



FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

DUKE ENERGY
1000 EAST MAIN STREET
PLAINFIELD, IN 46168-1782
U.S.A.

2. AUTHORITY-STATUTES

16 USC 1539(a)
16 USC 703-712

REGULATIONS *(Attached)*

50 CFR 17.22
50 CFR 21.23
50 CFR 21.27
50 CFR 13

3. NUMBER

TE016724-1

AMENDMENT

4. RENEWABLE

YES
 NO

5. MAY COPY

YES
 NO

6. EFFECTIVE

03/16/2007

7. EXPIRES

12/31/2009

8. NAME AND TITLE OF PRINCIPAL OFFICER *(If #1 is a business)*

JAMES STANLEY
PRESIDENT

9. TYPE OF PERMIT

ENDANGERED SPECIES

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

D. ACCEPTANCE OF THIS PERMIT SERVES AS EVIDENCE THAT THE PERMITTEE AND ITS AUTHORIZED AGENTS UNDERSTAND AND AGREE TO ABIDE BY THE TERMS OF THIS PERMIT AND ALL SECTIONS OF TITLE 50 CODE OF FEDERAL REGULATIONS, PARTS 13 AND 17, PERTINENT TO ISSUED PERMITS. SECTION 11 OF THE ENDANGERED SPECIES ACT OF 1973, AS AMENDED, PROVIDES FOR CIVIL AND CRIMINAL PENALTIES FOR FAILURE TO COMPLY WITH PERMIT CONDITIONS.

E. PERMITTEE IS AUTHORIZED TO TAKE (HARM, HARASS, KILL) INTERIOR LEAST TERN (*STERNA ANTILLARUM*) ADULTS, CHICKS, EGGS, AND NESTS, INCIDENTAL TO OPERATION OF THE GIBSON GENERATING STATION, GIBSON COUNTY, INDIANA, IN. ACTIVITIES SHALL BE CONDUCTED IN ACCORDANCE WITH TERMS AND CONDITIONS OF THIS PERMIT AND CINERGY'S HABITAT CONSERVATION PLAN (JULY 1999) ENCOMPASSING APPROXIMATELY 6826 ACRES OF CINERGY PROPERTY LOCATED IN GIBSON COUNTY, AND THE ADJACENT MITIGATION SITE, CANE RIDGE WILDLIFE AREA.

F. CINERGY AND ITS AGENTS SHALL MINIMIZE IMPACT TO NESTING LEAST TERNS BY RESTRICTING UNNECESSARY FOOT TRAFFIC NEAR ALL KNOWN NESTS FROM MAY 15 - AUGUST 30.

G. CINERGY AND ITS AGENTS SHALL, TO THE EXTENT PRACTICAL, RESTRICT OR REDIRECT ALL VEHICLE TRAFFIC IN KNOWN NESTING AREAS FROM MAY 15 - AUGUST 30. VEHICLE USE DURING NORMAL OPERATIONS SHALL BE MANAGED TO AVOID TAKE OF INTERIOR LEAST TERN NESTS, EGGS, CHICKS, AND ADULTS.

