

Appendix P

Draft Cultural Resources Preservation Covenant

**DRAFT PRESERVATION COVENANT
SVADA LRA Parcel 20**

(held by Illinois Department of Natural Resources)

In consideration of the conveyance of certain real property, hereinafter referred to as the

SVADA LRA Parcel 20, located in Carroll County, Illinois, which is more fully describes as:

The Savanna Army Depot Activity (SVADA) local redevelopment authority (LRA) Parcel 20 at the southern end of SVADA in Carroll County, Illinois. The parcel is bounded by the Apple River to the east and south; the Mississippi River to the west; Vincent Road and Rofsteck Road to the northwest; and Crim Road to the north. The parcel is bisected from the northwest to the southeast by an active railroad line owned by the Burlington Northern Santa Fe Railway Company; the rail line is not part of the parcel to be transferred. A sewage treatment plant owned by the U.S. Army is surrounded by LRA Parcel 20, also is not part of the parcel to be transferred (Figure 1).

The United States Army (Owner) and the Jo-Carroll Depot LRA (Recipient) hereby covenants on behalf of themselves, their successors, and assigns at all times to the Illinois Department of Natural Resources State Historic Preservation Officer (IL SHPO) and Advisory Council of Historic Preservation (ACHP) to maintain and preserve archaeological sites 11-CA-1 and 11-CA-142 as follows:

1. The Owner and Recipient shall preserve and maintain archaeological sites 11-CA-1 and 11-CA-142 in their present condition to preserve and enhance those qualities that make these archaeological sites potentially eligible/eligible for inclusion in the National Register of Historic Places (NRHP).
2. No construction, alteration, or disturbance of the ground surface or any other thing shall be undertaken or permitted to be undertaken on archaeological sites 11-CA-1 and 11-CA-142 that would affect the integrity or the archaeological value of these sites without the express written permission of the Illinois Department of Natural Resources and ACHP signed by a fully authorized representative thereof.
3. Additional archaeological testing, NRHP site evaluations, and potential mitigation measures require additional Illinois SHPO and ACHP consultation and Section 106 of the National Historic Preservation Act (NHPA) compliance measures, as required by law.
4. Execution of this Covenant shall include all applicable conditions, restrictions, laws, orders, and obligations set forth in the SVADA Programmatic Agreement (PA).
5. Conveyance of property that includes archaeological sites:
 - a. In consideration of the conveyance of the real property, LRA Parcel 20, which includes the sites 11-CA-1 and 11-CA-142 located in Carroll County, Illinois. Jo-Carroll Depot LRA covenants on behalf of itself, its heirs, or successors, and assigns at all times to the Illinois SHPO to maintain and preserve sites 11-CA-1 and 11-CA-142, in accordance with the provisions of this Covenant.
 - b. The property recipient will notify the Illinois SHPO and ACHP in writing prior to any undertaking of any ground disturbance or action on sites that would affect the physical integrity of sites 11-CA-1 and 11-CA-142. Such a notice shall describe in reasonable detail the proposed undertaking and its expected effect on the physical integrity of sites 11-CA-1 and 11-CA-142.

- c. Within thirty (30) calendar days of the Illinois SHPO's and ACHP's receipt of notification provided by the LRA, pursuant to this Covenant, the SHPO will respond to the LRA in writing as follows:
 - i. That the LRA may proceed with the proposed undertaking without further consultation; or
 - ii. That the LRA must initiate and complete additional consultation with the Illinois SHPO before it can proceed with the proposed undertaking; or
 - iii. If the Illinois SHPO and/or ACHP fails to respond to the LRA's written notice within thirty (30) calendar days of the SHPO's receipt of the same, then the LRA may proceed with the proposed undertaking without further consultation with the SHPO.
- d. Future LRA Lease and License:
 - i. Archaeological sites 11-CA-1 and 11-CA-142 are potentially eligible for inclusion in the NRHP.
 - ii. The Recipient/Lessee shall ensure that the sites remain undisturbed.
 - iii. The Recipient/Lessee will notify the Owner of any proposed ground disturbance to the archaeological sites prior to undertaking said ground disturbance.
 - iv. Notification will include a detailed description of the proposed undertaking.
 - v. If the LRA does not object to the proposal within thirty (30) calendar days of receipt of such notification and adequate supporting documentation, the Army will, with the assistance of the Lessee (Licensee), initiate consultation with Illinois SHPO in accordance with NHPA Section 106 and its implementing regulations, "Protection of Historic Properties" (Title 36 of the Code of Federal Regulations Part 800).
 - vi. The Recipient/Lessee will not undertake the proposed action until the LRA notifies the Lessee (Licensee) that the requirements of Section 106 have been fulfilled and the Lessee (Licensee) may proceed.
 - vii. If the LRA objects to the Recipient's/Lessee's proposed ground disturbance, the Recipient/Lessee shall not undertake the proposed action.
- e. The Illinois Department of Natural Resources shall be permitted at all reasonable times to inspect these archaeological sites to ascertain if the above conditions are being observed.
- f. In the event of a violation of this Covenant, and in addition to any remedy now or hereafter provided by law, the Illinois Department of Natural Resources may, following reasonable notice to the Owner and Recipient/Lessee, institute suit to enjoin said violation or to require the restoration or mitigation of natural resources, archaeological sites, or structures disturbed by construction, alteration, or disturbance of the ground surface, or structure older than 50 years.
- g. The Owner and Recipient agrees that the Illinois Department of Natural Resources may at its discretion, without prior written notice to the Owner and Recipient, convey and assign all or part of its rights and responsibilities contained herein to a third party.

- h. This Covenant is binding on the Owner and Recipient, and their successors and assignees in perpetuity. Restrictions, stipulations, and covenants contained herein shall be inserted by Owner and Recipient/Lessee verbatim or by express reference in any deed or other legal instrument by which it divests itself or either the fee simple title or any other lesser estate in this SVADA LRA Parcel 20 or any part thereof.
- i. The failure of the Illinois Department of Natural Resources to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.
- j. This Covenant shall be a binding servitude upon this SVADA LRA Parcel 20 and shall be deemed to run with the land. Execution of this Covenant shall constitute conclusive evidence that the United States Army and/ SVADA LRA agree to be bound by the foregoing conditions and restrictions and to perform the obligations herein set forth.