

PROGRAMMATIC AGREEMENT

Among the
U.S. Army Corps of Engineers Mississippi Valley Division,
St. Paul District, Rock Island District, and St. Louis District,
the U.S. Fish and Wildlife Service,
the Illinois, Iowa, Minnesota, Missouri, and Wisconsin State Historic Preservation Officers,
and the Advisory Council on Historic Preservation,
Regarding Implementation of the Upper Mississippi River-Illinois Waterway
System Navigation Feasibility Study

WHEREAS, the Mississippi Valley Division, and St. Paul, Rock Island, and St. Louis Districts, aforementioned all of the U.S. Army Corps of Engineers (hereafter, Corps), have determined, by the Upper Mississippi River - Illinois Waterway System Navigation Feasibility Study (Navigation Study), that the Illinois Waterway and the Upper Mississippi River exhibit delays in commercial navigation, and have proposed measures to reduce these delays, which may have great economic benefits to the Nation; and

WHEREAS, the alternative plans proposed by the Navigation Study to decrease tow/barge lockage time may include 600-foot lock extensions, 1,200-foot guidewall extensions with powered kevels, and mooring cells/buoys; as described in the public document, "Upper Mississippi River - Illinois Waterway System Navigation Study, Environmental Impact Statement," finalized by the Corps in the year 2004; and

WHEREAS, the site-specific details implemented for each lock and dam for the Navigation Study have not been finalized, and may change or be modified, because economical, operational, engineering, and environmental studies are ongoing; and

WHEREAS, the site-specific details implemented as environmental objectives of ecosystem sustainability alternatives and measures for the Navigation Study have not been fully finalized, and may change or be modified, because economical, operational, engineering, and environmental studies are ongoing; and

WHEREAS, the Corps has determined that implementation of any one or combination of the alternative plan(s), and other required changes or modifications necessary to construct these alternative plans may have adverse effects on cultural resources historic properties listed on, or eligible for listing on, the National Register of Historic Places (National Register), such properties hereafter referred to as "historic properties," and has consulted with the Advisory Council on Historic Preservation (Council), the U.S. Fish and Wildlife Service (FWS), and the Illinois, Iowa, Minnesota, Missouri, and Wisconsin State Historic Preservation Officers (SHPOs) pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470[f]), and Section 110(f) of the same Act (16 U.S.C. 470h-2[f]); and

WHEREAS, pursuant to Sections 800.3 and 800.8 of the Council's regulations, and to meet the Corps' responsibilities under the National Environmental Policy Act of 1969, the Corps has contacted 70 Native American Indian Tribes (Tribes), Tribal Historic Preservation Officers (THPOs), and other Native Americans (**Tribal Distribution List**) that may have an interest in the effects of this project on historic properties, and the ongoing effort of the Corps to identify traditional cultural properties or sacred sites which may be potentially affected by this undertaking.

WHEREAS, pursuant to Section 800.3 and 800.8 of the Council's regulations, and to meet the Corps' responsibilities under the National Environmental Policy Act of 1969, the Corps has developed an **Interested Party List** which includes the **Tribal Distribution List** developed in consultation with the SHPOs/THPOs, Tribes, and other parties that may have an interest in the effects of this undertaking on historic properties [Those on the **Interested Party List** will be provided with study newsletters, public meeting announcements, special releases, and notifications of the availability of report(s), including all draft agreement documentation, as stipulated by 36 CFR Part 800.14(b)(ii) of the National Historic Preservation Act. Comments received by the Corps will be distributed to the consulting parties to this Agreement and taken into account in finalizing plans for the undertaking]; and

WHEREAS, the Corps has provided scholarly evidence of stewardship in the recordation, protection, and management of historic properties along the Upper Mississippi River and Illinois Waterway System through systemic research and studies which have been finalized and approved, then placed in the permanent files of the Corps and appropriate SHPO(s) as evidence of compliance promulgated under Section 106 of the National Historic Preservation Act, as amended, and its implementing regulation 36 CFR Part 800: "Protection of Historic Properties," [These studies include: (1) archeological studies (management of documented and undocumented historic properties), (2) architectural and engineering studies (buildings, structures, and objects associated with Multiple Property National Register Districts), (3) erosion studies (priority to areas impacted by commercial navigation), (4) land form sediment assemblage studies (geomorphology), (5) site-specific studies (lock and dam potential effects and effects to archeology sites), and (6) submerged historic property study (historic shipwrecks and other underwater or previously inundated historic properties)]; and

