of habitat within the project area, and the type of work proposed, this project is not likely to impact this species.

The project is within the range of the black-crowned night-heron (*Nycticorax nycticorax*), a state-threatened bird. Night-herons are so named because they are nocturnal, conducting most of their foraging in the evening hours or at night, and roost in trees near wetlands and waterbodies during the day. Night herons are migratory and are typically found in Ohio from April 1 through December 1 but can be found in more urbanized areas with reliable food sources year-round. Black-crowned night-herons primarily forage in wetlands and other shallow aquatic habitats, and roost in trees nearby. These night-herons nest in small trees, saplings, shrubs, or sometimes on the ground, near bodies of water and wetlands. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 1 to July 31. If this type of habitat will not be impacted, this project is not likely to impact this species.

The project is within the range of the loggerhead shrike (*Lanius ludovicianus*), a state endangered bird. The loggerhead shrike nests in hedgerows, thickets and fencerows. They hunt over hayfields, pastures, and other grasslands. If thickets or other types of dense shrubbery habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of April 1 to August 1. If this habitat will not be impacted, this project is not likely to impact this species.

The project is within the range of the northern harrier (*Circus hudsonis*), a state endangered bird. This is a common migrant and winter species. Nesters are much rarer, although they occasionally breed in large marshes and grasslands. Harriers often nest in loose colonies. The female builds a nest out of sticks on the ground, often on top of a mound. Harriers hunt over grasslands. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 15 to August 1. If this habitat will not be impacted, the project is not likely to impact this species.

The project is within the range of the upland sandpiper (*Bartramia longicauda*), a state endangered bird. Nesting upland sandpipers utilize dry grasslands including native grasslands, seeded grasslands, grazed and ungrazed pasture, hayfields, and grasslands established through the Conservation Reserve Program (CRP). If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of April 15 to July 31. If this type of habitat will not be impacted, this project is not likely to impact this species.

Due to the potential of impacts to federally listed species, as well as to state listed species, we recommend that this project be coordinated with the U.S. Fish & Wildlife Service.

Water Resources: The Division of Water Resources has the following comment.

The local floodplain administrator should be contacted concerning the possible need for any floodplain permits or approvals for this project. Your local floodplain administrator contact information can be found at the website below.

http://water.ohiodnr.gov/portals/soilwater/pdf/floodplain/Floodplain%20Manager%20Community%20Contact%20List_8_16.pdf

ODNR appreciates the opportunity to provide these comments. Please contact Sarah Tebbe, Environmental Specialist, at Sarah.Tebbe@dnr.ohio.gov if you have questions about these comments or need additional information.

Mike Pettegrew
Environmental Services Administrator (Acting)



OHIO DIVISION OF WILDLIFE GUIDANCE FOR BAT SURVEYS AND TREE CLEARING JUNE 2020

Agency Contacts:

ODNR-DOW Permit Coordinator: Wildlife.Permits@dnr.state.oh.us, (614) 265-6315

ODNR-DOW Bat Survey Coordinator: Sarah Stankavich, sarah.stankavich@dnr.state.oh.us, (614) 265-6764

Due to the evolving situation with COVID-19, we are temporarily suspending bat-handling activities until more is known about the risk to North American bats. This document has been updated with new state guidance for the 2020 field season only, or until bat-handling activities are reinstated. These guidelines replace previous guidelines released in March 2020.

This guidance applies to state recommendations only. Contact the USFWS to determine if federal consultation is also necessary to comply with federal law.

Ohio Mist Net Surveys:

Mist-netting for presence/absence surveys, education events, or research activities will not be authorized for the 2020 season.

Ohio Acoustic Surveys:

Acoustic bat surveys for presence/absence will be accepted by ODNR for the 2020 season. Surveys should follow guidelines laid out in the USFWS Range-wide Indiana Bat Survey Guidelines (March 2020) with the following exceptions:

- Ohio survey dates are June 1 – August 15, 2020
- After conducting automated analyses using one or more of the currently available ‘approved’ acoustic bat ID programs¹, qualitative analysis (i.e., manual vetting) of any calls recorded from state-endangered species (*Myotis sodalis*, *M. septentrionalis*², *M. lucifugus*², and *Perimyotis subflavus*²) must be completed.
 - At a minimum, for each detector site/night a program considered presence of state-listed bats likely, review all files (including no IDs) from that site/night. If more than one acoustic bat ID program is used, qualitative analysis must also include a comparison of the results of each program by site and night.

