

**MEMORANDUM OF AGREEMENT  
BETWEEN THE UNITED STATES ARMY CORPS OF ENGINEERS,  
CHICAGO DISTRICT, THE ILLINOIS STATE HISTORIC PRESERVATION OFFICE, THE  
DUPAGE RIVER SALT CREEK WORKGROUP AND THE FOREST PRESERVE DISTRICT  
OF DUPAGE COUNTY, ILLINOIS, REGARDING THE REMOVAL OF THE LOW HEAD DAM  
ON SALT CREEK IN THE FULLERSBURG WOODS FOREST PRESERVE, DUPAGE  
COUNTY, ILLINOIS**

**WHEREAS** the United States Army Corps of Engineers, Chicago District (hereafter District) has consulted with Permit Applicants, DuPage River Salt Creek Workgroup (DRSCW) and the Forest Preserve District of DuPage County, Illinois (FPDDC) (hereafter Applicants) concerning the issuance of a permit for the removal of the low head dam on Salt Creek in the Fullersburg Woods Forest Preserve, DuPage County, Illinois; and,

**WHEREAS**, the District has consulted with the Illinois State Historic Preservation Office (Office), a Division of the Illinois Department of Natural Resources (IDNR), pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

**WHEREAS**, the Office currently resides within IDNR, and the Director of IDNR is the duly designated State Historic Preservation Officer (SHPO); and

**WHEREAS**, the District has defined the undertaking's area of potential effect as the Permit Area (Appendix A); and,

**WHEREAS**, the Graue Mill Historic District, listed on the National Register of Historic Places (NRHP) in 1975 and updated in 2021 includes the low head dam on Salt Creek (hereinafter, Dam) as a contributing element to the Historic District; and,

**WHEREAS**, the Fullersburg Forest Preserve (hereinafter, Fullersburg Woods Forest Preserve District), has been identified as eligible for NRHP listing under Criterion A as a historic landscape district for its association with the Civilian Conservation Corps (CCC); and,

**WHEREAS**, the Dam is a contributing element to both the Graue Mill Historic District and the proposed Fullersburg Woods Forest Preserve Historic District; and,

**WHEREAS**, the District and the SHPO agree that the proposed removal of the Dam will result in an adverse effect to both the Graue Mill Historic District and the proposed Fullersburg Woods Forest Preserve Historic District; and,

**WHEREAS**, no other properties of historic, architectural, or archaeological significance are known to exist within the project area; nor are human remains likely to be encountered; and

**WHEREAS**, the District and the SHPO have consulted with the DRSCW regarding the effects of the undertaking on the historic properties and have invited them to participate in this Memorandum of Agreement (MOA) as an Invited Signatory; and,

**WHEREAS**, the District and the SHPO have consulted with the FPDDC regarding the effects of the undertaking on the historic properties and have invited them to participate in this MOA as an Invited Signatory; and,

**WHEREAS**, the District and the SHPO have consulted with the DuPage Graue Mill Corp. regarding the effects of the undertaking on the historic properties and have invited them to participate in this MOA as a Concurring Party; and,

**WHEREAS**, the District and the SHPO have consulted with the Fullersburg Historic Foundation regarding the effects of the undertaking on the historic properties and have invited them to participate in this MOA as a Concurring Party; and,

**WHEREAS**, the District and the SHPO have consulted with the Pokagon Band of Potawatomi regarding the effects of the undertaking on the historic properties and have invited them to participate in this MOA as a Concurring Party; and,

**WHEREAS**, the District and the SHPO have consulted with the Forest County Potawatomi Community regarding the effects of the undertaking on the historic properties and have invited them to participate in this MOA as a Concurring Party; and,

**WHEREAS**, all Signatories agree that there is no prudent or feasible alternative to the undertakings as originally proposed or to their avoiding / minimizing the adverse effects to historic properties; and,

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the District has notified the Advisory Council on Historic Preservation (hereafter ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate (June 2022) in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and,

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

## **STIPULATIONS**

The District shall ensure that issuance of Permit No. CELRC-2021-0977 associated with the removal of the Dam is withheld until this MOA has been executed by all signatories and shall ensure in consultation with the signatories, that the following measures are carried out:

### **Fullersburg Woods Forest Preserve Historic District.**

- A. The Applicants shall have a National Register of Historic Places nomination package completed for the Fullersburg Woods Forest Preserve Historic District. The nomination must meet the

submittal requirements of the Illinois State Historic Preservation Office's National Register Program and guidance provided by the National Park Service's National Register Bulletins.

