

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

In Reply Refer To:
OEP/DG2E/Gas 4
Rover Pipeline, LLC
Rover Pipeline Project
Docket No. CP15-93-000
§ 375.308(x)

May 17, 2017

Lox A. Logan, Jr.
State Historic Preservation Officer
Executive Director & CEO
Ohio History Connection
800 E. 17th Ave.
Columbus, OH 43211-2474

William S. Scherman
Jason J. Fleischer
Ruth M. Porter
Gibson, Dunn & Crutcher, LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306

Re: Dispute Resolution Request, Rover Pipeline Project, 2014-MLT-28468

Dear Mr. Logan, Mr. Scherman, Mr. Fleischer, and Ms. Porter:

Thank you for your letters of April 28, 2017, and May 10, 2017, requesting the Commission's assistance in resolving a dispute regarding the *Memorandum of Agreement Among the Federal Energy Regulatory Commission, the Advisory Council on Historic Preservation, the Ohio State Historic Preservation Office, and Rover Pipeline LLC Regarding the Rover Pipeline Project* (MOA).¹ As was discussed in the Commission's February 2, 2017 order authorizing the Rover Pipeline Project, due to a project-related adverse effect to the Stoneman House in Carroll County, Ohio, the implementing regulations of section 106 of the National Historic Preservation Act required, prior to any construction activity, that Commission staff consult with the State Historic Preservation Officer (SHPO) and other consulting parties to resolve the adverse effect. The order specified that

Staff will continue to consult with the Ohio SHPO, Rover, and the ACHP [Advisory Council on Historic Preservation] (as appropriate) to complete

¹ The MOA is available at: <https://elibrary.ferc.gov/IDMWS/common/opennat.asp?fileID=14491358>

the section 106 process, and determine if additional mitigation measures to offset the adverse effect are appropriate. This consultation may conclude in the execution of an agreement document among the Commission, the Ohio SHPO, Rover, and the ACHP (if participating). We will defer to ongoing consultations by Commission staff to develop any appropriate mitigation measures. Because the adverse effects to the Stoneman House requires additional consultation by Commission staff, we have also added Environmental Condition 41, which states that construction of project facilities may not begin until staff concludes its resolution of adverse effects as they relate to the Stoneman House.²

The Commission's certification of the Rover Pipeline Project was thus conditioned upon continued consultation regarding the adverse effect to the Stoneman House and, upon agreement being reached among all parties, the completion of the section 106 process. Consistent with the requirements of section 106 of the National Historic Preservation Act, the Commission affirmatively withheld authorization for Rover to commence construction activities until the above-referenced MOA was executed. The MOA documented stipulations agreed to by all parties as appropriate to account for the adverse effect on historic properties due to the demolition of the Stoneman House and due to visual effects on architectural resource CRA0072103 in Crawford County, Ohio. Execution of the MOA concluded the statutorily-required consultation.

The Ohio SHPO states in its April 28, 2017 letter that, while it has been in contact with Rover regarding Rover's obligations under Stipulation 3 of the MOA, to date Rover has not fulfilled those obligations. Accordingly, the Ohio SHPO requests dispute resolution under Stipulation 5 of the MOA. On May 10, 2017, Rover submitted a letter agreeing that the Commission's assistance is needed to resolve the dispute which has arisen under the MOA and requesting that the Commission refer the matter to the Commission's Office of Administrative Law Judges and Dispute Resolution (OALJDR) for formal dispute resolution.

Stipulation 5(a) of the MOA states that, should any signatory object to any actions pursuant to the MOA, the Commission "shall consult with the objecting party to resolve the objection." As two signatories to the MOA have indicated that a dispute exists regarding the MOA, I will initiate the required consultation jointly with the Ohio SHPO and Rover. In order to initiate consultation, I have requested that a member of the

² *Rover Pipeline, LLC*, 158 FERC ¶ 61,109, at PP 245-248 (2017).

Commission's Dispute Resolution Service staff be assigned to facilitate resolution of the issues under dispute.³

Because Rover's authority to commence construction was conditioned upon completion of the section 106 process, it is critical that this dispute is resolved as soon as possible to ensure that the Commission is satisfying its section 106 obligations. Accordingly, the parties will have three weeks from the date of this letter to reach resolution. If this dispute is not resolved by the end of that period, Commission staff will provide its recommended final decision on the dispute, along with all documentation it deems relevant to the dispute, to the ACHP for its review and comment.

If you have any questions, please contact Josh Hurwitz, Deputy Director, Dispute Resolution Service, at (202) 502-6668, or me at (202) 502-6177. We request that you respond to this letter by May 19, 2017, providing the names of your staff that will be participating in this dispute resolution process.

Sincerely,

Rich McGuire, Director
Division of Gas - Environment
and Engineering

cc: John M. Fowler, Executive Director
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³ While a Dispute Resolution Service staff member will be acting as a neutral to facilitate the dispute resolution process, because the dispute has arisen under the terms of the MOA, the procedures to be followed will be as agreed to by the parties. My above-noted request does not constitute a referral to OALJDR for formal dispute resolution.

Public File, Docket No. CP15-93-000