WHEREAS, the Corps has determined that the Navigation Study may affect historic properties, including the National Register-eligible Multiple Property Districts **Upper Mississippi River Navigation Project, 1931-1948** and **Illinois Waterway Navigation Facilities**;

NOW, THEREFORE, the Corps, the Council, the FWS, and the SHPOs agree that the site-specific details implemented for each lock and dam for the Navigation Study and ancillary undertakings shall be implemented in accordance with the following stipulations to satisfy the Corps' Section 106 and 110 responsibilities for all individual and cumulative actions:

I. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

The Corps will ensure that the following measures are implemented:

A. The Corps will take appropriate measures necessary to discover, preserve, and avoid historic properties, burials, cemeteries, or sites likely to contain human skeletal remains/artifacts and objects associated with interments or religious activities, and provide this information, studies, and/or reports to the appropriate consulting parties. Under consultation with the appropriate SHPO(s)/THPO(s), the Corps will describe and define the Area of Potential Effect (hereafter referred to as the APE) in accordance with the definition contained in 36 CFR Part 800.16(d). The APE may be modified upon consultation with the appropriate SHPO(s)/THPO(s) through avoidance documented through the implementation surveys and testing of cultural and traditional resources, recordation of historic properties, documentary research, conducting research, and data collection, and/or other necessary avenues of investigation.

B. Unless recent and modern ground surface disturbances and/or historic use can be documented by the Corps that historic properties will not be adversely affected, in consultation with the appropriate SHPO/ THPO, the FWS, and/or other consulting parties determines that there is a likelihood that historic properties will be adversely affected, the Corps will then conduct a cultural and traditional resource (intensive and/or extensive reconnaissance) survey in the following:

1. All new and expanded dredged material placement sites or construction staging areas;
2. Areas of bank erosion that have been prioritized in management reports and environmental documents, which have previously received concurrence in consultation with the appropriate SHPOs;
3. Areas with the documented potential for containing submerged historic properties (e.g. shipwrecks, inundated archeological sites, water controlling structures, and etc.); and,
4. All other areas indirectly and directly affected by construction, use, maintenance, and operation during the implementation of the measures, alternatives, or any ancillary construction proposed by the Navigation Study, ecosystem restoration, or associated mitigation.

C. The Corps will ensure that all reconnaissance surveys and subsurface testing are conducted in a manner consistent with the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation (48 FR 44720-23) and that they take into account the National Park Service publication The Archaeological Survey: Methods and Uses (1978) and any extant or most recent version of state or Tribal guidelines for historic properties reconnaissance surveys/reports, related guidance, etc. The reconnaissance surveys and subsurface testing will be implemented by the Corps and coordinated with the FWS, the appropriate SHPO(s)/ THPO(s), and/or any other consulting parties.

D. In consultation with the appropriate SHPO, and as appropriate, the FWS and THPO(s), the Corps will evaluate the historic significance of all cultural and traditional resources within their appropriate contexts and determine their eligibility for listing in the National Register by applying the National Register criteria (36 CFR Part 60.4). The following stipulation shall apply concerning the National Register evaluations of historic properties.

1. Consultation concerning the National Register-eligible Multiple Property Districts **Upper Mississippi River Navigation Project, 1931-1948** and **Illinois Waterway Navigation Facilities** will be with the appropriate SHPO of the state in which the Control Station at each lock and dam facility multiple property district is located.

2. For those properties that the Corps, the FWS, and the appropriate SHPO(s)/THPO(s) agree are not eligible for inclusion in the National Register, no further investigations will be required, and the project may proceed in those areas.

3. If the survey results in the identification of properties that the Corps, the FWS, and the appropriate SHPO(s)/THPO(s) agree are eligible for inclusion on the National Register, the Corps shall treat such properties in accordance with Part II below.

4. If the Corps, the FWS, and the appropriate SHPO(s)/THPO(s) do not agree on National Register eligibility, or if the Council or the National Park Service so request, the Corps will request a formal determination of eligibility from the Keeper of the National Register, National Park Service, whose determination shall be final.

5. To facilitate tribal coordination and identify traditional cultural properties, the Corps has provided all parties on the **Tribal Distribution List** with the National Register Bulletin 38, "*Guidelines for Evaluating and Documenting Traditional Cultural Properties.*" Relative to the treatment of historic properties, the Corps will continue to provide the appropriate Tribe(s) and the THPO(s) information related to treatment or avoidance measures proposed by the Corps. Consideration of comments received by the Corps can be considered by the signatories to be measures to assist the Corps in meeting its responsibilities under the National Historic Preservation Act of 1966, as amended (Public Law 89-665), and the regulations of the Advisory Council on Historic Preservation "Regulations for the Protection of Historic and Cultural Properties" (36 CFR, Part 800).