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

ANNUAL REPORT DUE: 05/01

ISSUED BY

Leslie LaSantal-Acting

TITLE

ASSISTANT REGIONAL DIRECTOR - ES

DATE

03/16/2007

- H. CINERGY SHALL MONITOR NESTING ACTIVITY IN ASH DISPOSAL AREAS AND MAY MANIPULATE VEGETATION AND/OR SUBSTRATE TO MAKE THESE AREAS LESS ATTRACTIVE FOR NESTING BIRDS. IN THE EVENT THAT BIRDS OCCUPY OR NEST IN THESE LESS DESIRABLE AREAS, CINERGY SHALL SEEK TO AVOID TAKE OF THE BIRDS AND/OR NESTS BY APPROPRIATE SIGNAGE AND HABITAT MANIPULATION. UNAVOIDABLE OR ACCIDENTAL TAKE SHALL BE REPORTED AS DESCRIBED IN CONDITIONS N AND O. ACTIONS BY CINERGY THAT MAY RESULT IN AN INCIDENTAL TAKE OF AN INTERIOR LEAST TERN(S) INCLUDE ANY OTHERWISE LAWFUL ACTIVITY BY ANY CINERGY EMPLOYEE, CONTRACTOR OR AGENT, REQUIRED TO SAFELY AND EFFECTIVELY OPERATE AND MAINTAIN THE GIBSON GENERATING STATION (AS DESCRIBED IN DETAIL IN CINERGY'S HABITAT CONSERVATION PLAN, DATED JULY 1999 AND SUBSEQUENT MINOR AMENDMENTS).
- I. CINERGY SHALL MANIPULATE VEGETATION AND SUBSTRATE ALONG THE SPLITTER DIKE AT GIBSON COOLING LAKE TO MAINTAIN SUITABLE NESTING HABITAT. NO INCIDENTAL TAKE OF BIRDS, NESTS, OR EGGS IS ANTICIPATED ALONG THE SPLITTER DIKE. ACCIDENTAL TAKE MUST BE REPORTED AS DESCRIBED IN CONDITIONS N AND O, BELOW.
- J. CINERGY SHALL MAINTAIN APPROPRIATE SIGNAGE AND PROTECTIVE MEASURES DESIGNED TO AVOID OR MINIMIZE IMPACT TO INTERIOR LEAST TERNS. THIS SHALL INCLUDE BUOYS, SIGNS, FENCES, GATES, AND OTHER PROTECTIVE MARKERS DESIGNED TO LIMIT DISTURBANCE.
- K. CINERGY SHALL EDUCATE ITS EMPLOYEES ABOUT INTERIOR LEAST TERNS FOUND AT THE GIBSON GENERATING STATION AND ACTIVITIES THAT MUST BE CARRIED OUT TO PROTECT THE BIRDS, EGGS, AND NESTS TO THE MAXIMUM EXTENT PRACTICABLE.
- L. CINERGY SHALL ALLOW ACCESS TO INDIANA DEPARTMENT OF NATURAL RESOURCES AND THE U.S. FISH AND WILDLIFE SERVICE TO MONITOR THE STATUS OF THE LEAST TERNS, TO MANAGE PREDATORS, AND TO PARTICIPATE IN ANY OTHER ACTIVITY DIRECTLY RELATED TO THE FEEDING, BREEDING, AND SHELTERING NEEDS OF THE INTERIOR LEAST TERN. IN THE EVENT THAT THE STATE AND FEDERAL AGENCIES ARE UNABLE TO FUND MONITORING AND MANAGEMENT ACTIVITIES, CINERGY SHALL PROVIDE SUFFICIENT FUNDING TO MONITOR THE POPULATIONS OCCUPYING CINERGY'S PROPERTY. IN ADDITION, CINERGY SHALL FUND THE IMPLEMENTATION OF PREDATOR CONTROL PRACTICES AND FISHERY MANAGEMENT CONSISTENT WITH THE COMMITMENTS DESCRIBED IN THE HCP.
- M. TO MITIGATE FOR UNAVOIDABLE IMPACTS TO INTERIOR LEAST TERNS, CINERGY SHALL CONTINUE TO PARTICIPATE IN THE DEVELOPMENT OF THE CANE RIDGE WILDLIFE AREA, INCLUDING PROVIDING ADEQUATE WATER TO MANAGE THE WILDLIFE AREA TO CONTRIBUTE TO RECOVERY OF THE SPECIES.
- N. IN THE EVENT THAT A NEST, EGGS, CHICKS, OR ADULT BIRDS ARE ACCIDENTALLY KILLED, CINERGY SHALL PRESERVE THE SPECIMEN; EGGS SHOULD BE REFRIGERATED AS SOON AS POSSIBLE AND CHICKS OR ADULT BIRDS SHOULD BE REFRIGERATED OR FROZEN. CINERGY SHALL NOTIFY THE U.S. FISH AND WILDLIFE SERVICE, BLOOMINGTON, INDIANA, FIELD OFFICE, WITHIN FIVE CALENDAR DAYS. THE SUPERVISOR, BLOOMINGTON FIELD OFFICE, SHALL PROVIDE DISPOSITION INSTRUCTIONS, AS APPROPRIATE.
- O. IN THE EVENT THAT A SPECIMEN IS INJURED, ORPHANED OR ABANDONED (INCLUDING EGGS), CINERGY SHALL PROVIDE REASONABLE IMMEDIATE CARE TO THE INDIVIDUAL AND SHALL CONTACT THE BLOOMINGTON FIELD OFFICE WITHIN 24 HOURS FOR FURTHER INSTRUCTIONS REGARDING CARE AND/OR DISPOSITION OF THE SPECIMEN.
- P. CINERGY CORPORATION AND ITS SUCCESSORS AND ASSIGNS MUST CONTINUE TO IMPLEMENT ALL MINIMIZATION, MITIGATION, AND MONITORING MEASURES IDENTIFIED IN THE HCP (JULY 1999) FOR THE TERM OF THIS PERMIT. FAILURE TO IMPLEMENT PROVISIONS OF THE HCP AND PERMIT MAY CAUSE THE PROTECTIVE COVERAGE OF THIS PERMIT TO LAPSE. IN ACCORDANCE WITH THE SERVICE'S "NO SURPRISES" RULE (FEDERAL REGISTER VOL. 63, NO. 35, 8859 - 8873), ASSURANCES APPLY PROVIDED THAT THE PERMITTEE CONTINUES TO IMPLEMENT THE HCP AND PERMIT.
- Q. THIS PERMIT ALSO CONSTITUTES A SPECIAL PURPOSE PERMIT UNDER 50 CFR 21.27 FOR THE TAKE OF INTERIOR LEAST TERNS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN. ANY SUCH TAKE WILL NOT BE IN VIOLATION OF THE MIGRATORY BIRD TREATY ACT OF 1918, AS AMENDED (16 U.S.C. §§ 703-12).

