PROGRAMMATIC AGREEMENT
AMONG
THE DEPARTMENT OF ENERGY ARGONNE GROUP
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER
AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
CONCERNING MANAGEMENT OF HISTORICAL AND CULTURAL PROPERTIES AT ARGONNE NATIONAL LABORATORY-EAST

WHEREAS, the United States Department of Energy Argonne Area Office (DOE) proposes the continued operation, maintenance, research, development, waste management, decontamination/decommissioning, and restoration activities (herein referred to as "Activities") at Argonne National Laboratory-East (ANL-E) including all properties as set forth on the map attached as Figure 1 and have determined that many of these activities are undertakings as set forth in the regulations of the Advisory Council on Historic Preservation (Council) at 36 CFR Part 600.16(y), and many of these Activities will have an effect upon historic resources included in and eligible for inclusion in the National Register of Historic Places (National Register), and

WHEREAS, DOE has consulted with the Council and the Illinois State Historic Preservation Officer (SHPO) pursuant to Section 800.14 of the regulations (36 CFR Part 800) implementing Sections 106 and 110 of the National Historic Preservation Act (16 U.S.C. §§ 470f and 470h-2), and

WHEREAS, the origins of ANL-E lie with the beginning of the Cold War subsequent to the World War II Manhattan Project, and several of the scientific and highly technological facilities associated with the many significant atomic energy research and development activities that have taken place at ANL-E activities are still in existence and in use;

NOW, THEREFORE, the DOE, the Council, and the SHPO agree that the Activities at the ANL-E shall be administered in accordance with the following Stipulations to satisfy the DOE's responsibilities for compliance with Section 106 and Section 110 of the National Historic Preservation Act (NHPA) for all individual undertakings.

STIPULATIONS

The DOE shall ensure that the following measures are carried out.

I. DEVELOPMENT OF A MANAGEMENT PLAN FOR HISTORICAL AND CULTURAL RESOURCES (CULTURAL RESOURCES MANAGEMENT PLAN) FOR THE ARGONNE NATIONAL LABORATORY-EAST SITE

A. To ensure that historic and cultural resources receive full consideration during the Activities at ANL-E, the DOE shall develop and implement a Cultural Resources Management Plan (CRMP) for the ANL-E. The goal of the CRMP is to formally establish and document the means by which consideration of historic and cultural resources are integrated into the decision-making process for the Activities at the ANL-E. The CRMP will provide for the development and implementation of procedures, methods, and responsibilities for the identification of historic and cultural resources and determine appropriate treatments that

strike a balance between their historic and cultural significance, and the necessary DOE/ANL-E Activities that may impact them.

B. The CRMP shall be developed in consultation with the SHPO and the Council and DOE's Federal Preservation Officer. The CRMP will be prepared in accordance with the DOE's Environmental Guidelines for Development of Cultural Resources Management Plans, the Secretary of the Interior's Standards and Guidelines for Preservation Planning (48 FR 44716-20), the Section 110 Guidelines (52 FR 4727-46), the recommendations and conclusions contained in the Council's recent report to Congress, Balancing Historic Preservation Needs with the Operation of Highly Technical or Scientific Facilities, and will be consistent with the draft Council guidance document entitled Historical Resource Management Plans and other standards or guidelines prepared by the SHPO for Preservation planning.

C. Within 6 months after the effective date of this Agreement, the DOE will provide copies of the draft CRMP to the SHPO and the Council for 30 days' review and comment. Copies of the CRMP will also be provided to appropriate local governments and local preservation organizations for review and comment. Disagreements or questions about the draft CRMP will be resolved by the DOE through consultation among the parties to this Agreement in accordance with Section V. below. A summary of the CRMP and notice of availability of the CRMP will be provided to Indian tribal organizations that have expressed an interest in cultural resources at ANL-E.

D. The CRMP shall incorporate systematic surveys, inventories, and reviews (herein referred to as "Survey") of ANL-E when and as they are completed. The Survey (described below in Section II.) shall provide the initial foundation for determinations made to ensure compliance with Sections 106 and 110 of the NHPA.

II. CULTURAL RESOURCES SURVEY AND INVENTORY

A. DOE will conduct, or cause to be conducted, a Survey to identify significant historical properties located within the ANL-E. This Survey and other elements associated with the Survey listed below will be incorporated into the final CRMP. The Survey will be conducted in a manner consistent with Section 110 (a)(2) of the NHPA, the Department of Interior's Guidelines for Archeology and Historic Preservation (48 FR 44716, September 29, 1983), and applicable DOE standards.