II. MANAGEMENT OF HISTORIC PROPERTIES

Those individual historic properties, and multiple property districts that are listed on the National Register of Historic Places, or that the Corps, the FWS, and the appropriate SHPO(s)/THPO(s) agree are eligible for nomination to the National Register, or that the Keeper has determined are eligible for inclusion on the National Register, will be treated by the Corps in the following manner:

A. Management of above-ground historic structures (historic Corps locks and dams, associated buildings, structures and other such properties): The Corps shall provide the following information to the appropriate SHPO of the state in which the Control Station at each lock and dam facility is located on:

1) the modifications planned for the historic components of the locks and dams, associated buildings, structures and other associated properties, and

2) its determination whether such modifications will affect the historic components of the locks and dams, associated buildings, structures and other associated properties, and

3) proposed treatment or mitigation measures the Corps believes may avoid, reduce, or mitigate any such adverse effects.

B. SHPO Review: The appropriate SHPO shall review the information provided by the Corps pursuant to Stipulation IIA of this Agreement and within 30 days of receipt of adequate information shall provide the Corps with its opinion whether the proposed treatment or mitigation measures are adequate to address the adverse effects. Any disagreements shall be handled in accordance with Stipulation VI of this Agreement.

C. FWS Activities: FWS shall follow the standard Section 106 process as set forth in the Advisory Council on Historic Preservation's regulations at 36 CFR Part 800 for all its undertakings identified in this Agreement.

D. Public documentation: In consultation with the SHPOs and THPOs, the Corps Districts will work together to produce and promote pamphlets, films, books, and other public and scholarly research on the history and significance of the Upper Mississippi River/Illinois Waterway, and the waterway systems facilities, and controlling works.

E. Treatment of below-ground historic archaeological properties:

1. As it carries out its activities under this Agreement, the Corps' first priority shall be to avoid where practicable archaeological properties that have been determined to be eligible for inclusion to the National Register, and preserve them in place.

2. If the Corps determines, in consultation with the FWS and appropriate SHPO(s)/THPO(s) (and any Indian tribes that may not have a THPO) that an archaeological property cannot be avoided and will be adversely affected, it shall consult further to determine appropriate treatment. Treatments may include, but are not limited to, various levels of data recovery, recordation, public interpretative and educational documentation, and active protection measures.

3. If data recovery or recordation is the agreed upon treatment, the Corps will consult with the FWS and the appropriate SHPO(s)/THPO(s) (and any other Indian tribes that may not have a THPO) to develop a data recovery plan to address adverse effects. The data recovery plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-37) and take into account the Council's publication, Treatment of Archaeological Properties (Advisory Council on Historic Preservation, 1980) and appropriate SHPO(s)/THPO(s) guidance. It will specify, at a minimum, the following:

a. The property, properties, or portions of properties where the treatment plan is to be carried out;

b. The research questions to be addressed, with an explanation of research relevance and importance;

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

d. Proposed methods of disseminating results of the work to the interested public, Tribes, and professional archaeological community, and,

e. A proposed schedule for the submission of progress reports to the FWS and the appropriate SHPO(s)/THPO(s).

4. The Corps will submit the data recovery plan to the FWS and appropriate SHPO(s)/THPO(s) (and any Indian tribes that may not have a THPO) for 30 days' review and comment. The Corps will take into account their comments, and will ensure that the data recovery plan is implemented. The FWS, the appropriate SHPO(s)/THPO(s), and Tribes may monitor this implementation.

5. The Corps will ensure that the data recovery plan is carried out by or under the direct supervision of an archaeologist(s), historian(s), architectural historian(s) and/or other appropriate cultural resource specialist that meets, at minimum, the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9).

6. The Corps will ensure that adequate provisions, including personnel, time, funding, and laboratory space are available for the analysis and professional, permanent, curation of recovered materials from historic properties.

7. The Corps will develop and implement an adequate program in consultation with the FWS and the appropriate SHPO(s)/THPO(s) to secure archaeological historic properties from vandalism during data recovery.

