

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE UNITED STATES ARMY CORPS OF ENGINEERS,  
ROCK ISLAND DISTRICT  
AND THE  
ILLINOIS STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE  
MILLBROOK BRIDGE REMOVAL PROJECT  
LOCATED IN  
KENDALL COUNTY, ILLINOIS**

**WHEREAS**, in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, the U.S. Army Corps of Engineers, Rock Island District (District) proposes to grant a permit (CEMVR-OD-2018-0277) in accordance with Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) to the Kendall County Forest Preserve District to remove the Millbrook Bridge over the Fox River in Millbrook, Kendall County, Illinois; and,

**WHEREAS**, the Corps has consulted with the Illinois State Historic Preservation Office (SHPO) pursuant to 36 CFR 800.2(c)(1) and has come to an agreement on the project Area of Potential Effects (hereinafter, APE) pursuant to 36 CFR 800.4(a)(1), (Appendix A); and,

**WHEREAS**, the District has defined the undertaking's area of potential effect (hereafter, "APE") as the Permit Area (see Appendix A) in accordance with 33 CFR Part 325, Appendix C; and,

**WHEREAS**, the Millbrook Bridge was determined eligible for listing on the National Register of Historic Places by the IL SHPO June 17, 2017; and,

**WHEREAS**, the District has determined that the proposed demolition of the Millbrook Bridge constitutes an adverse effect; and,

**WHEREAS**, the SHPO concurred with the District's recommendations regarding the adverse effects to the Millbrook Bridge by letter dated September 11, 2018 (SHPO Log #007051717); and,

**WHEREAS**, the District has consulted with the Kendall County Forest Preserve District (Forest Preserve) regarding the effects of the Undertaking and has invited the Forest Preserve to sign this Memorandum of Agreement (MOA) as a Concurring party; and,

**WHEREAS**, the District has determined, and SHPO concurs that the proposed demolition of the Millbrook Bridge constitutes an Adverse Effect; and

**WHEREAS**, all parties mutually agree that there is no prudent or feasible alternative to the project as originally proposed, and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the District has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36CFR§ 800.6(a)(1)(iii); and

**NOW, THEREFORE**, the District and the Illinois SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

### **STIPULATIONS**

#### **I. TERMS**

- A. The Corps shall ensure that issuance of Permit No. CEMVR-OD-P-2018-0277 to Kendall County Forest Preserve District is withheld until this Memorandum of Agreement (MOA) has been executed by all signatories.
- B. The Millbrook Bridge will be documented in accordance with HIBS/HIER Standards and Guidelines. HIER No. for this documentation project will be: KE-2018-2. Specific Scope of Work for this project is as follows:
  - 1. Project area location map abstracted from appropriate 7.5 Minute USGS Quadrangle Map, submitted on 8.5 x 11" archival bond.
  - 2. Site Plan indicating footprint of the extant bridge, surrounding terrain features and other man-made features within a 200 yard radius of the bridge. Site plan presented on 8.5 x 11" archival bond.
  - 3. Approximately ten (10) photographs of the subject bridge presenting approaches, elevations and superstructure / substructure elements.
  - 4. Written architectural /engineering description of the subject bridge.
  - 5. Narrative contextual histories.
    - a. Brief chronological context on the origins, development and functions of the Millbrook bridge;
- C. Submittal of 95% non-archival HIER documentation for SHPO review and comment prior to the submittal of 100% HIER documentation.

## **II. DURATION**

This MOA will be null and void if its terms are not carried out within two (2) years from the date of its execution. Prior to such time, the Corps may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation IV below.

## **III. DISPUTE RESOLUTION**

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will:

A. Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the Advisory Council on Historic Preservation (ACHP). The ACHP shall provide the Corps with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. The District's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## **IV. AMENDMENTS**

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## **V. TERMINATION**

If any signatory to this MOA determines that its terms will not or cannot be carried out,

that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation IV, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the Corps must either (a) execute an MOA pursuant to 26 CFR § 800.6 or (b) request, take into account and respond to the comments of the ACHP under 36 CFR § 800.7. The Corps shall notify the signatories as to the course of action it will pursue.

