

**PROGRAMMATIC AGREEMENT
BETWEEN THE
ILLINOIS HISTORIC PRESERVATION AGENCY
AND THE
ILLINOIS DEPARTMENT OF NATURAL RESOURCES**

This agreement between the Illinois Historic Preservation Agency (IHPA) and the Illinois Department of Natural Resources (IDNR) shall establish procedures for protecting historic properties and complying with the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420, and its implementing rule, (17 IAC 4180) pursuant to activities conducted through the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720) and the Abandoned Mined Lands and Waters Reclamation Act (20 ILCS 1920); and

WHEREAS, the Illinois Department of Natural Resources issues coal mining permits pursuant to the requirements of the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720); and

WHEREAS; the Illinois Department of Natural Resources provides for the conservation and reclamation of lands and waters affected by mining which have been abandoned pursuant to the Abandoned Mined Lands and Water Reclamation Act (20 ILCS 1920): and

WHEREAS, IDNR recognizes that undertakings conducted under these two acts may have an adverse effect upon properties included in or eligible for inclusion in the National Register of Historic Places and has consulted with the Illinois Historic Preservation Agency;

NOW THEREFORE, IHPA and IDNR agree that the following stipulations will be implemented to ensure the protection of properties included or eligible for inclusion in the National Register of Historic Places:

STIPULATIONS

I. Exemptions

A. It is understood that the attached classes of exempt projects and activities shall not occur adjacent to or within previously known historic properties including historic districts, historic sites, and archaeological resources.

B. The classes of exempt projects and activities listed below shall be considered to have no effect on historic properties and shall not require HPA review and comment to proceed.

1. Areas previously disturbed by surface mining and mine refuse disposal.
2. Land impacted by planned subsidence which will not be inundated by water.
3. Incidental boundary revisions, up to 5 acres, to existing permits with similar geographic settings where no National Register eligible listed sites were found in previous surveys.
4. Filling and sealing shafts.
5. Highwall, embankments and refuse projects utilizing disturbed spoil material or pre-approved borrow.
6. Flood control projects that involve drainage control with rip-rap on previously disturbed lands and culvert replacement. No historic structures will be affected.
7. Guardrail installation
8. Removal of redeposited mine sediment on land adjacent to mine.
9. Water-treatment projects within previously disturbed lands or restricted to water .
10. Remedial projects.
11. Land disturbances, including but not limited to off-site borrow and grading high walls, 5 acres or less.
12. Emergency filling and sealing pit subsidence in rural areas where historic properties are not effected.
13. Emergency filling and sealing pit subsidence projects in urban areas where the intent is to stabilize structures to ensure protection of property.
14. Shadow areas in which there will be no surface disturbance.

C. IDNR has and will continue to have personnel who meet, at a minimum the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9) who shall be responsible for reviewing the projects or activities permitted under this agreement to ensure that they fit within the classes of exempt projects or activities listed above, and implement all provisions of this agreement. Such personnel shall ensure a review system is in place so that no projects or activities exempted under this agreement shall damage, destroy or disturb historic properties on lands under IDNR control or management.

D. IDNR will keep a record of reviews in which the IDNR personnel responsible for implementing this agreement has made a determination that the project or activity was an exempted class. This record shall be submitted to IHPA for review on an annual basis. Such a record shall include project description and explanation of IDNR's determination that the project will have no effect. This explanation shall include sufficient project description to justify its inclusion within a class of exempt project or activity. IHPA will acknowledge in writing approval of the yearly exception list.

II. CONTEXT STATEMENT

A. IDNR will develop a context statement examining both regional and temporal variations in the Illinois coal industry. The result will be a document to be used to evaluate the significance of the remaining material culture associated with abandoned coal mining sites. Themes will include, mining technology, mining transportation systems, the miner at work and in the home, site structure, ethnicity and the role of prominent figures.

III. ARCHAEOLOGICAL SURVEY AND NATIONAL REGISTER EVALUATION

A. The IDNR shall ensure that an archaeological inventory survey (Phase I) will be performed in all project areas not previously surveyed and which do not fall within the exemptions. A report of the survey shall be submitted to IHPA for review and comment. IDNR may proceed with the undertaking if no response is received from IHPA within 45 days.

B. A National Register evaluation (Phase II) will be performed at all archaeological sites affected by the project or activity which are potentially eligible for listing on the National Register of Historic Places. A report of the Phase II findings shall be submitted to IHPA for review and comment. IDNR may proceed with the undertaking if no response is received from IHPA within 45 days.

C. A National Register evaluation may proceed if the archaeological survey identifies archaeological sites recommended for a National Register evaluation and the IDNR Cultural Resource Coordinator concurs.

D. The Phase I and Phase II archaeological investigations will be conducted in a manner consistent with the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23). All Phase I and Phase II archaeological investigations will be carried out under the direct supervision of an archaeologist that meets, at a minimum, the Secretary of Interior's Professional Qualification Standards (48 FR 44738-9). The Phase I and Phase II investigations will be implemented by the IDNR, and reviewed by IHPA.

E. In consultation with IHPA, IDNR shall evaluate properties identified through the Phase II survey against the NRHP criteria (36 CFR Part 60.4).