III. TREATMENT OF HUMAN REMAINS, FUNERARY OBJECTS, SACRED OBJECTS, OR OBJECTS OF CULTURAL PATRIMONY, AND CURATED ITEMS

A. When human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered or collected, the Corps, if not inconsistent with Federal law or regulation, will comply with all provisions outlined in the appropriate state acts, statutes, guidance, provisions, etc., and any decisions regarding the treatment of human remains will be made recognizing the rights of lineal descendants, Tribes, and other Native American Indians and under consultation with the FWS, the SHPO(s)/THPO(s), designated Tribal Coordinator, and/or other appropriate legal authority for future and expedient disposition or curation. When human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered or collected from Federal lands or federally recognized tribal lands, the Corps will coordinate with the appropriate federally recognized Native Americans, as promulgated by the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. § 3001 *et seq.*).

B. Collected artifacts, samples, and other physical objects will be returned to the landowner, unless the landowner waives rights to the United States Government. In consultation with the FWS and the appropriate SHPO(s)/THPO(s), the Corps will ensure that all artifacts, samples, and other physical objects donated or obtained from lands of the United States Government, with related and associated research materials and records resulting from the implementation of this Agreement, are curated at a repositories within their respective States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin in accordance with 36 CFR Part 79.

IV. REPORTS

The Corps will ensure that all final reports and supporting documentation resulting from the actions pursuant to this Agreement will be provided in a format acceptable to the appropriate SHPO(s)/THPO(s). The Corps will ensure that all such reports are responsive to contemporary standards, and to the Department of the Interior's Format Standards for Final Reports of Data Recovery (42 FR 5377-79). Precise locations of historic properties may be provided only in a separate appendix if it appears that the release of this data could jeopardize historic properties. Locations of traditional cultural properties or sacred sites, consisting of architectural, landscapes, objects, or surface or buried archaeological sites, identified in coordination with Tribes and THPO(s), will be considered to be sensitive information and to the extent allowed by Federal law the Corps will not make this information available to the public. The Corps will make available the reports and associated data to the extent allowed by Federal law for publication and public dissemination, minus precise aforementioned locational and sensitive information.

V. PROVISION FOR POST-REVIEW DISCOVERIES

In accordance with 36 CFR Section 800.13, if previously undetected or undocumented cultural or traditional resources are discovered during project activities, the Corps will cease, or cause to stop, any activity having an effect and consult with the FWS, the appropriate SHPO(s)/THPO(s) to determine if additional investigation is required. If further archaeological investigations are warranted or required, any treatment plan will be performed by the Corps in accordance with Part II - TREATMENT OF HISTORIC PROPERTIES, Part III - TREATMENT OF HUMAN REMAINS, FUNERARY OBJECTS, SACRED OBJECTS, OR OBJECTS OF CULTURAL PATRIMONY, AND CURATED ITEMS, Part IV - REPORTS, and Part V - PROVISION FOR POST-REVIEW DISCOVERIES, all of this Agreement. If the Corps, the FWS, the appropriate SHPO(s)/THPO(s), and any state authority with legal jurisdiction over the discovery determine that further investigation is not necessary or warranted, activities may resume with no further action required. Any disagreement between the Corps, the FWS, and the appropriate SHPO(s)/THPO(s) concerning the need for further investigations will be handled pursuant to Part VI - DISPUTE RESOLUTION of this Agreement.

VI. DISPUTE RESOLUTION

Should the FWS, the appropriate SHPO(s)/THPO(s) or the Council object within 30 days to any plans or actions provided for review pursuant to this Agreement, the Corps will consult with the objecting party to resolve the objection. If the Corps determines that the disagreement cannot be resolved, the Corps will request further comment from the Council in accordance with the applicable provisions of 36 CFR Part 800.7. The Corps, in accordance with 36 CFR Part 800.7(c)(4), will take any Council comment provided in response into account, with reference only to the subject of the dispute. The Corps' responsibility to carry out all actions under this Agreement that are not the subjects of the dispute will remain unchanged.

VII. TERMINATION

Any of the signatories to this Agreement may request a reconsideration of its terms or revoke the relevant portions of this Agreement upon written notification to the other signatories, by providing 30 days' notice to the other signatories, provided that these signatories will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. This agreement shall be null and void if its terms are not carried out by January 20, 2012, unless the signatories agree in writing to an extension for carrying out its terms. In the advent of termination, the Corps will comply with 36 CFR Parts 800.3 through 800.7 with regard to individual undertakings covered by this Agreement.

VIII. AMENDMENTS

Any signatories to this Agreement may request that it be amended, whereupon the other signatories parties will consult in accordance with 36 CFR Part 800.13 to consider such amendment. Amendments to this agreement shall be adopted upon written consensus of the signatories and shall be incorporated as an appendix to the original agreement.

