



155 East Broad Street  
20<sup>th</sup> Floor  
Columbus, Ohio 43215

o: 614-222-1330  
f: 614-222-1337

April 29, 2021

Ms. Tanowa M. Troupe  
Secretary  
Ohio Power Siting Board  
180 East Broad Street, 11<sup>th</sup> Floor  
Columbus, OH 43215-3716

Re: OPSB Case No. 20-1411-GA-BTX  
In the Matter of the Application of Duke Energy Ohio, Inc., for a Certificate of Environmental Compatibility and Public Need for the Construction of the Bethel-Batavia Pipeline

Dear Ms. Troupe:

Please find attached for filing the executed Programmatic Agreement Between Duke Energy Ohio Inc. and the Ohio State Historic Preservation Office for the Administration of a Natural Gas Pipeline Project in Clermont County, Ohio.

Please do not hesitate to contact me with any questions.

Sincerely,

/s/ Emily A. Olive, CP

Emily A. Olive  
Certified Paralegal

**Programmatic Agreement Between Duke Energy Ohio Inc. and the Ohio State Historic Preservation Office for the Administration of a Natural Gas Pipeline Project in Clermont County, Ohio.**

**WHEREAS:** Duke Energy Ohio, Inc. (Duke Energy) has proposed to construct the Bethel to Batavia Pipeline Project in Clermont County, Ohio; and

**WHEREAS:** Duke Energy filed an application for a Certificate of Environmental Compatibility and Public Need (Certificate Application) with the Ohio Power Siting Board (OPSB) on January 14, 2021 (OPSB Case No. 20-1411-GA-BTX); and

**WHEREAS:** Constructing the Bethel to Batavia Pipeline may affect cultural resources, including “landmarks” as that term is defined in Ohio Administrative Code (OAC) 4906-4-08(D), 4906-4-09(C), and 4906-5-07(E); and

**WHEREAS:** Applicants for certificates for transmission facilities under OAC 4906-4 and 4906-5 must identify cultural resources, provide an evaluation of impacts by such facilities on such resources, and describe plans to avoid, minimize, or mitigate any adverse effects to such resources; and

**WHEREAS:** Duke Energy filed a motion, on November 3, 2020, seeking a partial waiver of OAC 4906-5-07(E), in response to which staff of the OPSB has indicated that it does not object; and

**WHEREAS:** OPSB is coordinating with the Ohio State Historic Preservation Office (SHPO) pursuant to Ohio Revised Code (ORC) § 149.53, and Duke Energy is working with SHPO to fulfill its duties under the OAC as a certificate applicant to provide plans to avoid, minimize, or mitigate any adverse effects of the Bethel to Batavia Pipeline on cultural resources, including “landmarks” under the OAC.

**NOW, THEREFORE:** Duke Energy and SHPO have agreed to carry out their respective duties under ORC 149.53 and OAC 4906-5, in accordance with the following stipulations:

**STIPULATIONS**

**I. Roles and Responsibilities**

- A.** SHPO shall be responsible for providing technical assistance and guidance as needed and reviewing project documentation, in accordance with SHPO’s assigned duties under the ORC and OAC.
- B.** Duke Energy shall be responsible for consulting with consulting parties and preparing documentation for the SHPO and maintaining records on projects.
- C.** Duke Energy shall utilize persons meeting the applicable Professional Qualifications Standards set forth in the *Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation* to conduct identification of cultural resources.

**II. Archaeological and Cultural Resource Review Phasing**

- A. Phase 1: Complete Archeological and Historic/Architectural Surveys**

As part of the OPSB process, two routes are currently under evaluation for the Bethel to Batavia Pipeline Project; a Preferred Route and an Alternate Route. Desktop cultural resources studies were conducted on both the Preferred and Alternate routes in November of 2020 and study plans for Phase 1 Archaeological Surveys were submitted to, reviewed, and approved by SHPO for both routes in November 2020. Results of the desktop analyses were presented in the OPSB Certificate Application and the approved study plans.

Phase 1 Archaeological Surveys for the Bethel to Batavia Preferred Route were initiated in November of 2020 and approximately 15 miles of 200-foot-wide corridor were surveyed, including workspaces for proposed laydown yards and access roads. Field surveys were completed as of February 2021. Duke Energy plans to submit a technical report based on these surveys to SHPO in March 2021. Duke Energy may conduct limited additional studies or investigations on the alternate route at this time.

Should the Preferred Route be selected and certificated by the OPSB, no further studies will be conducted on the Alternate Route and the following phases of this PA will be executed for the Preferred Route only. However, if the Alternate Route is selected and certificated by the OPSB, then Phase 1 cultural resource surveys, in accordance with the approved study plan, shall commence on the Alternate Route, and the phasing plan described below will be implemented for the Alternate Route.