1. For those cultural properties which the IDNR and IHPA agree are not eligible for inclusion in the NRHP, no further archaeological investigations will be required, and the proposed project may proceed in those areas.

2. If the survey results in the identification of cultural properties that the IDNR and IHPA agree are eligible for inclusion in the NRHP, such sites will be treated in accordance with Stipulation IV below.

E. The IDNR will ensure adequate site forms are produced for each new site identified and site update forms for each previously recorded site, and that these are sent to IHPA and the Illinois State Museum in a timely fashion.

IV. ARCHAEOLOGICAL DATA RECOVERY (Phase III)

A. Those sites which the IDNR and IHPA agree are eligible for inclusion in the NRHP will be treated in the following manner:

1. The IDNR shall ensure that a data recovery plan addressing substantive research questions is developed in consultation with IHPA for the recovery of relevant archaeological data. The plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-37). The plan shall specify, at a minimum, the following:

a. The property, properties, or portions of properties where data recovery is to be carried out;

b. The research questions to be addressed through the data recovery, with an explanation of their relevance and importance;

c. The methods to be used, with an explanation of their relevance to the research questions; and

d. A proposed schedule for the submission of progress reports to IHPA.

2. The data recovery plan shall be submitted by the IDNR to IHPA for thirty (30) days review and comment. After approval, the IDNR shall then ensure that the data recovery plan is implemented. IHPA shall monitor this implementation.

B. The IDNR shall ensure that the data recovery plan is carried out by or under the direct supervision of an archaeologist(s) that meets, at a minimum, the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9).

C. The IDNR and the archaeological contractor will ensure that an adequate program for security of the historic properties from vandalism during data recovery operations is developed and implemented.

D. The IDNR will ensure that adequate laboratory time, space, and funds are available for analysis of the osteological, cultural, and biological materials recovered.

E. A report of the Phase III data recovery shall be submitted to IHPA for review and comment.

V. CURATION AND DISSEMINATION OF INFORMATION

A. In consultation with the IHPA, the IDNR shall ensure that all materials and records resulting from the data recovery conducted are curated at the Illinois State Museum, pursuant to the Illinois Archaeological and Paleontological Resources Protection Act (IL. REV. STAT. 1989, ch. 127, par. 133c.01 et seq.) and in accordance with 36 CFR Part 79.

B. The IDNR shall ensure that all final archaeological reports resulting from actions pursuant to this Agreement will be provided in a format acceptable to IHPA. The IDNR shall ensure that all such reports are responsive to contemporary standards.

VI. PROVISION FOR UNDETECTED ARCHAEOLOGICAL RESOURCES DISCOVERED DURING IMPLEMENTATION

A. If during construction of any IDNR managed project, if any historic properties are discovered, IDNR agrees that construction activities shall be discontinued until consultation with IHPA. Notification to IHPA shall be within 72 hours and shall be the responsibility of the IDNR, Cultural Resource Coordinator.

VI. AGREEMENT REVIEW

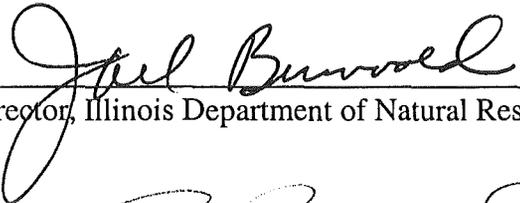
A. IHPA and IDNR shall consult annually to review implementation of the terms of this agreement and determine whether revisions are needed.

B. Each year the IDNR will notify the public of its current activities carried out pursuant to this agreement, and make available for public inspection documentation on the program.

C. Once the Federal Advisory Council on Historic Preservation and the Federal Office of Office of Surface Mining approve a national Programmatic Agreement pursuant to Section 106 of the national Historic Preservation Act of 1966, as amended, IHPA and IDNR agree to modify this Programmatic Agreement to reflect the Federal agreement.

IX. TERMINATION OF THIS AGREEMENT

If one or more of the signatories to this agreement wish to withdraw from the terms of this agreement, they shall provide thirty (30) days notification to all other signatories.



Director, Illinois Department of Natural Resources

May 9, 2003
Date



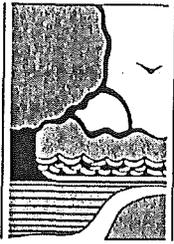
Director, Illinois Historic Preservation Agency

May 15, 2003
Date

APPROVED FOR EXECUTION

Date: 5.7.03

Legal Counsel: S. Yankowski



Illinois Department of Natural Resources

One Natural Resources Way • Springfield, Illinois 62702-1271
<http://dnr.state.il.us>

Rod R. Blagojevich, Governor

Joel Brunsvold, Director

May 12, 2003

Mr. Joe Phillippe
Staff Archaeologist
IHPA: Preservation Services Division
Old State Capitol
Springfield, Illinois 62701

Dear Joe:

Enclosed is the Programmatic Agreement covering the DNR coal mining program. Once HPA has signed the document please return the original to me.

Thank you for your assistance.

Sincerely,

Harold Hassen, Ph.D.
Cultural Resource Coordinator
Division of Resource Review and Coordination