IX. REPORTING AND PERIODIC REVIEW

The Corps will provide the FWS and the SHPO(s)/THPO(s) with evidence of compliance with this Agreement in site-specific reports pursuant to the National Environment Policy Act, promulgated under implementing regulations on tiering of environmental documents, specifically 40 CFR Part 1502.20 and Part 1508.28. These documentations shall contain this Agreement and the title of all final reports generated by this Agreement with the name of the project, historic properties identified, determinations of effect, avoidance procedures, level of investigation(s) and/or mitigation(s) conducted with titles of all project reports related to such investigation(s) and/or mitigation(s) which have been completed. This documentation will be provided to the FWS, appropriate SHPO(s)/THPO(s), any interested and consulting parties, and those on the **Interested Party List**, and they will be notified of the availability of report(s), including all draft agreement documentation, as stipulated by 36 CFR Part 800.14(b)(ii) of the National Historic Preservation Act. Based upon the review and coordinating process, the Corps, the FWS, the SHPO(s)/ THPO(s), and the Council can determine whether the Agreement shall continue in force, be amended, or terminated. On January 20, 2012, the Corps will provide the FWS and the SHPO(s)/THPO(s) a review report of the overall Navigation Study to determine this Agreement's effectiveness, accuracy, and economy.

X. EXECUTION AND IMPLEMENTATION

A. Nothing in this Agreement is intended to prevent the Corps from consulting more frequently with the FWS, the appropriate SHPO(s)/THPO(s), the Council, or other consulting parties concerning any questions that may arise or on the progress of any actions falling under or executed by this Agreement. Any resulting modifications to this Agreement will be coordinated in accordance with Section 800.5(e)(5).

B. The undersigned concur that the Corps has satisfied its Section 106 responsibilities for all individual undertakings through this Agreement regarding the implementation of the alternative plans for reducing delays to commercial navigation implemented as a result of the Navigation Study.

XI. FISCAL LAW REQUIREMENT

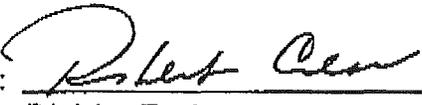
The Undertaking, including stipulations of this Agreement, is subject to provisions of the Antideficiency Act (31 U.S.C. § 1341). The unavailability of funds shall not relieve the Corps from its obligation to perform those Section 106 responsibilities set forth in the programmatic agreement.

XII. SIGNATORIES TO PROGRAMMATIC AGREEMENT

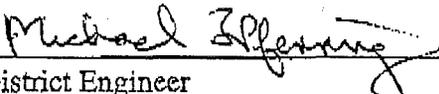
Among the

U.S. Army Corps of Engineers Mississippi Valley Division,
St. Paul District, Rock Island District, and St. Louis District,
Illinois, Iowa, Minnesota, Missouri, and Wisconsin State Historic Preservation Officers,
and Advisory Council on Historic Preservation,
Regarding Implementation of the Upper Mississippi River-Illinois Waterway
System Navigation Feasibility Study

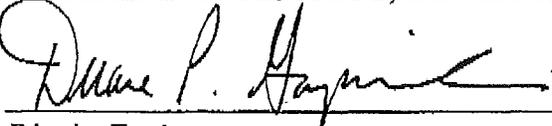
A. MISSISSIPPI VALLEY DIVISION, U.S. ARMY CORPS OF ENGINEERS:

BY:  Date: 31 Aug 04
Division Engineer
U. S. Army Corps of Engineers
Mississippi Valley Division

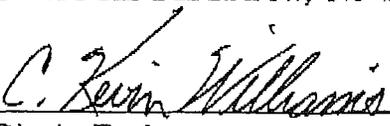
B. ST. PAUL DISTRICT, U.S. ARMY CORPS OF ENGINEERS:

BY:  Date: 26 Aug 04
District Engineer
U. S. Army Corps of Engineers
St. Paul District

C. ROCK ISLAND DISTRICT, U.S. ARMY CORPS OF ENGINEERS:

BY:  Date: 23 AUG 04
District Engineer
U. S. Army Corps of Engineers
Rock Island District

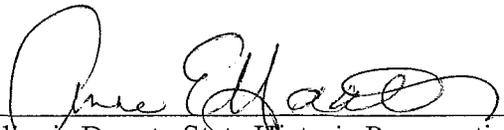
D. ST. LOUIS DISTRICT, U.S. ARMY CORPS OF ENGINEERS:

