

**MEMORANDUM OF AGREEMENT  
BETWEEN THE TENNESSEE VALLEY AUTHORITY  
AND THE  
ILLINOIS STATE HISTORIC PRESERVATION OFFICE  
CONCERNING  
SUGAR CAMP ENERGY MINE  
FRANKLIN COUNTY, ILLINOIS**

WHEREAS, the Tennessee Valley Authority (TVA) has determined that TVA's approval of the Sugar Camp Energy, LLC (SCE) mining plan may have an adverse effect upon Structure WPA No. 5711 "CULVERT" and the Cutright House "HOUSE", properties potentially eligible for inclusion in the National Register of Historic Places (NRHP), and has consulted with the Illinois State Historic Preservation Officer (IL SHPO) pursuant to Section 106 of the National Historic Preservation Act (NHPA) (17 U.S.C. § 470f) and the regulations (36 CFR Part 800) implementing the NHPA; and

WHEREAS, SCE has agreed to bear all reasonable costs incurred by TVA in implementing this Memorandum of Agreement (MOA), including the cost of evaluating the eligibility of the HOUSE and CULVERT for the NRHP, the cost of protecting the HOUSE through stabilization, and the cost of preparing documentation of the historic features of the CULVERT; and

WHEREAS, SCE has participated in this Section 106 consultation, and has been invited to be a signatory to this MOA; and

NOW, THEREFORE, TVA, SCE, and the IL SHPO agree that the undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

**I. STIPULATIONS**

TVA, in coordination with SCE and the IL SHPO, shall ensure that the following measures are carried out.

Cutright House

- A. Prior to subsidence impacts to the HOUSE, TVA and SCE shall evaluate the HOUSE and consult with the IL SHPO regarding the HOUSE's eligibility for listing on the NRHP.
- B. If the HOUSE is determined eligible for the NRHP, TVA and SCE shall implement Stipulation I.C.
- C. The HOUSE shall be protected during mining activities by stabilization. The stabilization plan shall be agreed upon in writing by the IL SHPO and implemented by SCE. After the mining activities have ended, the HOUSE shall be restored to its condition prior to the stabilization in consultation with the IL SHPO. Monitoring of the condition of the HOUSE shall be undertaken to detect any future subsidence. If such subsidence occurs, SCE, in consultation with the IL SHPO, shall develop and undertake a remediation plan.

WPA No. 5711

- D. Prior to subsidence impacts to the CULVERT, TVA and SCE shall evaluate the CULVERT and consult with the IL SHPO regarding the CULVERT's eligibility for listing on the NRHP.

- E. If the CULVERT is determined eligible for the NRHP, TVA and SCE shall proceed forward with Stipulations I.F.
- F. Prior to any mining activities that could cause subsidence impacts to the CULVERT, the CULVERT shall be recorded by the SCE in accordance with Stipulation I.F.1 - 5 and consistent with the Standards and Guidelines of the Illinois Historic American Engineering Record.
  - 1. Project area location map abstracted from appropriate 7.5 Minute USGS Quadrangle Map, submitted on 8.5x11" archival bond.
  - 2. Site Plan showing footprint of the extant CULVERT, surrounding terrain features and other man-made features within a 200-yard radius of the CULVERT. Site plan must be presented on 8.5 x 11-inch archival bond paper.
  - 3. Approximately ten (10) photographs of the subject CULVERT presenting approaches, elevations, and superstructure/substructure elements.
  - 4. Written architectural/engineering description of the subject culvert.
  - 5. Narrative contextual history of the CULVERT and other WPA culverts in Illinois.

The documentation shall be submitted to the IL SHPO on one hard copy and one gold compact disc for approval in writing prior to any subsurface disturbance in the area of the CULVERT.

- G. SCE shall submit all plans for ground-disturbing activities (e.g. stream drainage corrections, dredging, construction of berms) in areas overlying TVA-owned coal to TVA Cultural Compliance staff for further review and approval prior to implementation.

## **II. DURATION**

This MOA will be null and void if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, TVA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation V below.

## **III. MONITORING AND REPORTING**

Annually (September), following the execution of this MOA until it expires or is terminated, TVA shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes, any problems encountered, and any disputes or objections raised in the course of TVA's implementation of this MOA.

## **IV. DISPUTE RESOLUTION**

Should a dispute arise on the eligibility of a property identified under the MOA, TVA shall consult with the IL SHPO to resolve the objection. If TVA and the IL SHPO do not agree, or if the Advisory Council on Historic Preservation (ACHP) or Secretary so request, TVA shall obtain a determination of eligibility from the Keeper of the NRHP, pursuant to 36 CFR Part 63. Should any signatory or invited signatory object within thirty (30) days after receipt of any plans, specifications, contracts, or other documents provided for review pursuant to this MOA, TVA shall consult with the objecting party to

resolve the objection. If the objection cannot be resolved, TVA, or any other party, may seek guidance from the ACHP pursuant to 36 CFR § 800.2(b)(2). TVA will take into account ACHP comments in resolving the objection with reference to the subject dispute. The signatories are responsible for implementing all actions under this MOA that are not subject to dispute.

## **V. DISCOVERIES**

Immediately cease all ground-disturbing activities if any inadvertent discoveries of human remains or archaeological sites are made during construction on TVA-owned coal lease property. Sugar Camp must contact TVA's Cultural Compliance staff as soon as possible for coordination with tribal representatives and the IL SHPO for proper evaluation of the discovery. Ground-disturbing activities may not resume until appropriate notifications and actions have been taken, as determined by the IL SHPO, tribal representatives, and TVA's Cultural Compliance staff.

## **VI. 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.

Execution of this MOA by TVA and the IL SHPO, its subsequent submittal to the ACHP, and the implementation of its terms, demonstrate that TVA has taken into account the effects of the undertaking on historic properties.

SIGNATORY

TENNESSEE VALLEY AUTHORITY

By: *Anda A. Ray* DATE 4-28-11  
Anda A. Ray  
Senior Vice President and Senior Policy Official

SIGNATORY

ILLINOIS HISTORIC PRESERVATION AGENCY

By: Anne E Haaker DATE 5-3-11

Anne Haaker  
Deputy State Historic Preservation Officer  
Illinois State Historic Preservation Office

INVITED SIGNATORY:

SUGAR CAMP ENERGY, LLC

By: \_\_\_\_\_ DATE \_\_\_\_\_

Gary Miles  
Sugar Camp Energy, LLC