- B. The Applicants shall award the nomination contract to the consultant of its choice, provided the consultant fulfills professional qualifications standards of the Secretary of the Interior for Architectural History or History and further agrees to coordinate with Illinois SHPO's National Register staff, the Illinois Historic Sites Advisory Council and the National Park Service on the details of the nomination's content. This will include nomination Criteria, Period of Significance, Level of Significance, and the district's final nominated boundaries.
- C. The nomination package completion will commence with documentation and photography of the Dam structure. The SHPO will have 30 days to review drafts of the photographs and provide comments.
- D. Upon SHPO's written acceptance of the draft photographic documentation, the Applicants may commence demolition activities on Dam.

#### **Graue Mill Historic District**

- E. The applicants shall install a system of pumps and weirs to allow water to be placed into and removed from the mill race while the rotation of the wheel would be powered by an electric motor. Wiring the controls into the mill building will allow the water wheel to be operated on demand.

#### **Both Districts**

- F. A minimum of three additional interpretive panels shall be developed, produced and installed regarding the CCC structures located within the Fullersburg Forest Preserve.

### **II. DURATION**

This Agreement shall be effective for three (3) years from the date of its execution or until such time as all of its terms are satisfied, it is amended, or terminated and replaced. Prior to such time, the District may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation IV AMENDMENTS below. The District shall notify the signatories as to the course of action it will pursue.

### **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 District shall consult with such party to resolve the objection. If the District determines that such objection cannot be resolved, the District shall:

- A. Forward all documentation relevant to the dispute, including any timely advice or comments

regarding the dispute from the signatories, and concurring parties and the District's proposed resolution, to the ACHP. The ACHP shall provide the District 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 District 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 District 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 District may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the District 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 and concurring parties 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 resolve the issue through an amendment per Stipulation IV, above. If after thirty (30) days a resolution has not been reached, any signatory may terminate the MOA upon written notification to the other signatories and concurring parties.

Once the MOA is terminated, and prior to work continuing on the undertaking, the District must either: (a) execute another MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The District shall notify the signatories as to the course of action it will pursue. Execution of this MOA by the District and SHPO and implementation of its terms evidence that the Applicant has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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COUNTY, ILLINOIS**

SIGNATORY:

ROCKWELL.KENNET  
H.PAUL.1237939120

Digitally signed by  
ROCKWELL.KENNETH.PAUL.123793  
9120  
Date: 2023.08.08 13:45:19 -05'00'

Date August 8, 2023

Kenneth P. Rockwell  
Colonel, U.S. Army  
District Commander  
U.S. Army Corps of Engineers, Chicago District

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SIGNATORY:

Carey L. Mayer Date 07/14/2023  
Illinois Deputy State Historic Preservation Officer (SHPO)  
Carey L. Mayer, AIA  
Deputy State Historic Preservation Officer  
Illinois Department of Natural Resources

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PRESERVE, DUPAGE COUNTY, ILLINOIS**

INVITED SIGNATORY:

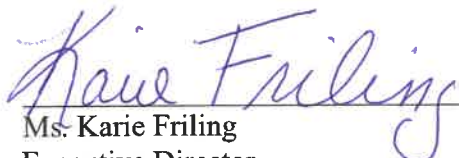


Date 6/12/2023

Mr. Stephen McCracken  
Director  
DuPage River Salt Creek Workgroup

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INVITED SIGNATORY:

 \_\_\_\_\_ Date 6/12/23  
Ms. Karie Friling  
Executive Director  
Forest Preserve District of DuPage County, Illinois



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CONCURRING PARTY:

\_\_\_\_\_ Date \_\_\_\_\_  
Ms. Elissa Fink  
DuPage Graue Mill Corp.

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CONCURRING PARTY:

\_\_\_\_\_ Date \_\_\_\_\_  
Ms. Lynette Ruiz  
Fullersburg Historic Foundation

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CONCURRING PARTY:

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. Matthew Bussler  
Pokagon Band of Potawatomi

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CONCURRING PARTY:

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. Ben Rhodd  
Forest County Potawatomi Community

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**APPENDIX A**

Map Showing Permit Area / Area of Potential Effects

