

**MEMORANDUM OF AGREEMENT
BETWEEN
UNITED STATES ARMY CORPS OF ENGINEERS,
THE MASSACHUSETTS STATE HISTORIC PRESERVATION OFFICER
AND
THE MASSACHUSETTS BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES
PURSUANT TO 36 CFR 800.6(c)
REGARDING THE
BURNHAM MARINE RAILWAY AND GLOUCESTER HARBOR HISTORIC AREA,
MANUFACTURED GAS PLANT REMEDIATION PROJECT, GLOUCESTER, MA**

WHEREAS, a former Manufactured Gas Plant (MGP) operated by the Gloucester Gas & Light Company was historically located in the Harbor Loop area of Gloucester, Massachusetts and the MGP facilities were decommissioned and removed between 1952 and the late 1960s when the area was redeveloped as part of an urban renewal project and residuals from the MGP operations, such as coal tar, are present in the soil and groundwater in the Harbor Loop area (“MGP Residuals”); and

WHEREAS, the area where these MGP Residuals have been detected (the “MGP Site”) has been identified as a site regulated under G.L. c. 21E and the Massachusetts Contingency Plan (“MCP”), 310 CMR 40.0000 and Massachusetts Electric Company d/b/a National Grid (MEC and/or the Proponent) must remediate the MGP Residuals to achieve a level of “no significant risk” under the MCP; and

WHEREAS, the remediation requires dredging in the Gloucester Harbor (Undertaking) that requires a permit from the U.S. Army Corps of Engineers, New England District (Corps); and

WHEREAS, the Corps has determined that the Undertaking will have an adverse effect on historic marine railways and granite seawalls that contribute to the significance of three properties eligible for listing on the National Register of Historic Places: the Burnham Marine Railway complex (MHC # GLO.939, 1340 and 1341), the Gloucester Harbor Historic District and the Central Gloucester Historic District (MHC # GLO.A); and

WHEREAS, the Corps has determined that the adverse effects are not avoidable; and

WHEREAS, the Corps has consulted with the Massachusetts State Historic Preservation Officer (MA SHPO) pursuant to 36 CFR Part 800 and 33 CFR Part 325, Appendix C, regulations implementing Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. Part 470f); and

WHEREAS, in accordance with 33 CFR Part 325 and 36 CFR § 800.6(a)(1), the Corps has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the Corps has consulted with the Massachusetts Board of Underwater Archaeological Resources (MBUAR) and invited MBUAR to be a signatory of this Memorandum of Agreement (MOA); and

NOW, THEREFORE, the Corps, the MA SHPO, MBUAR, and MEC agree that the Undertaking will be implemented in accordance with the following stipulations of this Memorandum of Agreement (MOA) in order to take into account the effect of the Undertaking on historic properties.

STIPULATIONS

The Proponent shall ensure that the following mitigation measures are implemented in consultation with the Corps and the MA SHPO and shall provide proof of compliance with such measures to the Corps and the MA SHPO:

I. ARCHAEOLOGICAL TERRESTRIAL AND MARINE DATA RECOVERY PLAN

1. The Proponent shall undertake the attached “Documentation and Recordation Work Plan, Former Gloucester Gas Light Company MGP Site, Gloucester, Massachusetts,” attached to this MOA as Appendix A (Data Recovery Plan or DRP) and “Research Design and Methodology, Former Gloucester MGP Massachusetts Contingency Plan Remediation Project, Gloucester, Massachusetts, Archaeological Terrestrial and Marine Data Recovery Plan Granite Seawalls and Burnham’s Marine Railway” attached to this MOA as Appendix B (Archaeological Terrestrial and Marine Data Recovery Plan).
2. The portions of the DRP relating to the seawalls shall be implemented under a State Archaeologist's field investigation permit and the portions of the DRP relating to the marine railways shall be implemented under a special use permit issued by the Massachusetts Board of Underwater Archaeological Resources (MBUAR). The work conducted under these permits shall be consistent with the Massachusetts standards for conducting archaeological investigations (950 CMR 70 and 312 CMR 2), and shall take into account the Secretary of the Interior's “Standards and Guidelines for Archeology and Historic Preservation” (48 Fed. Reg. (190): 44716-42 (1983)) and the ACHP's publication, "Treatment of Archaeological Properties: A Handbook" (1980), subject to any pertinent revisions of the cited regulations, standards, guidelines, and publication.
3. If unforeseen circumstances require the modification of the DRP, the Proponent and the Principal Investigator (950 CMR 70.04) shall consult with the MA SHPO and MBUAR to develop and implement the required modifications. If significant modifications of the DRP are required, the Principal Investigator shall also consult with the Massachusetts State Archaeologist pursuant to 950 CMR 70.13(2), prior to implementing the modifications.
4. The Proponent shall ensure that upon completion of the archaeological monitoring phase of the DRP at the specific Resource location, and any preliminary analyses of the results that may be required, a completion memorandum shall be submitted by the Principal Investigator to the MA SHPO that describes the DRP activities completed, a brief description of the results of the fieldwork and any preliminary analyses, and a schedule for completing the remaining aspects of the DRP.
5. The Proponent shall ensure that two copies of all final reports resulting from the DRP shall be provided to the MA SHPO pursuant to 950 CMR 70.14, along with updated MA SHPO archaeological site inventory forms, and an electronic file on a CD-ROM with the final report bibliographic data and archaeological abstract. These materials shall also be provided to the Corps and MBUAR. The Proponent shall ensure that once copy each of all final reports shall be provided to the following institutions: Maritime Gloucester, Gloucester Public Library; the Healy Library at the University of Massachusetts, Boston, and the Stone Science Library at Boston University. The Proponent shall ensure that a copy of the accompanying final report transmittal letter to the acquisitions librarians at these institutions shall be provided to the MHC.

