

**PROGRAMMATIC AGREEMENT
AMONG**

**THE U.S. ARMY CORPS OF ENGINEERS, ROCK ISLAND DISTRICT,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER**

***REGARDING THE EMBANKMENT REHABILITATION OF THE ILLINOIS AND MISSISSIPPI CANAL
(HENNEPIN CANAL) IN BUREAU, HENRY, ROCK ISLAND, AND WHITESIDE COUNTIES, ILLINOIS***

WHEREAS, the Rock Island District of the U.S. Army Corps of Engineers (Corps) proposes to implement the Embankment Rehabilitation (Project) of the Illinois and Mississippi Canal, authorized by Public Laws 85-500, 87-874, 91-611, and 99-662; and,

WHEREAS, the Project that is the subject of this Programmatic Agreement (PA) is as described in the document dated June 1995 and titled, "Environmental Assessment; Illinois and Mississippi Canal (Hennepin Canal) Embankment Rehabilitation, Bureau, Henry, Rock Island, and Whiteside Counties, Illinois," prepared by the Corps; and,

WHEREAS, the Corps has determined that the Project's area of potential effects, as defined at 36 CFR Section 800.2(c), includes the Hennepin Canal Historic District and potential land soil borrow; and,

WHEREAS, the Corps has determined that the Project will affect historic properties, including the Hennepin Canal Historic District, a property listed on the National Register of Historic Places (National Register), and has consulted with the Advisory Council on Historic Preservation (Council) and Illinois State Historic Preservation Officer (SHPO) pursuant to 800.13 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f); and,

WHEREAS, the Corps intends to implement the actions listed in Appendix A until such time that the currently authorized funds are depleted; and,

WHEREAS, the Corps may receive additional appropriations in the future to implement those actions listed in Appendix A not completed within the current authorized funds; and,

WHEREAS, the Corps and the Illinois SHPO have determined that because the Hennepin Canal Historic District has been previously documented and the documentation is on file at the State of Illinois Archives, and because there has been extensive use and maintenance, no further identification and evaluation is required within the Historic District; and,

WHEREAS, Appendix B lists those Project components that do not require further review pursuant to this PA; and,

WHEREAS, Appendix C lists those Project components which require further review pursuant to this PA; and,

WHEREAS, the Corps transferred the Hennepin Canal to the State of Illinois (State) in 1970 and the Illinois Department of Natural Resources (DNR) operates it as a recreational facility, called the Hennepin Canal Parkway State Park; and,

WHEREAS, the DNR has participated in the consultation and been invited to concur in this PA;

NOW, THEREFORE, the Corps, the Council, and the SHPO agree that the Project shall be implemented in accordance with the following stipulations to satisfy the Corps' Section 106 responsibilities for all individual actions of the Project.

STIPULATIONS

The Corps shall ensure that the following stipulations are implemented.

I. Rehabilitation and Modification of the Hennepin Canal

A. Design: The Corps, to the maximum extent possible, shall ensure that the design of Project components listed in Appendix C conforms to the recommended approaches in the Secretary of the Interior's *Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service, 1992) (Secretary's Standards).

B. Review: The Corps shall provide the Illinois SHPO with plans and specifications for all actions listed in Appendix C and afford the SHPO at least 30 calendar days to comment on such plans and specifications.

C. Design that does not conform to the Secretary's Standards: Should the Corps propose a modification in the design of any Project component listed in Appendix C that does not conform to the Secretary's Standards, the Corps shall notify the Illinois SHPO of the proposed modification and shall consult with the SHPO to develop alternatives that minimize the effect of the proposed action or to develop appropriate mitigation measures. The Corps shall ensure that all such mitigation measures are completed and the SHPO provided an opportunity to review and comment upon the completed mitigation, prior to the initiation of the subject Project component.

II. Proposed Land Soil Borrow

A. For all proposed land soil borrow areas that have not been previously surveyed for properties, the Corps shall ensure that an archeological survey is conducted in a manner consistent with the Secretary of the Interior's *Standards and Guidelines for Identification* (48 FR 44720-23). The survey shall be conducted in consultation with the SHPO and a report of the survey, meeting the standards of the SHPO, shall be submitted to the SHPO for review and approval.

B. The Corps shall evaluate properties identified through the survey in accordance with 36 CFR Section 800.4(c). If the survey results in the identification of properties that are eligible for the National Register of Historic Places, the Corps, in consultation with the SHPO, shall develop and implement plans for the appropriate treatment of the historic properties. Treatment shall include, but not be limited to, avoidance of the property, avoidance of a portion of the property, and data recovery of the portion to be affected, or data recovery of the property.