B. The Survey shall be initiated as soon as practicable after the effective date of this Agreement and will be conducted in a phased approach. Existing information such as previous survey data, photographs, maps, drawings, building plans, descriptions, sketches, etc., shall be used where possible and appropriate (photographs, drawings, and building plans may not be available in some situations due to security classification priorities) along with new data and material developed by investigators.

1. Properties to be identified and evaluated shall include but not be limited to (a) archaeological properties and associated artifacts; (b) standing structures that are 50 years of age and/or are important because they represent a major historical theme; and (c) Cold War period scientific facilities subject to the following provision.

2. The following property types will not be identified and evaluated: (a) mobile trailers, (b) modular buildings and enclosures that have been placed onsite within the last 25 years, (c) above-ground and below-ground storage tanks, (d) wells and bore holes, (e) towers, and (f) properties constructed after the end of the Cold War period (1990).

3. Properties which have been previously identified and those identified through this Survey which are included or eligible for inclusion in the National Register will be recorded and maintained in an active database as specified in the final CRMP that will be developed and is discussed in Section I. above.

4. This Survey shall be conducted and performed by qualified professionals with appropriate background, education, and experience which at a minimum will include the Secretary of the Interior's Professional Qualifications Standards (36 CFR Part 61, Appendix A) or other standards which are deemed to be otherwise qualified by the SHPO and shall be in conformance with the Secretary of the Interior's Standards and Guideline for Archaeology and Historic Preservation. The results of the Survey will be presented to the SHPO for concurrence. If the SHPO does not concur with the survey results, the SHPO will identify in writing what questions or concerns they have with the survey.

C. Archaeological surveys will be ongoing as dictated by proposed construction and other disturbance activities in the areas identified on Figure 2 as eligible for inclusion on the National Register or eligibility not determined and will be conducted in a manner to allow for consultation and coordination with the SHPO.

D. DOE will consult with the SHPO when making National Register eligibility determinations.

E. If the DOE and the SHPO do not agree on National Register eligibility, or if the Council or the National Park Service so request, the DOE shall request a formal determination of eligibility from the Keeper of the National Register, National Park Service, whose determination shall be final.

F. Undertakings proposed for those areas/districts and properties that have been surveyed but are not included and were not identified (and concurred by the SHPO) as eligible for inclusion or nomination in the National Register may proceed with no further investigation and no additional coordination with or notification to the SHPO.

G. The CRMP will be integrated into the site planning process through the Site Development Plan process, National Environmental Policy Act reviews, and the site digging permit process.

III. SECTION 106 REVIEW PROCESS

A. Until the CRMP is finalized and implemented, DOE shall contact the SHPO and initiate the review procedures set forth in the regulations beginning at 36 CFR Part 800.5-800.6 for any activity that may affect historic properties, or properties that have not been evaluated, except as provided in this Section.

B. The CRMP will specify a Section 106 review process consistent with the process described in this Section.

C. If the SHPO and DOE agree on measures to be implemented by DOE that will result in no adverse effect to the historic property [as determined by applying the Criteria of Adverse Effect, 36 CFR Part 800.5(a)(1)], such activities need not be reviewed by the Council. However, DOE shall retain all project documentation in accord with DOE's record management system for possible review at the Council's request. Appropriate measures that may be implemented by DOE to avoid project effects include, but are not limited to:

1. resiting the proposed activity, where feasible;

2. rehabilitation in accordance with The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;

3. additions to historic buildings and structures that takes into account the significant architectural characteristics of the original building or structure, in accordance with the Secretary of the Interior's Standards;

4. research in accordance with applicable professional standards and guidelines.

D. Demolition and Relocation of Historic Properties

1. Demolition or relocation of historic properties will be reviewed by DOE and the SHPO on a case by case basis. DOE will submit the following documentation to the SHPO:

   a. Reasons for demolition, including documentation of life safety code violations and structural reports citing building deficiencies.
   b. Summary and analysis of alternatives to demolition including rehabilitation and /or relocation.
   c. Future plans for site, if applicable.
   d. Proposed site relocation, if applicable.

2. If DOE in consultation with the SHPO determines that demolition or relocation cannot be avoided, DOE will submit a Standard Mitigation Measures Plan to the SHPO which may include one or more of the following measures:

   a. DOE shall ensure that the historic property is recorded prior to its demolition or relocation in accordance with the Illinois Historic American Buildings Survey/Historic American Engineering Record (ILHABS/HAER) standards or a recordation plan developed by the SHPO. At a minimum this plan will establish recordation methods and standards. The SHPO shall identify appropriate archives for the deposit of recordation materials and DOE shall be responsible for submitting such materials.

   b. DOE shall ensure that significant scientific/engineering elements are salvaged prior to initiation of demolition activities and properly stored and curated.