II. POST REVIEW DISCOVERIES

1. The Proponent shall ensure that if previously unidentified historic properties are discovered which may be affected by the Undertaking, they will immediately notify the Corps, the MA SHPO and MBUAR and shall consult pursuant to 36 CFR 800.13 and apply the National Register criteria of eligibility (36 CFR 60). MBUAR has a standard Policy for unanticipated discoveries, see <http://www.mass.gov/eea/docs/czm/buar/buar-unanticipated.pdf>.
2. The Proponent shall ensure that if any human remains are discovered during the implementation of the DRP or during any other construction activities, then the activities that caused the human remains to be discovered shall cease immediately, the Massachusetts State Archaeologist shall be notified immediately, and the procedures under the Massachusetts Unmarked Burial Law (Massachusetts General Laws, Chapter 38, Section 6; Chapter 9, Section 26A and 27C; and, Chapter 7, Section 38A; all as amended), shall be implemented.

III. DURATION AND AMENDMENT

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the Corps may consult with all other signatories to reconsider the terms of the MOA and amend it in accordance with 36 CFR § 800.6(c) (7).

IV. DISPUTE RESOLUTION

Should any signatory party to this MOA object in writing to any actions proposed or the manner in which the terms of this MOA are implemented, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved informally, the Corps will forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide the Corps and the other signatories with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. The Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the signatory parties, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.

The parties to this MOA are responsible for carrying out all other actions required under this MOA that are not the subject of dispute resolution.

V. 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 36 CFR § 800.6(c)(7). If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, the Corps must either (a) execute an MOA with signatories pursuant to 36 CFR § 800.6(c)(1) or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The Corps shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the Corps and the MA SHPO, and its subsequent filing with the ACHP, and implementation of its terms by the Proponent, shall demonstrate that the Corps has taken into account the effects of this Undertaking on historic properties, and satisfied its obligations under § 106 of the National Historic Preservation Act of 1966.

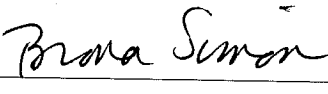
SIGNATORIES:

UNITED STATES ARMY CORPS OF ENGINEERS

By:  Date: 2/23/15

Robert J. Desista
Acting Chief
Regulatory Division


MASSACHUSETTS STATE HISTORIC PRESERVATION OFFICER

By:  Date: 3/2/15

Brona Simon
State Historic Preservation Officer
Executive Director, State Archaeologist
Massachusetts Historical Commission

CONCUR:

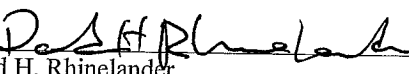
MASSACHUSETTS ELECTRIC COMPANY D/B/A NATIONAL GRID

By:  Date: 04/09/2015
Michele V. Leone
Project Manager

MASSACHUSETTS BOARD OF UNDERWATER ARCHAEOLOGICAL RESOURCES

By:  Date: 03/16/2015
Victor T. Mastone
Director

GLOUCESTER HISTORICAL COMMISSION

By:  Date: 03/31/2015
David H. Rhineland

Appendix A

Documentation and Recordation Work Plan
Former Gloucester Gas Light Company MGP Site
Gloucester, Massachusetts

Appendix B

Research Design and Methodology
Former Gloucester MGP Massachusetts Contingency Plan Remediation Project
Gloucester, Massachusetts,
Archaeological Terrestrial and Marine Data Recovery Plan Granite Seawalls and Burnham's Marine Railway