

MEMORANDUM OF AGREEMENT
BETWEEN DELAWARE WATER GAP NATIONAL RECREATION AREA
AND THE
NEW JERSEY HISTORIC PRESERVATION OFFICER
REGARDING THE CHADO SALT STORAGE PROJECT
WALPACK TOWNSHIP, SUSSEX COUNTY, NEW JERSEY

WHEREAS the Delaware Water Gap National Recreation Area (“the park”) proposes to demolish the Chado Farm Equipment Shed #1, construct an extension to the Chado Farm driveway, and construct a new salt storage facility within the Chado Farm property; and

WHEREAS, the park has defined the undertaking's area of potential effect (APE) area of 103.28 acres within the Chado Farm property (see map, Attachment A); and

WHEREAS the park has determined that the undertaking may have an adverse effect due to impacts to the Chado Farm property, which is eligible for listing in the National Register of Historic Places, and has consulted with the New Jersey Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

WHEREAS the park plans to further analyze the alternatives, including the preliminary proposed alternative through the National Environmental Policy Act (NEPA) process, and will determine a selected alternative through the NEPA process that will be identified in the NEPA decision document, and will reopen Section 106 consultation if the NEPA process leads to an alternative different than the preliminary proposed action; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the park has notified the Advisory Council on Historic Preservation (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

WHEREAS, in recognition of the government-to-government relationship between the park and federally-recognized Indian Tribes, the park has consulted with the designated representatives of the Delaware Nation, Delaware Tribe, and Stockbridge-Munsee Community, and

NOW, THEREFORE, the park and the New Jersey SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The park shall ensure that the following measures are carried out:

I. Historic Property Documentation

1. Prior to commencement of any Project-related site work, demolition or construction, the park shall document the interior and the exterior of the Chado Farm Equipment Shed #1, the Upper Chado Barn, and the Lower Chado Barn. This will be performed using the services of an Architectural Historian who meets the Secretary of the Interior's Professional Qualifications Standards [48 FR 44738-9] in Architectural History. This documentation will be conducted to Level III equivalent standards of the Historic American Buildings Survey (HABS). The National Park Service (NPS) Interior Region 1 HABS/HAER/HALS program will develop a Schedule of Documentation to guide recordation of the resources.

Documentation shall include the existing conditions of all three buildings, including their interiors, exteriors, and settings. Recordation will also include short-format written historical reports for each resource. Documentation will be prepared using specific archival materials and processes to comply with the HABS collection's permanence standards. In addition to large format photographs and negatives, documentation shall include high-resolution digital photos that meet the National Park Service National Register Digital Photograph Submission Standards.

Draft copies of the documentation shall be submitted to the New Jersey SHPO and the NPS Interior Region 1 HABS/HAER/HALS program for review and comment prior to submitting final copies to the NJ SHPO and the NPS Interior Region 1 HABS/HAER/HALS program for approval and final transmittal to the Library of Congress. A copy of this documentation will also be retained in park archives.

2. Laser three-dimensional (3D) historic structure scanning shall be employed to document the interior and exterior of the Upper Chado Barn and the Lower Chado Barn. Six drawings (four elevations and drawings of the ceiling and floor) will be produced from this effort. These drawings will be submitted to New Jersey SHPO

and National Park Service (NPS) Interior Region 1 HABS/HAER/HALS program for review. Upon approval, the NPS Interior Region 1 HABS/HAER/HALS program will request HABS drawing sheets from the Heritage Documentation Programs office in Washington, DC. Final drawings will be submitted on HABS drawing sheets. A copy of these drawings as well as the digital 3D scanning data will be retained in park archives.

II. Public Outreach

The park will share historic documentation produced for the Chado Farm Equipment Shed #1, the Upper Chado Barn, and the Lower Chado Barn with the public. Photographs and drawings produced from the HABS Level III documentation effort and the 3D Laser Scanning will be published on the park's website and also shared on internet social media platforms.

- III.** If properties are discovered that may be historically significant or unanticipated effects on historic properties found, the park shall implement the following discovery plan.
- a. Work in the vicinity of the discovery will immediately stop and the park will secure the site.
 - b. Within 48 hours the park will:
 - i. contact the New Jersey SHPO and, if Native American Tribes might attach religious and cultural significance to the affected property, then also contact the Delaware Tribe, Delaware Nation, and Stockbridge Munsee Community to report the find and discuss appropriate actions to avoid or mitigate adverse effects.
 - ii. take their recommendations into account when moving forward.
 - iii. provide the New Jersey SHPO and Tribes a report of the actions taken.

- c. Should the discovery involve human remains or other artifacts protected by the Native American Grave Protection and Repatriation Act (NAGPRA), the Park will coordinate its responsibilities under this MOA with applicable law enforcement policies and NAGPRA, and commit to following the procedures outlined in the Memorandum of Agreement For Consultations, Treatment and Disposition of Human Remains and Cultural Items That May Be Discovered Inadvertently During Planned Activities at Delaware Water Gap National Recreation Area.

IV. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the park may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

VI. MONITORING AND REPORTING

Within three years following the execution of this MOA until it expires or is terminated, the park shall provide the NJ SHPO a summary report detailing work undertaken pursuant to its terms.

VII. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the park shall consult with such party to resolve the objection. If the park determines that such objection cannot be resolved, the park will:

- A. Forward all documentation relevant to the dispute, including the park's proposed resolution, to the ACHP. The ACHP shall provide the park with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to

reaching a final decision on the dispute, the park shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The park will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the park may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the park shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. The park's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. 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.

IX. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation **VIII**, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the park must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The park shall notify the signatories as to the course of action it will pursue.

X. ANTI-DEFICIENCY

All actions taken by the park in accordance with this MOA are subject to the availability of funds, and nothing in this MOA shall be interpreted as constituting a violation of the Anti-Deficiency Act.

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Execution of this MOA by the park and NJ SHPO and implementation of its terms evidence that the park has taken into account the effects of this undertaking on historic properties and afforded the Advisory Council on Historic Preservation an opportunity to comment.

SIGNATORIES:

DELAWARE WATER GAP NATIONAL RECREATION AREA

.....Date
Doyle W. Sapp, Superintendent

NEW JERSEY HISTORIC PRESERVATION OFFICER

.....Date
Katherine J. Marcopul, Deputy State Historic Preservation Office

