

**MEMORANDUM OF AGREEMENT
BETWEEN THE
U.S. ARMY CORPS OF ENGINEERS, ROCK ISLAND DISTRICT,
ILLINOIS HISTORIC PRESERVATION AGENCY,
ILLINOIS DEPARTMENT OF NATURAL RESOURCES,
YORKVILLE/BRISTOL SANITARY DISTRICT, AND THE
YOUTH CAMP ASSOCIATION DISTRICTS 12 & 13
CONCERNING BLACKBERRY CREEK DAM SITE (11KE433)
LOCATED IN YORKVILLE, KENDALL COUNTY, ILLINOIS**

WHEREAS, the U.S. Army Corps of Engineers (Corps) Rock Island District has consulted with the Advisory Council on Historic Preservation (ACHP); the Illinois Historic Preservation Agency (IHPA); the Illinois Department of Natural Resources (IDNR); and 372 consulting parties, including 47 federally-recognized tribes (Consulting Parties) concerning the Illinois River Ecosystem Restoration Feasibility Study (finalized as the *Illinois River Basin Restoration Comprehensive Plan*, March 2007), authorized by Section 216 of the 1970 Flood Control Act and Section 519 (Illinois River Basin Restoration) of the Water Resources Act of 2000, in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA Act); and

WHEREAS, the Corps has consulted with the ACHP, IHPA, IDNR and Consulting Parties about the Blackberry Creek Critical Restoration Project specifically mentioned for site-specific restoration in the *Illinois River Basin Restoration Comprehensive Plan*; and

WHEREAS, the Corps, ACHP, IHPA, and IDNR have executed the *Programmatic Agreement Among the Chicago, Rock Island, and St. Louis Districts of the U.S. Army Corps of Engineers, the State of Illinois Department of Natural Resources, the Illinois State Historic Preservation Officer, and the Advisory Council on Historic Preservation, Regarding Implementation of the Illinois River Ecosystem Restoration* for the protection of historic properties pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing section 106 of the NHPA (16 U.S.C. 470[f]), and Section 110(f) of the same Act (16 U.S.C. 470h-2[f]); and

WHEREAS, the Corps conducted a Phase I Reconnaissance and survey of the area of potential effect for the Blackberry Creek Critical Restoration Project that is documented in the *Final Report: Phase I Archaeological, Architectural, and Geomorphological Survey for the Blackberry Creek Site Specific Projects, Illinois River Ecosystem Restoration, Yorkville, Kendall County*, by Illinois State Museum, Quaternary Studies Program, Springfield, Illinois, dated March 2003 (Illinois State Museum Society Archaeological Survey Report No. 2002-1563-34). The IHPA concurred with the draft report by letter dated February 7, 2003 (IHPA Log #0212200011K-F, located in Appendix C of the final report). This report documents the National Register of Historic Places (NRHP) eligibility of 11KE433, referred to as the Blackberry Creek Dam Site, and a final copy was provided to the IHPA for their permanent files. The location of site 11KE433 is as follows:

Blackberry Creek Dam Site Universal Transverse Mercator (Zone 16) Coordinates

(in meters)

Northernmost point: 4611664 N, 378995 E
Easternmost point: 4611413 N, 379231 E
Southernmost point: 4611215 N, 379154 E
Westernmost point: 4611336 N, 378801 E

WHEREAS, the Corps and the IDNR agree that the proposal to restore ecological connectivity to the Fox River with the greatest cost/benefit ratio and least environmental impacts requires the removal of Blackberry Creek Dam and alterations to the associated mill pond components of 11KE433, which has been determined eligible for listing on the NRHP, constitutes an adverse effect as defined in 36 CFR 800.5 (a) of the rules that govern the Act; and

WHEREAS, the Corps will prepare an Environmental Assessment in compliance with 1) National Environmental Policy Act of 1969 (NEPA); 2) sections 401 and 404 of the Clean Water Act; 3) Council of Environmental Quality, *Regulations for Implementing NEPA*, 40 CFR Parts 1500-1508; and 4) Engineering Regulations 200-2-2, which will provide documentation and documentation justification of the removal of the Blackberry Creek Dam. This NEPA report will be provided to all signatories of this agreement documentation, the ACHP, IDNR DCH, and all other consulting parties, prior to implementation of the Blackberry Creek Critical Restoration Project.

WHEREAS, the Corps has consulted with the sole property owners of site 11KE18, determined to be the Youth Camp Association, Districts 12 & 13 and the Yorkville/Bristol Sanitary District, both of Yorkville, Illinois regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as a concurring parties, and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the Corps has notified the ACHP of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

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

STIPULATIONS

The Corps shall ensure that the following measures are carried out using *The Illinois Historic Preservation Guidance Standards and Guidance for Historical, Architectural, and Engineering Documentation: Illinois HABS/HAER Standards* (January 1999). The Corps will document site 11KE18 with a documentary Level III report with:

- 1) five 4x5 negative and five 5x7 print photography of the Blackberry Creek Dam and distinctive architectural features.
- 2) one 4x5 negative and one 5x7 print photography, of the general Blackberry Creek site/millpond distinctive context and setting.
- 3) one map depicting details of the site and general area, showing the locations of the photographer and direction of each photograph.
- 4) one plan of the dam and associated bridge abutments. The site plan will be presented on 8.5x11 archival bond paper.
- 5) one sketch drawing of the dam and one sketch drawing of the associated bridge abutments. CAD or suitable substitutions are acceptable in place of sketch drawings.
- 6) The Corps will award the IL HABS photography project to a consultant of its choice, provided the consultant is qualified to perform the work and agrees to meet IL HABS/HAER Standards.

- 9) No demolition of the Blackberry Creek Dam will be undertaken until the final Level III IL HABS/HAER photography is accepted in writing by the IHPA.

Execution of this Memorandum of Agreement and implementation of its terms evidences that the Corps has afforded IHPA an opportunity to comment on the Blackberry Creek Critical Restoration Project and site 11KE433, referred to as the Blackberry Creek Dam Site, and has taken into account the effects of the undertaking on the Blackberry Creek Dam and Mill Pond in compliance with the Act.

PRINCIPAL SIGNATORIES AND CONCURRING PARTIES

United States Army Corps of Engineers



Michael F. Clarke
Lieutenant Colonel
Commander & District Engineer

19 June 2009

Date

State of Illinois



Anne Haaker, Signatory
Deputy State Historic Preservation Officer
Illinois Historic Preservation Agency

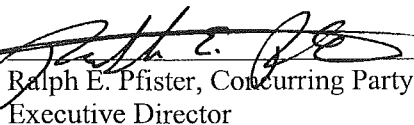
Aug. 19, 2009

Date

Mark Miller, Signatory
Director
Illinois Department of Natural Resources

Date

Yorkville/Bristol Sanitary District

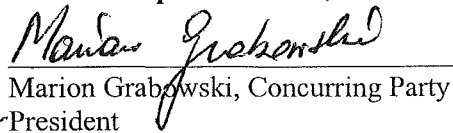


Ralph E. Pfister, Concurring Party
Executive Director

8-4-09

Date

Youth Camp Association, Districts 12 & 13



Marion Grabowski, Concurring Party
Vice-President

08-11-09

Date