BY:  Date: 27 Aug 04
District Engineer
U. S. Army Corps of Engineers
St. Louis District

E. U.S. FISH AND WILDLIFE SERVICE:

BY:  Date: AUG 25 2004
Regional Director
Region 3

F. ILLINOIS STATE HISTORIC PRESERVATION OFFICER:

BY:  Date: Sept. 9, 2004
Illinois Deputy State Historic Preservation Officer
Illinois Historic Preservation Agency

G. IOWA STATE HISTORIC PRESERVATION OFFICER:

BY:  Date: August 24, 2004
Iowa Deputy State Historic Preservation Officer
State Historical Society of Iowa

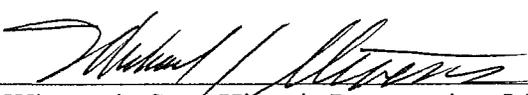
H. MINNESOTA STATE HISTORIC PRESERVATION OFFICER:

BY:  Date: 8/30/04
Minnesota State Historic Preservation Officer
Minnesota Historical Society

I. MISSOURI STATE HISTORIC PRESERVATION OFFICER:

BY: _____ Date: _____
Missouri Deputy State Historic Preservation Officer
Department of Natural Resources

J. WISCONSIN STATE HISTORIC PRESERVATION OFFICER:

BY:  Date: 9/8/04
Wisconsin State Historic Preservation Officer
State Historical Society

K. ADVISORY COUNCIL ON HISTORIC PRESERVATION:

BY: _____ Date: _____
Executive Director
Advisory Council on Historic Preservation

DESCRIPTION OF THE STUDY AREA

The study area encompassed by the Upper Mississippi River-Illinois Waterway (UMR-IWW) System Feasibility Study comprises the Upper Mississippi River and Illinois Waterway and lies within portions of Illinois, Iowa, Minnesota, Missouri, and Wisconsin (see attached map). The Upper Mississippi River extends from the confluence with the Ohio River, River Mile 0.0, to Upper St. Anthony Falls Lock in Minneapolis-St. Paul, Minnesota, River Mile 854.0. The Illinois Waterway extends from its confluence with the Mississippi River at Grafton, Illinois, River Mile 0.0, to T. J. O'Brien Lock in Chicago, Illinois, River Mile 327.0. The Upper Mississippi River-Illinois Waterway navigation system contains 1,200 miles of 9-foot-deep channels, 37 lock and dam sites, and thousands of channel training structures. The system is commonly broken into four broad regions including the Upper Impounded Reach (Navigation Pools 1-13), Lower Impounded Reach (Pools 14-26), Middle Mississippi River (Lock and Dam 26 to the mouth of the Ohio River), and the Illinois Waterway.

The Upper Mississippi River - Illinois Waterway ecosystem includes the river reaches described above, as well as the floodplain habitats that are critically important to large river floodplain ecosystems. The ecosystem under study includes the Upper Mississippi River and Illinois Waterway main stem floodplains, confluences of the major tributaries, and the navigational reaches of the St. Croix, Black, Minnesota, and Kaskaskia Rivers. The total acreage of the river-floodplain system exceeds 2.5 million acres of aquatic, wetland, forest, grassland, and agricultural habitats. The Mississippi Flyway is used by more than 40 percent of the migratory waterfowl traversing the United States. These Trust Species and the Threatened and Endangered Species in the region are the focus of considerable Federal wildlife management activities. In the middle and southern portions of the basin, the habitat provided by the mainstem rivers represents the most important and abundant habitat in the region for many species.