C. Should the Corps and the SHPO agree that the property, or a portion thereof, cannot be avoided, the Corps shall ensure that a data recovery plan, addressing substantive research questions, is developed and implemented in consultation with the SHPO. The plan shall be consistent with the Secretary of the Interior's *Standards and Guidelines for Archeological Documentation* (48 FR 44734-37) and take into account the Council's publication, *Treatment of Historic Properties* [Advisory Council on Historic Preservation, (draft 1980)]. The plan shall specify, at a minimum:

1. the property, properties, or portions of properties where data recovery is to be carried out;
 2. the research questions to be addressed through the data recovery, with an explanation of their relevance and importance;
 3. the field methods to be used, with an explanation of their relevance to the research questions,
 4. the methods to be used in analysis, data management, and dissemination of data, including a schedule;
 5. the proposed disposition of recovered material and records;
 6. proposed methods for disseminating results of the work to the interested public;
- and,
7. a proposed schedule for the submission of progress reports to the SHPO.

D. The Corps shall ensure that the plan is submitted to the SHPO for 30 calendar days review.

1. Unless the SHPO objects to the plan within 30 days after receipt of the plan, the Corps shall ensure that the plan is implemented prior to and in coordination with those Project activities that could disturb the site.

2. If the SHPO objects to the plan within 30 days after receipt, the Corps shall consult with the SHPO to resolve the objection, and having resolved the objection, shall implement the plan subject to whatever modifications have resulted from the objection.

3. If the Corps determines that the objection cannot be resolved, the Corps shall comply with Stipulation VIII.

E. The Corps, in consultation with the SHPO, shall ensure adequate provisions, including personnel, time, and funding, for the analysis of recovered materials and for site security during data recovery.

F. The Corps shall ensure that all materials and records resulting from the data recovery are curated in accordance with 36 CFR Part 79.

III. Treatment of Human Remains

A. In the event that human remains are encountered during any Project-related activities, all work shall immediately cease in the area and the Contractor shall notify the Corps.

B. The Corps shall then notify the SHPO, the Council, and appropriate interested parties of the discovery and consult to develop and implement a treatment plan in accordance with all applicable State and local laws.

IV. Discoveries During Implementation

If during the implementation of any Project components or Project-related components, an unidentified archeological property is discovered or impacted, or a known archeological property is impacted in an unanticipated manner, the Corps shall proceed as follows:

A. The Corps' Contractor shall cease all work in the immediate area of the discovery and in the surrounding area where further subsurface remains can be reasonably expected to occur. Upon notification to the Corps by the Contractor, the Corps shall notify the SHPO. The Corps' archeologist, or an archeologist approved by the Corps and the SHPO, shall then inspect the discovery to determine the extent and nature of the potential archeological property.

B. In consultation with the SHPO, the Corps shall evaluate the property in accordance with Stipulation 11(B). If the Corps and the SHPO agree that the property is not eligible for listing on the National Register of Historic Places, work may proceed. If the Corps and the SHPO agree that the property is eligible for listing, the Corps shall consult with the SHPO to develop an appropriate treatment. If the Corps and the SHPO agree that appropriate treatment is data recovery, the Corps shall develop a data recovery plan in accordance with Stipulation 11(C). The SHPO shall have 45 calendar days to review and comment on the plan.

V. Professional Qualifications

The Corps shall ensure that all activities regarding historic structures carried out pursuant to this PA are carried out by or under the direct supervision of a person or persons meeting the minimum Secretary of the Interior's *Professional Qualifications for Historic Architecture* (48 FR 44739), and that all activities regarding archeology carried out pursuant to this PA are carried out by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior's *Professional Qualifications for Archeology* (48 FR 44739).

VI. Alterations to Project Documents

The Corps shall not alter any plan, scope of services, or other documents that has been reviewed and received comment pursuant to this PA, except to finalize documents which received comment in draft, without first affording the SHPO the opportunity to review the proposed change and determine whether it shall require that this PA be amended. If the SHPO determines that an amendment is needed, the parties to this PA shall consult to consider such an amendment.

VII. Annual Reporting and Review

A. On or before October 1 of each year until the Corps, the Council, and the SHPO agree in writing that the terms of the PA have been fulfilled, the Corps shall prepare and provide an annual report to the SHPO and the Council addressing the following:

1. Progress in design and implementation of the rehabilitation and/or any modification of the Hennepin Canal relative to historic properties;
2. Summary of archeological data recovery;
3. Summary of proposed work for the following fiscal year; and,
4. Any amendments the Corps suggests should be made to the PA.

B. The Corps shall ensure that the annual report is made available for public inspection, that potential interested parties are made aware of its availability, and that interested members of the public are invited to provide comments to the Corps, the Council, and the SHPO.

C. The SHPO and the Council shall review the annual report and provide comments to the Corps. Based on this review, the Corps, the SHPO, and the Council shall determine whether this PA shall continue in force, be amended, or be terminated.

VIII. Dispute Resolutions

A. Should the SHPO or the Council object within 30 days to any plans or actions provided for review pursuant to this PA, the Corps shall consult with the objecting party to resolve the objection. If the Corps determines that the objection cannot be resolved, the Corps shall request the further comments of the Council pursuant to 36 CFR Section 800.6(b). Any Council comment provided in response to such a request shall be taken into account by the Corps in accordance with 36 CFR Section 800.6(c)(2) with reference only to the subject of the dispute. The Corps' responsibility to carry out all actions under this PA that are not the subjects of the dispute shall remain unchanged.