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LOCATED IN  
KENDALL COUNTY, ILLINOIS**

**SIGNATORY:**

UNITED STATES ARMY CORPS OF ENGINEERS, ROCK ISLAND DISTRICT (DISTRICT)

Ward Lenz Date 17/oct/2018

Mr. Ward Lenz  
Chief, Regulatory Branch  
Operations Division

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SIGNATORY:

ILLINOIS STATE HISTORIC PRESERVATION OFFICE (SHPO)

 Date 10/10/18  
Wayne Rosenthal  
State Historic Preservation Officer  
Illinois State Historic Preservation Office

APPROVED FOR EXECUTION

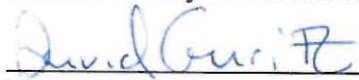
Date: 10-9-18

Legal Counsel: 

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**CONCURRING PARTIES:**

Kendall County Forest Preserve District



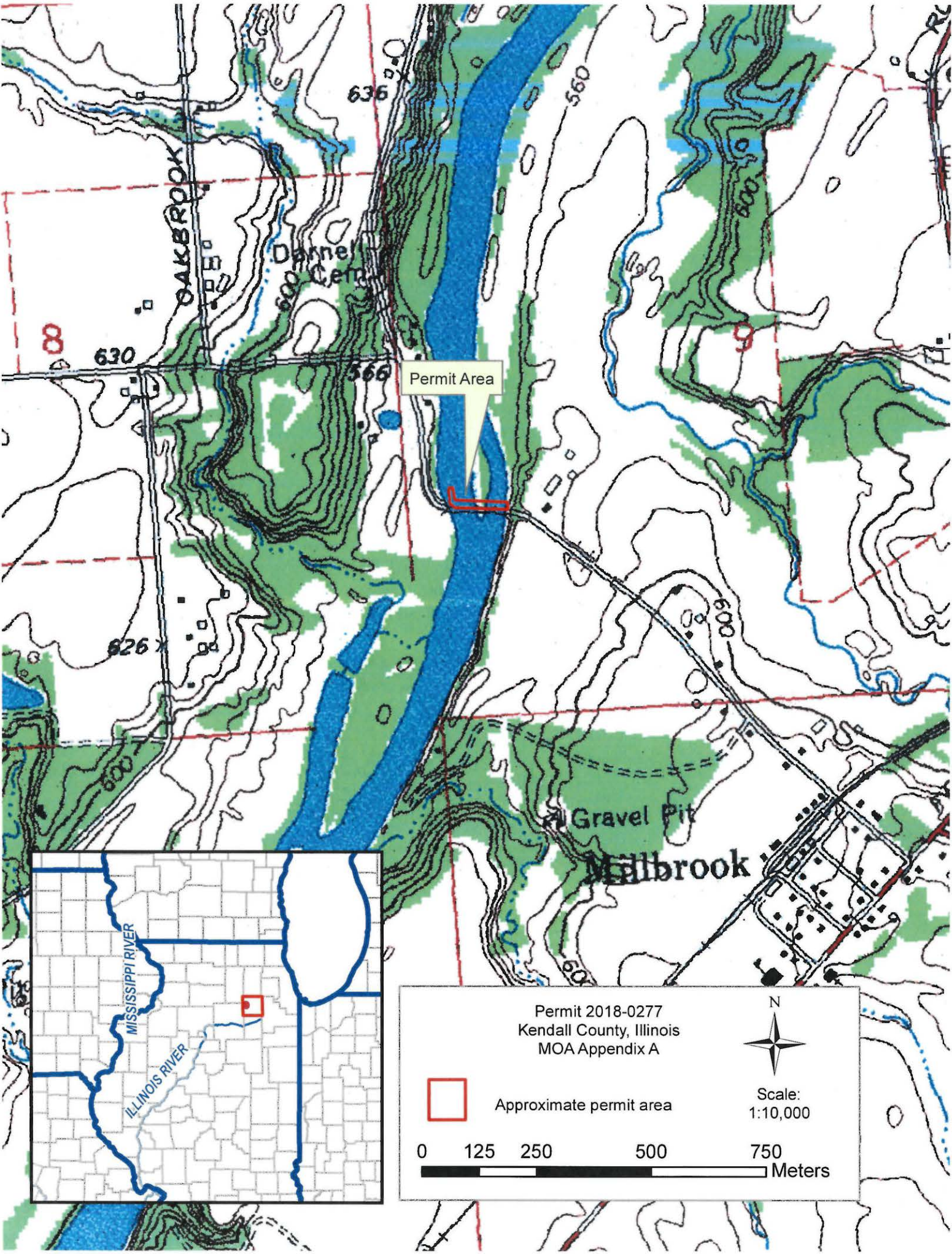
Date 10/02/2018

Mr. David Guritz

Director

Kendall County Forest Preserve District





Permit Area

Gravel Pit

Malbrook



Permit 2018-0277  
Kendall County, Illinois  
MOA Appendix A

N

Scale:  
1:10,000

0 125 250 500 750 Meters