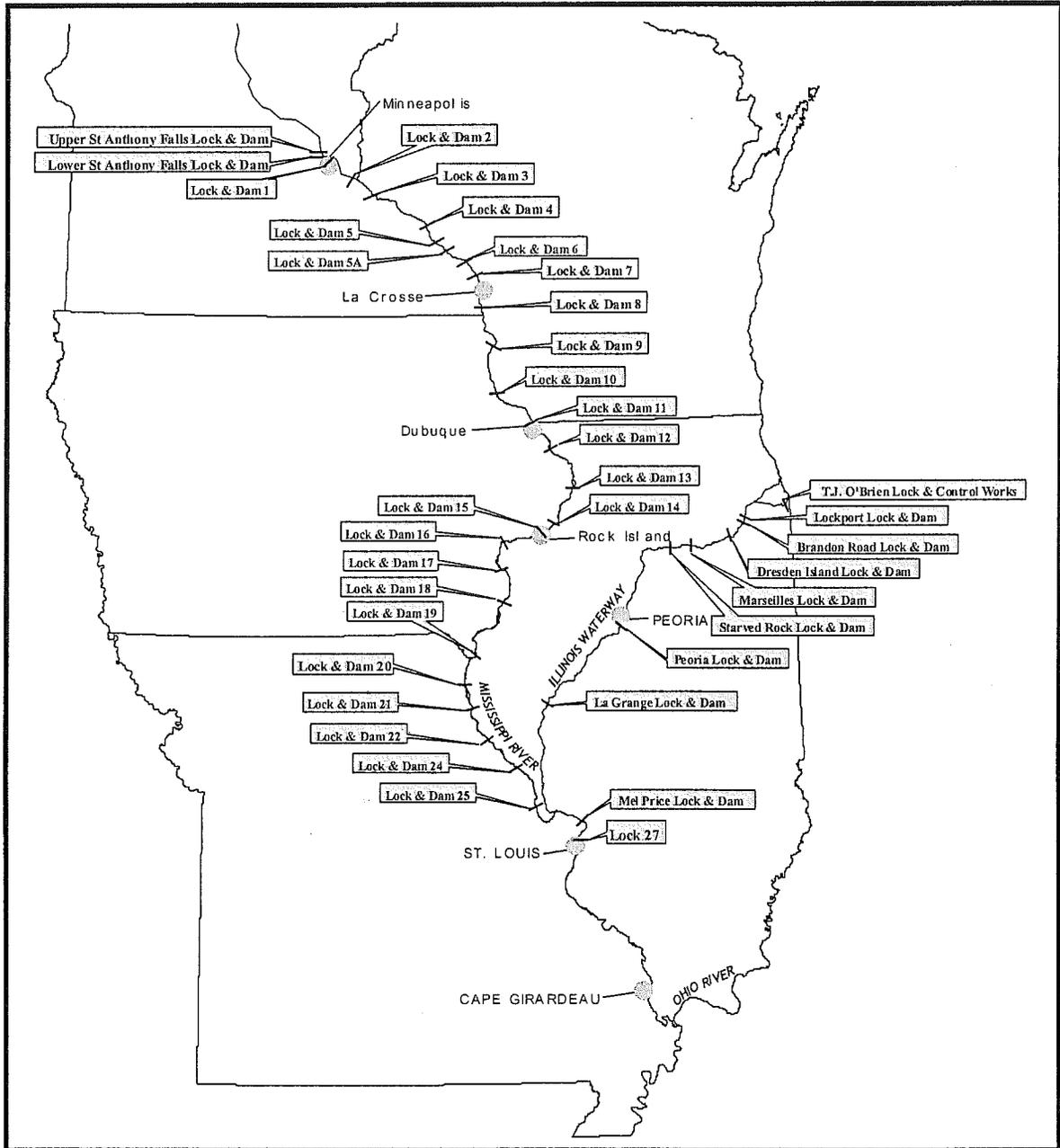
The total Illinois Waterway and Mississippi River Navigation System contains 37 lock and dam sites (43 locks), over 650 manufacturing facilities, terminals, and docks, and provides valuable habitat and recreational opportunities. The system provides the following:

1. A means for shippers to transport millions of tons of commodities within the study area – 122 million tons on the Mississippi River and 44 million tons on the Illinois Waterway in 2000;
2. Food and habitat for at least 485 species of birds, mammals, amphibians, reptiles, and fish (including 10 federally endangered or threatened species and 100 state listed species);
3. Almost 285,000 acres of National Wildlife and Fish Refuge;
4. Water supply for 22 communities and many farmers and industries;
5. A multi-use recreational resource providing more than 11 million recreational visits each year; and,
6. Cultural evidence of our Nation's past.

The (PA) entitled: **PROGRAMMATIC AGREEMENT** Among the U.S. Army Corps of Engineers Mississippi Valley Division, St. Paul District, Rock Island District, and St. Louis District, U.S. Fish and Wildlife Service, the Illinois, Iowa, Minnesota, Missouri, and Wisconsin State Historic Preservation Officers, and the Advisory Council on Historic Preservation, Regarding Implementation of the Upper Mississippi River-Illinois Waterway System Navigation Feasibility Study meets the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations 36 CFR Part 800: "Protection of Historic Properties," and is appropriate to address potential concerns to any significant historic properties potentially affected by the UMR-IWW Feasibility Study.