B. Any party to this PA may request that it be amended, whereupon the parties will consult in accordance with 36 CFR Section 800.13 to consider such amendment.

C. Any party to this PA may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Corps will comply with 36 CFR Sections 800.4 through 800.6 with regard to individual undertakings covered by this PA.

IX. Execution

Execution and implementation of this PA evidences that the Corps has afforded the Council a reasonable opportunity to comment on the Project and that the Corps has taken into account the effects of the Project on historic properties.

X. Signatories

U.S. Army Corps of Engineers:

BY: Charles S. Cox Date: 13 Oct 95
Colonel Charles S. Cox
District Engineer
Rock Island District
U.S. Army Corps of Engineers

Advisory Council on Historic Preservation:

BY: Robert D. Bush Date: 1-30-96
Robert D. Bush
Executive Director
Advisory Council on Historic Preservation

Illinois State Historic Preservation Officer:

BY: William L. Wheeler Date: 11-2-95
William L. Wheeler
Illinois State Historic Preservation Officer
Illinois Historic Preservation Agency

Illinois Department of Natural Resources:

BY: Brent Manning Date: 20 Nov 95
Brent Manning
Director
Illinois Department of Natural Resources

Appendix A

Proposed Embankment Rehabilitation Actions

Priority*	Location**	Embankment
1	Bridge 46 to Bridge 47 (F)	West
2	Bridge 56 to Bridge 57 (F)	West
3	Bridge 62 to Bridge 63 (F)	East/West
4	Bridge 59 to Bridge 60 (F)	West
5	Bridge 15 to Bridge 16 (E)	South
6	Bridge 16 to Bridge 17 (E)	North
7	Bridge 17 to Bridge 18 (E)	North
8	Bridge 17A to Bridge 18 (E)	North
9	Canal Mile 28 to Bridge 18A (W)	North
10	Bridge 20 to Bridge 21 (W)	North/South
11	Bridge 21 to Bridge 22 (W)	North/South
12	Bridge 10A to RR Bridge 3 (E)	South
13	Bridge 35 to Bridge 36 (W)	North
14	Bridge 28 to Bridge 29 (W)	North
15	Bridge 28 to Bridge 29 (W)	South
16	Bridge 33 to Bridge 34 (W)	North
17	Bridge 29 to Bridge 30 (W)	North
18	Bridge 32 to Aqueduct 6 (W)	North
19	Bridge 31 to Bridge 32 (W)	North
20	Bridge 39 to Bridge 40A (W)	South
21	Bridge 15 to Bridge 16 (E)	North
22	Bridge 18A to Bridge 19 (W)	North/South
23	Bridge 19 to Bridge 20 (W)	North/South
24	Bridge 25 to Bridge 26 (W)	North
25	Bridge 30 to Bridge 31 (W)	North
26	Bridge 34 to Bridge 35 (W)	North

*Priorities may change over time.

**Denotes: (W) West Branch of Canal
(E) East Branch of Canal
(F) Feeder Canal

Appendix B

*Proposed Components of the Embankment Rehabilitation Actions
Which Require No Further Coordination*

Seeding and Bedding
Spot Ripraping and Grading
Debris Removal and Vegetation Clearing
Crushed Stone Embankment Surface
Shaping, Filling, and Grading Towpath
Repairing, Crown Widening, and Raising To Typical Cross-Sections
Dredging Within Existing Canal Prism for Soil Borrow

Appendix C

*Proposed Components of the Embankment Rehabilitation Actions
Which Require Further Review*

New Embankment Alignment With Towpath
Embankment with Benched (Atypical) Towpath
Land Soil Borrow

Advisory Council On Historic Preservation

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

JAN 30 1996

Mr. Dudley M. Hanson
Chief, Planning Division
Rock Island District, Corps of Engineers
Clock Tower Building - P.O. Box 2004
Rock Island, Illinois 61204-2004

RE: Embankment Rehabilitation, Hennepin Canal
Bureau, Henry, Rock Island, and Whiteside Counties, Illinois


Dear Mr. Hanson:

The enclosed Programmatic Agreement for the referenced project has been executed by the Council. Execution of the Agreement and implementation of its terms completes the requirements of Section 106 of the National Historic Preservation Act and the Council's regulations. We suggest that you forward a copy of the Agreement to the Illinois State Historic Preservation Officer and the Illinois Department of Natural Resources.

Due to the partial shutdown of the Federal government, brought about first by the impasse between the Congress and the President over the budget and then by the recent snow emergency, the Council has been closed for nearly four weeks. We are redoubling our efforts to address the backlog of requests for Council comment, but for the time being we are experiencing delays.

We regret any inconvenience this may cause you. Thank you for your patience and cooperation.

Sincerely,



Donald I. Klima
Director
Eastern Office of Review

Enclosure