3. DOE will follow the Standard Mitigation Plan unless the SHPO, within 14 days of receiving the plan, tells DOE that the Plan does not apply.

4. If the SHPO specifies that the Standard Mitigation Measures Agreement do not apply, the DOE shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5(e).

E. Undertakings identified in Appendix A will not be subject to review by the SHPO unless the undertaking involves ground disturbing activities in areas identified on Figure 2 as eligible for the National Register or eligibility not determined. Appendix A may be amended by agreement between DOE and the SHPO.

F. Archaeology:

1. When a ground disturbance activity is proposed in a previously undisturbed area and an archaeological survey (that has been reviewed and accepted by the SHPO) has determined that no National Register included or eligible archaeological properties are at the site of the proposed activity, DOE may proceed with the project with no further review by either the SHPO or the Council.

2. When a ground disturbance activity is proposed in a previously undisturbed area where a phase I archaeological survey has indicated the presence of archaeological sites for which National Register eligibility has not been determined (see Figure 2), DOE shall conduct a phase II archaeological survey prior to initiation of the activity. Ground disturbance activities will not be undertaken until phase II survey is complete and concurrence from SHPO is obtained.

3. When a ground disturbance activity is proposed in an area where previous ground disturbance activities have occurred, DOE may proceed with the activity without consulting the SHPO or the Council regarding the

need for an archaeological survey so long as the depth and the extent of new disturbance does not exceed the depth and extent of previous disturbances.

4. If archaeological properties are located by a survey, the DOE shall consult with the SHPO to determine the property's National Register eligibility; if found to be eligible, DOE shall further consult with the SHPO to determine appropriate measures that might avoid, reduce, or mitigate the activity's effects to the site.

5. DOE will follow requirements of the Native American Graves Protection and Repatriation Act if human remains and/or cultural items are discovered on the ANL-E site. To date, no such remains or items have been discovered on the ANL-E site.

6. Adverse Effects

   a. If DOE in consultation with the SHPO determines that it cannot avoid adversely affecting archaeological properties that are eligible for listing on the National Register, DOE will submit a Phase III Archaeological Data Recovery and Excavation Plan (Phase III Plan) to the SHPO and interested Indian tribes.
   b. DOE will consider any comments provided by tribes and revise the Phase III Plan or the proposed action as appropriate.
   c. DOE will implement the Phase III Plan unless the SHPO, within 30 days of receiving the plan, tells DOE that the Plan is not acceptable.
   d. If the SHPO tells DOE that the Phase III Plan is not acceptable, DOE shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5(e).

F. When an undertaking affects a previously unidentified historic property that may be eligible for inclusion in the NRHP, or affects a known historic property in an unanticipated manner, DOE will make reasonable efforts to avoid or minimize harm to the property until a determination is completed in consultation with the SHPO.

G. DOE will contact Indian tribes with U.S. Indian Claims Commission treaty jurisdiction for northeast Illinois to indentify those tribes that may have an interest in cultural resources at ANL-E. DOE will consult with interested tribes for any undertaking affecting archaeological resources.

IV. AGREEMENT REVIEW

A. Any signatory to this Agreement may request a review of the terms of this Agreement in the event the need arises. If revisions are needed, the signatories

will consult to make such revisions in a manner consistent with 36 CFR Part 800.13.

B The Council and the SHPO may monitor activities carried out pursuant to this Agreement, and the Council will review such activities if so requested. DOE will cooperate with the Council and the SHPO in carrying out their monitoring and review responsibilities.

C. Any signatory to this Agreement may terminate it by providing 60 days notice to the other signatory, provided that the signatories 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 DOE will comply with Subpart B of 36 CFR Parts 800 with regard to all individual undertakings for activities at ANL-E.

V. DISPUTE RESOLUTION

The DOE and the SHPO shall jointly attempt to resolve any disagreement arising from implementation of this Agreement. If the DOE determines that the disagreement cannot be resolved, the DOE shall request the further comments of the Council. Any Council comment provided in response will be considered by the DOE with reference only to the subject of the dispute. The DOE's responsibility to carry out all other actions under this Agreement which are not the subject of dispute will remain unchanged.

VI. EFFECTIVE DATE

This Agreement shall be effective upon the date of the last signature to this Agreement.

Execution and implementation of this Programmatic Agreement evidences that DOE has satisfied its Section 106 and 110 responsibilities for all individual undertakings related to the Activities of ANL-E.

DEPARTMENT OF ENERGY ARGONNE AREA OFFICE

By: R C Wunderlich Date: 2/23/01

ILLINOIS HISTORIC PRESERVATION OFFICER

By: Anne E Haaker Date: 3/16/01

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: Date:

APPENDIX A

Exclusions from Section 106 Review Process

The following undertakings will not be subject to review pursuant to this Agreement unless the undertaking involves ground disturbing activities in areas identified on Figure 2 as eligible for the National Register or eligibility not determined.