During Field Season:

- **Prior to initiation of field work (a minimum of two weeks in advance)**, permittees must provide proposed survey plans to ODNR-DOW via e-mail. **Plans must be reviewed and approved by ODNR-DOW before ANY surveys take place.** Study plans must specify objectives, location details, dates of proposed work, and all other relevant details.

¹ <https://www.fws.gov/midwest/Endangered/mammals/inba/surveys/inbaAcousticSoftware.html>

² State listing as endangered effective July 1, 2020

After Field Season:

- By March 15, you must submit your final ODNR-DOW report(s) from the previous summer. You are not required to fill out the ODNR-DOW Wildlife Diversity Bat Excel Spreadsheet; instead, please forward your USFWS Midwestern US Spreadsheet (found here: <http://www.fws.gov/midwest/endangered/mammals/inba/inbasummersurveyguidance.html>) to the ODNR-DOW Bat Survey Coordinator and ODNR-DOW Permit Coordinator and include your state permit number along with an electronic copy of the project report. Electronic summaries emailed during the field season are NOT considered as full compliance of this reporting requirement.

Ohio Environmental Review Recommendations for projects involving disturbance near potential/known bat hibernacula (cliffs, caves, mines) or tree cutting:

Step 1: Coordinate with Ohio Division of Wildlife (DOW) regarding existing records for state-listed endangered bat summer and/or winter occurrence information.

If project site contains a known bat hibernaculum(a) –

- For state-listed endangered species other than the Indiana bat, a recommendation of 0.25-mile tree cutting buffer around all known entrances to protect existing conditions at the hibernaculum(a). If the project involves subsurface disturbance, consultation with DOW is required.
- Limited summer and winter tree cutting may be permitted within the buffer following guidelines detailed below. Coordinate with DOW before cutting.

If a project site does not contain known bat hibernaculum(a)

- Conduct a habitat assessment (desktop or field-based, using methods detailed in current USFWS Range-wide Indiana Bat Guidelines) to determine if a potential hibernaculum(a) is present within the action area.

Step 2: When conducted, a presence/absence survey must follow current DOW guidelines.

Step 3: If a state-listed endangered bat is captured or recorded during the survey:

- Recommendation of no summer tree cutting, or limited cutting following guidelines detailed below, within 5 miles of the capture site if a roost is not located.
- Recommendation of no summer tree cutting, or limited cutting following guidelines detailed below, within 2.5 miles of a roost tree if located.

If no state-listed endangered bat is captured or recorded during the survey:

- Summer tree cutting may proceed for 5 years before a new survey is needed under state guidance.

Limited summer tree cutting guidance for bats that are only state-listed endangered: Limited tree cutting in summer may be permitted after consultation with DOW, but clearing trees with the following characteristics should be avoided unless they pose a hazard: dead or live trees of any size with loose, shaggy bark; crevices, holes, or cavities; live trees of any species with DBH \geq 20.

FREQUENTLY ASKED QUESTIONS

When does the Bat Survey protocol have to be used?

This protocol should be used anytime Indiana bat, northern long-eared bat, little brown bat, or tricolored bat summer presence/probable absence surveys are conducted in the state of Ohio. For 2020 only, acoustic surveys will meet the ODNR-DOW requirements unless new guidance allowing for the handling of bats during presence/absence surveys is released from USFWS.

How many net surveys are required for presence/probably absence?

As described in the current USFWS Range-wide Indiana Bat Guidelines: Linear projects: a minimum of 2 detector nights per km (0.6 miles) of suitable summer habitat

Non-linear projects: a minimum of 8 detector nights per 123 acres (0.5 km²) of suitable summer habitat. At least 2 detector locations per 123 acre "site" shall be sampled until at least 8 detector nights has been completed over the course of at least 2 calendar nights (may be consecutive). For example:

- 4 detectors for 2 nights each (can sample the same location or move within the site)
- 2 detectors for 4 nights each (can sample the same location or move within the site)
- 1 detector for 8 nights (must sample at least 2 locations and move within the site)

How long are the results of the surveys valid for an assessment of an area?

Mist-net or acoustic surveys documenting probable absence of state-listed endangered bats are valid for five years.

When can acoustic surveys occur in Ohio?

