



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
CHICAGO DISTRICT, CORPS OF ENGINEERS
231 SOUTH LA SALLE STREET
CHICAGO, ILLINOIS 60604-1437

EXHIBIT 2

Operations Division
Regulatory Branch
LRC-2010-00815

_____, 2021

SUBJECT: Unauthorized Impacts to Hine's Emerald Dragonfly Habitat West Area Wetlands (WAW) Located West of New Avenue and the Illinois Central railroad tracks along the West Shore Buckeye Pipeline ROW in Lockport, Will County, Illinois (Latitude 41.636739, Longitude -88.04971, SE ¼ of Section 2, Township 36 North, Range 10 East.)

West Shore Pipe Line Company
c/o Katherine Zeth, Director Health, Safety, Security, and Environment
Buckeye Pipe Line Company, LP
5 Tek Park
9999 Hamilton Blvd.
Breiningsville, PA 18031

Dear Ms. Zeth:

The U.S. Army Corps of Engineers, Chicago District has completed its review of your project under the Regional Permit Program (RPP) After-the-Fact authorization process. This office has verified that, with the incorporation of special conditions, your proposed activity complies with the terms and conditions of Regional Permit 6 and the overall RPP.

Unauthorized impacts to Corps jurisdictional wetlands, as regulated under Section 404 of the Clean Water Act, had occurred within Hine's emerald dragonfly habitat as a result of a 2010 oil spill and subsequent USEPA compliance order for the clean-up and restoration of affected wetlands at the West Shore Pipe Line Company (West Shore) spill site within the West Area Wetland (WAW). The WAW includes the affected wetland area which has been classified by the United States Fish and Wildlife Service (USFWS) as Critical Habitat for the federally endangered Hine's emerald dragonfly (*Somatochlora hineana*) (HED).

As a result, you shall fully implement the final approved project mitigation document titled, "West Shore Pipe Line Company West Area Wetland Adaptive Management and Monitoring Plan", to mitigate certain impacts to the affected wetlands within HED habitat located on the SUBJECT property. The wetlands shall meet all performance criteria as approved in the mitigation management and monitoring plan. Your responsibility to complete the required mitigation will not be considered fulfilled until you have demonstrated mitigation project success and receive written verification of that success from this office.

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In addition to successful completion of the “West Area Wetland Adaptive Management and Monitoring Plan”, funds will be provided by the Federal and state agencies (The Trustees) from the payment for natural resource damages and wetland mitigation in the Consent Decree entered on _____, 2021, for the procurement of off-site mitigation project(s) to further compensate for the unauthorized impacts to HED wetlands. The wetland mitigation project(s) will be selected by the Trustees in consultation with the USACE in accordance with Paragraph 21 of the Consent Decree to be restored/enhanced in an effort to satisfy the April 10, 2008 Final Compensatory Mitigation Rule. Individual projects shall be protected through a conservation easement, deed restriction or other mechanism to ensure continued preservation of the resource and recorded with the Registrar of Deeds or other appropriate office charged with the responsibility for maintaining records of title or interest in real estate property.

This verification does not obviate the need to obtain all other required Federal, state, or local approvals before starting work. Please note that Section 401 Water Quality Certification has been issued by IEPA for this RP. If you have any questions regarding Section 401 certification, please contact Mr. Darin LeCrone at IEPA Division of Water Pollution Control, Permit Section #15, by telephone at (217) 782-0610.

This verification effectively resolves your violation under Section 404 of the Clean Water Act. In the future, should you consider work in waters of the United States, including wetlands, please contact this office beforehand. Doing so will allow us to advise you as to the type of permit required prior to the start of work. As you are now aware, conducting work without the required authorization(s) is a violation of Federal law.

If you have any questions, please contact the undersigned by telephone at (312) 846-5531, or email at Kathy.G.Chernich@usace.army.mil.

Sincerely,

Kathleen G. Chernich
Chief, East Section
Regulatory Branch

Enclosures

Copy Furnished:

Daniel G. Ownby, President, West Shore Pipe Line Company to: downby@buckeye.com