A. Facilities Emergency Contingency Plans:

Activities required by emergency situations, (i.e., health and safety-related emergencies) as determined on a case-by-case basis including those emergency activities in compliance with Federal, State, or local regulatory requirements including, but not limited to: Illinois or United States Environmental Protection Agencies; Federal Facility Compliance Agreements; Comprehensive Environmental Response, Compensation, and Liability Act; Resource Conservation and Recovery Act; Superfund Amendments and Reauthorization Act; Occupational Safety and Health Act; etc. Emergency activities that will affect historic properties shall be handled in accordance with 36 CFR Part 800.12.

B. Declared Disasters, Emergencies, or National Security Threats:

DOE/ARG may waive the Section 110 process and comply instead with requirements of 36 CFR Part 78, which spell out procedures by which NHPA requirements may be waived if a Federal agency head proposes emergency action as an essential and immediate response to a major natural disaster or other catastrophe of similar severity, or imminent threat to the National Security. This exemption only applies to undertakings that will be implemented within 30 days after the declaration of a disaster or emergency.

C. Building Infrastructure Repair:

Electrical, mechanical, heating and ventilation, plumbing, water and steam supply systems, and personnel safety and fire protection measures that are needed to keep buildings functioning and in good repair. Specific examples include:

(1) Installation, maintenance and repair of security systems, including computer security, detection, monitoring, surveillance and alarm systems. Also, the installation or modification of personnel safety systems and devices including emergency exit lighting systems, protective additions to electrical equipment, improvements to walking and working surfaces, and installation of railings, shields and guards.

(2) Siting, installation, maintenance, repair, removal, and operation of plant water systems.

(3) Installation, maintenance, repair, removal, or replacement of plant and building electrical systems.

(4) Installation, maintenance, removal, repair, or replacement of heating, ventilating, air conditioning systems, and high efficiency particulate air filters.

(5) Routine upgrades and modifications to existing distributed site utility systems, including steam/condensate; canal water; domestic; fire, and laboratory water; sanitary and storm sewer; central chilled water; natural gas; site security lighting; and alarm and communications networks.
(6) Routine upgrades and modifications to fire protection systems including fire alarm systems, smoke detectors, and sprinkler systems.

D. Routine Maintenance and Repair:

(1) All routine maintenance work such as normal custodial services, electrical and plumbing installation/repair, repair of fire protection sprinkler systems, moving and assembling of furniture, resurfacing of road, sidewalk and parking areas, and landscape maintenance.

(2) Maintenance and repair in kind associated with structures or buildings including, but not limited to: painting, siding, roofing, mounting and hanging wall items; door, ceiling, wall, window, floor, and floor covering repair/replacement; cabinet and shelf fabrication and installation: and elevator repair.

E. Energy Conservation Measures:

Measures that are not visible and/or that do not alter or detract from those qualities that make the property eligible for the Register; e.g.:

1) modifications and repair to the heating, ventilation, and air conditioning control systems, telephone and electric wires, computer drops, and conversions to alternative fuel;

2) insulation in roofs, craw spaces, ceilings, attics, walls, floors, and around pipes and ducts; and

3) caulking and weather stripping, provided that the color of the caulking is consistent with the appearance of the building.

F. Activities Associated with Post Cold War Buildings and Structures:

All activities/actions in or associated with buildings and structures constructed since the end of the Cold War (in 1990) except for those properties built since that time that have been determined eligible for inclusion in the Register because of their Exceptional Importance.

G. Process and Lab Equipment:

Installation, maintenance, repair, storage, relocation, removal or replacement of process or lab equipment and associated systems.

H. Communications and Computer Systems:

Siting, installation, maintenance, repair, removal, or replacement of commercially obtained communications and computer systems, including: public address systems, facsimile systems, microwave/radio systems, fiber optic cables, phone systems, and computers and peripheral systems including transmitters.

I. Waste Treatment and Storage Activities:

Operation and maintenance of waste treatment and storage facilities.

J. Removal of Hazardous or Toxic Materials:

Examples include:

(1) Asbestos removal and renovation activities including cleanup, encapsulation, and removal and/or disposal of asbestos-containing materials from existing buildings and structures.

(2) Removal of polychlorinated biphenyl contaminated items such as electrical transformers and capacitors possibly requiring removal and subsequent replacement of walls ceilings, fences, power lines, or other obstacles which would prevent forklift or crane access to the item targeted for removal. Some transformers may have contaminated pads and/or soil around the base. The surrounding substrate will be sampled and, if contaminated, will be excavated and removed.