In Ohio, acoustic surveys may only be conducted from June 1 through August 15 unless indicated otherwise in your state permit. Any surveys outside of the June 1 - August 15 timeframe cannot be used in Ohio to assess the presence/probable absence of state-listed bats.

Can a presence/probable absence survey be conducted within a known Indiana bat and/or northern long-eared bat capture/detection buffer?

Surveys generally cannot be used to document presence/probable absence of state-listed endangered bats where presence of the species has already been confirmed by prior surveys.

What if a project is proposing to clear trees between April 1 and September 30 when bats may be present but no bat records exist in the project area?

Any Ohio project that is not within a known bat record buffer, and tree clearing between April 1 and September 31 is being proposed, may have a presence/absence survey conducted between June 1 and August 15 following the range-wide guidance. If a presence/absence survey is not performed, presence of listed bats is assumed.

How does take of northern long-eared bats differ from Indiana bats?

Under Ohio law, there is no exemption for take of any listed bat species.



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

Jul 16, 2021

AES Ohio
Amanda Foti
1900 Dryden Road
Dayton, OH 45439

Re: Approval Under Ohio EPA National Pollutant Discharge Elimination System (NPDES) - Construction Site Stormwater General Permit - OHC000005

Dear Applicant,

Your NPDES Notice of Intent (NOI) application is approved for the following facility/site. Please use your Ohio EPA Facility Permit Number in all future correspondence.

| | |
|---|---|
| Facility Name: | Sugarcreek to Normandy Circuit Addition Project |
| Facility Location: | 3660-3598 Ferry Road |
| City: | Sugarcreek Township |
| County: | Greene |
| Township: | |
| Ohio EPA Facility Permit Number: | 1GC08243*AG |
| Permit Effective Date: | Jul 16, 2021 |

Please read and review the permit carefully. The permit contains requirements and prohibitions with which you must comply. Coverage under this permit will remain in effect until a renewal of the permit is issued by the Ohio EPA.

If more than one operator (defined in the permit) will be engaged at the site, each operator shall seek coverage under the general permit. Additional operator(s) shall submit a Co-Permittee NOI to be covered under this permit. There is no fee associated with the Co-Permittee NOI form.

Please be aware that this letter only authorizes discharges in accordance with the above referenced NPDES CGP. The placement to fill into regulated waters of the state may require a 401 Water Quality Certification and/or Isolated Wetlands Permit from Ohio EPA. Also, a Permit-To-Install (PTI) is required for the construction of sanitary or industrial wastewater collection, conveyance, storage, treatment, or disposal facility; unless a specific exemption by rule exists. Failure to obtain the required permits in advance is a violation of Ohio Revised Code 6111 and potentially subjects you to enforcement and civil penalties.

To view your electronic submissions and permits please Logon in to the Ohio EPA's eBusiness Center at <http://ebiz.epa.ohio.gov>.

If you need assistance or have questions please call (614) 644-2001 and ask for Construction Site Stormwater General Permit support or visit our website at <http://www.epa.ohio.gov>.

Sincerely,

Laurie A. Stevenson
Director

Ohio Stream and Wetland In-Lieu Fee Mitigation Program

**PAYMENT VOUCHER
Acknowledgment of Credit Purchase**

August 30, 2021

Tyler Rankin
GAI Consultants, Inc.
11 Spiral Drive, Suite 8
Florence, KY 41018

Re: Notice of Sale of 0.7 Wetland Mitigation Credits for Sugarcreek – Normandy Circuit Addition
Project (Corps Permit No. LRH-2021-443)

Dear Tyler:

The Nature Conservancy in Ohio (TNC), with the approval of the U.S. Army Corps of Engineers (Corps) and the Ohio Environmental Protection Agency (Ohio EPA), has established an In-Lieu Fee Program (ILFP) in Ohio. Pursuant to the Instrument, TNC is the approved Sponsor of the ILFP.

This letter confirms the sale of 0.7 wetland credits to compensate for aquatic resource impacts in the Middle Ohio-Laughery (05090203) 8-digit HUC watershed.

Sincerely,



Kevin McConnell
Finance Manager
The Nature Conservancy

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/1/2021 5:25:58 PM

in

Case No(s). 21-0496-EL-BLN

Summary: Notice of compliance to approval conditions electronically filed by Mr. Michael F Russ on behalf of The Dayton Power and Light Company