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Upper Mississippi River Navigation and Illinois Waterway System Facility Locations

May 20, 2004

In reply refer to:
R&C#: 991100031

Mr. Ron Deiss
Economic and Environmental Analysis Branch
Corps of Engineers – Rock Island District
Clock Tower Building P.O. Box 2004
Rock Island, IL 61204-2004

RE: COE – MULTIPLE COUNTIES – UPPER MISSISSIPPI RIVER NAVIGATION IMPROVEMENTS STUDY
– FORMAL INITIATION OF CONSULTATION, PROGRAM & ACTIVITIES DESCRIPTION,
GENERAL AREA OF POTENTIAL EFFECTS, AND DRAFT PROGRAMMATIC AGREEMENT –
DRAFT INTEGRATED FEASIBILITY REPORT AND PROGRAMMATIC ENVIRONMENTAL
IMPACT STATEMENT (UMR-IWW SYSTEM NAVIGATION FEASIBILITY STUDY)

Dear Mr. Deiss,

We are writing in response to the Corps' May 3, 2004 letter requesting our comments concerning the draft of the Corps' *Integrated Feasibility Report and Programmatic Environmental Impact Statement for the UMR-IWW System Navigation Feasibility Study*. More specifically the Corps has requested our review and comments on the most recent version of the programmatic agreement addressing compliance with the National Historic Preservation Act during implementation of the undertaking.

We have completed our review of this document and find its terms agreeable. However, we have identified a few technical errors, which you may wish to correct before circulating the final draft for signature. We also offer suggestions in wording to provide greater clarification.

Item 1, page 3, paragraph I.A. Remove the hyphen from 'con-sultation.'

Item 2, page 3, par. I.B. Change '....determines that *their* is...' to 'there.'

Item 3, page 4, par. I.C. Check the spelling of 'Archaeological' in citation of National Park Service publication. Actual spelling probably follows the federal spelling 'archeology.'

Item 4, page 4, par. I.C. Change '...version of appropriate SHPO(s)/THPO(s) guidelines...' to "...version of appropriate state or Tribal guidelines....". The *Guidelines for Archaeological Investigation in Iowa* were not developed by the SHPO, but by the archaeological community in consultation with various stakeholders. This may be true of other states as well.

Item 5, page 4, par. I.D. Change '...the Corps will evaluate for eligibility all significant cultural and traditional resources by applying the National Register criteria...' to '...the Corps will evaluate the historic significance of all cultural and traditional resources within their appropriate contexts and determine their eligibility for listing in the National Register by applying the National Register Criteria.'

Item 6, page 7, par. V. Change 'If both the Corps and the appropriate SHPO(s)/THPO(s) determine that further investigation is not necessary or warranted...' to 'If the Corps, the appropriate SHPO(s)/THPOs and any State authority with legal jurisdiction over the discovery determine that further investigation is not necessary or warranted...' The State Archaeologist of Iowa has statutory authority over the unanticipated discovery of human remains over 150 years in age; while the Department of Health and Sanitation has jurisdiction over human remains that are less than 150 years in age.

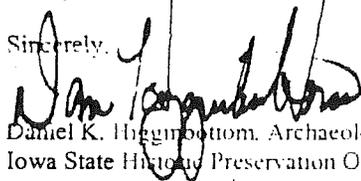
Item 7, page 8, par. VIII. Add 'Amendments to the agreement shall be adopted upon written consensus of the signatories and shall be incorporated as an appendix to the agreement.' This provides for formal documentation of amendments to the original agreement.

Item 8, page 8, par. IX. Revise 'These documentations shall *contained*...' to 'This documentation shall *contain*...'

Item 9, page 9, par. X. Revise 'Nothing in this Agreement is intended to prevent the Corps from consulting more frequently with the appropriate SHPO(s)/THPO(s), the Council, or *other consulting parties*...'

We look forward to receiving the final draft for signature. I can be reached at (515) 281-8744 if you have any questions or require further assistance.

Sincerely,



Daniel K. Higginbottom, Archaeologist
Iowa State Historic Preservation Office

Deiss, Ronald W MVR

To: Tom McCulloch
Subject: RE: final draft PA

-----Original Message-----

From: Tom McCulloch [mailto:tmcculloch@achp.gov]

Sent: Tuesday, August 17, 2004 2:57 PM

To: Deiss, Ronald W MVR

Subject: Re: final draft PA

Ron, here is a revised MOA Stipulation II language. See if this works for you. tom

Tom McCulloch, Ph.D., R.P.A.
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