

MEMORANDUM FOR RECORD

SUBJECT: Site visit and compliance inspection for Duke Energy site near Dudley, Noble County, Ohio [File #200400554].

1. On April 21, 2004, I received a phone call from Mr. Andrew Grammer of Duke Energy Gas Transmission regarding a pond and upland area that was compromising an existing pipeline through an area near Dudley, Ohio. Mr. Grammer indicated the company wished to drain the pond, an apparent sediment pond left over from mining activity from a number of years ago. Mr. Grammer indicated water was seeping from the pond, causing subsidence of the down slope and putting an existing pipeline in danger of being twisted or damaged. I informed Mr. Grammer we don't regulate pond drainage, only the placement of fill material, but he should contact the Ohio EPA to determine if they had any objections to the project.
2. On April 27, 2004, Mr. Grammer emailed me a copy of a wetland delineation and ORAM sheet performed on the site by Mr. Rob Hook of CH2MHill. The wetland delineation indicated the presence of a small (<0.1 acre), isolated wetland upslope from the pipeline. A check of the county soils map indicated the presence of Morristown channery silty clay loams, a non-hydric soil with hydric components in the area of the identified wetland. Therefore I informed Mr. Grammer I would need to make a site visit in order to verify the isolated status of this wetland. In the April 27, 2004 email, Mr. Grammer also provided pictures of the emergency construction activities ongoing at the site. The pond had not been drained yet and the wetland was still unimpacted in the pictures.
3. On April 29, 2004, Mr. Grammer emailed me with an update on the project and indicated the hillside above the pipeline had further slid down slope, including the wetland. He also indicated the company would be moving forward with plans to drain the pond over the weekend (May 1 – 2, 2004) as the forecast predicted more rain, and the company was concerned over the safety of the pipeline. We also scheduled a site visit for May 11, 2004. Due to sickness, I was unable to make the site visit on that date, and rescheduled the site visit for May 17, 2004. In the meantime, Mr. Grammer provided an email on May 4, 2004 updating the project. This update indicated the pond was pumped on April 28, 2004, and the permanent drain installed on April 30. He also indicated curtain drains would be installed starting on May 4. The slip repair would also continue.
4. On May 7, 2004, Mr. Grammer provided a final email indicating the pipeline repair had been completed and the installed curtain drains were functioning normally. He also indicated plans for installing additional curtain drains beginning May 7, 2004. Mr. Grammer also indicated work was to be completed at the site on May 13, 2004.
5. Prior to the site visit, I had received an email from Mr. Hook with pictures showing the latest project status. The pictures indicated the site had been covered with straw and

was in final clean-up phase. On May 17, 2004, I met with Mr. Will Webster of Duke Energy and Mr. Rob Hook of CH2MHill at the site of the slip repair in order to verify the isolated status of the delineated wetland and also to determine if any waters of the United States had been impacted by the project. During the site visit, I found the area to look as it had in the May 14, 2004 pictures. I visited the previous location of the isolated wetland with Mr. Webster, Mr. Hook, and several of the construction workers and supervisors on this site. Mr. Hook indicated the locations where he had taken wetland samples, including ones where all three indicators were not present. Based upon the lack of all three parameters outside of the wetland **AND** the fact no channel was present providing a surface water connection to the unnamed tributary to West Fork of Duck Creek **AND** the topographic setting of the isolated wetland (steep slope), I determined the wetland was isolated, and therefore not regulated by the Corps of Engineers. Photographs of the site visit are attached to this Memorandum.

6. No other jurisdictional waters of the United States were apparent within the project limits. **The drained pond had no surface water or wetland connection to any water of the United States.** Apparently a number of bench ponds were left over from previous strip mining activities in the area, and these ponds were installed without present-day outfall specifications. Based upon the lack of connection of the pond to a jurisdictional water of the United States, this pond was also isolated water. Moreover, no fill placement has occurred in the pond.



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