**B. Phase 2: Design and Routing Changes**

Design is still underway for both proposed routes, and landowner negotiations are ongoing. As design develops and easement acquisition efforts progress, shifts to the proposed pipeline workspaces, laydown yards, and access roads may deviate from the area that has already been surveyed for cultural resources. In the event that additional workspaces outside of the previously surveyed areas become necessary, qualified personnel will conduct additional Phase 1 Archaeological Surveys and evaluate any cultural resources identified as described in Phases 3 and 4 below. An addendum to the initial technical report will then be filed with SHPO for review and approval. The results of any additional survey will be included in Phases 3 and 4, as described below.

**C. Phase 3: Evaluate “landmarks” through research and analysis**

As part of Duke Energy’s compliance efforts to consult and coordinate with SHPO, the cultural resources discovered during the surveys described in Section II.A. of this PA will be recorded as required by SHPO-approved study plans and subsequently evaluated according to the eligibility criteria for listing in the National Register of Historic Places (NRHP). See 36 CFR § 60.4. Technical reports will include NRHP eligibility recommendations as well as cultural resources identified for further study or avoidance.

**D. Phase 4: Develop a plan for avoiding, minimizing, or mitigating adverse effects to cultural resources, including “landmarks.”**

Duke Energy will make all reasonable efforts to avoid adverse impacts to cultural resources on the selected route. Additional field testing may be needed to accurately define sites boundaries. Site avoidance will be at a distance of 50 feet, at a minimum. If avoidance is not feasible, Duke

Energy will work with SHPO to develop a Mitigation and Minimization Plan that will be memorialized in a Memorandum of Agreement (MOA). Mitigation strategies that could be included in the Mitigation and Minimization Plan could include additional surveys, thematic or multiple property studies, NRHP nominations, offset funding for restoration of local landmarks, support for local preservation organizations, heritage tourism projects, development of educational materials and less plans, and website development. The results of the surveys and evaluations described in II.A. and II.B. will be used to guide mitigation and minimization decisions for adverse effects to cultural resources.

### **III. Project Review and Concurrence**

Provided that Duke Energy follows the phasing plan in Section II of this PA, and subject to the detail stipulations of this PA, SHPOs execution of this PA constitutes its concurrence regarding avoidance and mitigation of adverse effects to cultural resources by the selected route.

### **IV. Technical Assistance and Educational Activities**

SHPO Staff will provide technical assistance and consultation as requested by Duke Energy or as proposed by SHPO in order to assist Duke Energy with executing this PA.

### **V. Post-Review Discovery**

- A.** An Unanticipated Discoveries Plan (UDP) will be developed and implemented for the selected route. The UDP will describe the processes and procedures to be followed in the event of an unanticipated cultural resource discovery, with a focus on human remains, funerary objects, or other related cultural resources. The UDP will be submitted to SHPO for review and approval prior to the commencement of construction activities.

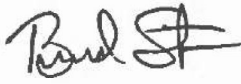
### **VI. Dispute Resolution**

Should any signatory to this PA object to the actions proposed in this PA or dispute the meaning of this PA's terms, the disputing individual shall serve all other signatories with notice of its objection or dispute and shall consult to resolve the objections or dispute. If objections or disputes cannot be resolved within 30 days of notification, then SHPO may make the final decision on the dispute and advise Duke Energy to proceed accordingly.

### **VII. Duration, Amendment, and Effect**

This PA will continue in full force until construction start, which at this time is anticipated to be December 1, 2022 provided that the cessation of the PA will not impact the continued implementation of the UDP referenced in Section V above. At the request of any signatory, this PA may be reviewed or amended at any time, provided the amendment is agreed upon by all signatories. Amendments will be effective on the date a copy of the PA signed by all signatories is filed with SHPO. Execution of this PA by Duke Energy and SHPO constitutes final concurrence by SHPO for purposes of OPSB review of the OPSB Application for the Bethel to Batavia Pipeline Project, and implementation of this PA's terms is evidence that Duke Energy has fulfilled its duties as an applicant with respect to cultural resources under the ORC and OAC.

**SIGNATORIES:**




Digitally signed by Brad Seiter  
Date: 2021.03.11 10:33:17  
-05'00'

---

Bradley Seiter  
Senior Project Manager  
Duke Energy Ohio, Inc.  
[Bradley.seiter@duke-energy.com](mailto:Bradley.seiter@duke-energy.com)  
(513) 287-4415

Diana Welling



Digitally signed by Diana Welling  
DN: cn=Diana Welling, o=Ohio History  
Connection, ou=State Historic Preservation  
Office, email=dwelling@ohiohistory.org, c=US  
Date: 2021.03.12 10:32:26 -05'00'

---

Diana Welling  
Department Head & Deputy State Historic Preservation Officer for Resource Protection and Review  
Ohio State Historic Preservation Office  
[dwelling@ohiohistory.com](mailto:dwelling@ohiohistory.com)  
(614) 298-2000