R. A REPORT OF YOUR ACTIVITIES IS DUE BY MAY 1 FOLLOWING EACH YEAR THIS PERMIT IS IN EFFECT (THROUGH MAY 1, 2009). AT A MINIMUM, YOUR REPORT MUST INCLUDE THE FOLLOWING:

- R.1. A DISCUSSION OF THE POPULATION STATUS, INCLUDING ESTIMATES OF THE TOTAL NUMBER OF NESTS, MAXIMUM NUMBER OF ADULTS PRESENT, EGGS LAID, EGGS HATCHED, AND YOUNG FLEDGED.
- R.2. A DESCRIPTION OF THE LOCATIONS WHERE NESTING OCCURRED AND THE SUCCESS OF THE NESTING EFFORT.
- R.3. A DISCUSSION OF ANY INCIDENTAL OR ACCIDENTAL TAKE OF BIRDS, CHICKS, EGGS OR NESTS, AND THE DISPOSITION OF INJURED, ORPHANED OR KILLED SPECIMENS.
- R.4. A DISCUSSION OF HABITAT MANAGEMENT TECHNIQUES AND THE SUCCESS OF THOSE TECHNIQUES RELATIVE TO CREATING SUITABLE HABITAT OR AVOIDING CREATION OF SUITABLE HABITAT.

S. COPIES OF YOUR REPORTS SHALL BE SENT TO THE OFFICES LISTED BELOW. WHEN POSSIBLE, ELECTRONIC COPIES SHALL BE SUBMITTED IN LIEU OF HARD COPIES IN MS WORD, RICH TEXT FORMAT, OR OTHER COMPATIBLE FILE FORMAT THAT IS COMPATIBLE WITH THE RECEIVING OFFICE.

S.1. HCP COORDINATOR
ECOLOGICAL SERVICES OPERATIONS
U.S. FISH AND WILDLIFE SERVICE
1 FEDERAL DRIVE
FT. SNELLING, MINNESOTA 55111-4056
email: permitsR3ES@fws.gov

S.2. ENDANGERED SPECIES COORDINATOR
U.S. FISH AND WILDLIFE SERVICE
620 S. WALKER STREET
BLOOMINGTON, INDIANA 55425-2121
email: lori_pruitt@fws.gov

S.3. ENDANGERED SPECIES COORDINATOR AND NONGAME SUPERVISOR
INDIANA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FISH AND WILDLIFE
ROOM W273, 402 W. WASHINGTON STREET
INDIANAPOLIS, INDIANA 46204-2267
email: kgsmith@dnr.state.in.us

CC: FWS/LE
FWS/BFO
INDIANA DNR

END