MEMORANDUM OF UNDERSTANDING
between
the Ho-Chunk Nation and the State of Wisconsin

WHEREAS, the WATER RESOURCES DEVELOPMENT ACT OF 1996, §361 provides for the decommissioning of the Kickapoo River Flood Control Project and for the transfer of lands, acquired by the federal government to facilitate the creation of a reservoir, to the Ho-Chunk Nation and the State of Wisconsin [hereinafter State] on the condition that the State and the Ho-Chunk Nation [hereinafter Nation] have agreed and entered into a Memorandum of Understanding containing certain provisions required by the ACT, by October 31, 1997;

WHEREAS, the Kickapoo Reserve Management Board [hereinafter Board] and the Nation propose to jointly manage the 8,569 acre tract of land commonly referred to as the Kickapoo Valley Reserve [hereinafter Reserve] in Vernon County, Wisconsin, having a land description of Section 31, Township 14 North, Range 1 West of the 4th Principal Meridian; Sections 2 through 11, and 16, 17, 20, and 21, Township 13 North, Range 2 West of the 4th Principal Meridian; and Sections 15, 16, 21 through 24, 26, 27, 31, and 33 through 36, Township 14 North, Range 2 West of the 4th Principal Meridian;

WHEREAS, the Board was created and empowered by Wisconsin State Legislative Act 349 Laws of 1993 to manage and exercise jurisdiction over those state lands commonly known as the Reserve. The Board is authorized by the same state legislation to promulgate rules and regulations for the protection, conservation, and maintenance of state owned land in the Reserve in its natural state, which strictly prohibits the Board from selling the land or allowing mining of any sort within the Reserve;

WHEREAS, the Nation, a federally recognized Indian Tribe vested with the inherent powers traditionally associated with and vested in sovereign nations, organized under and pursuant to 25 U.S.C. 476, through its legislative enactments exercises its inherent right to manage, control, and conserve those lands deemed part of the Nation reservation or trust lands;

NOW THEREFORE, the State and the Nation based upon their mutual promises and consideration agree, in conformance with the requirements of the WATER RESOURCES DEVELOPMENT ACT OF 1996, §361, as follows:

1. The Reserve will be preserved in a natural state and developed only to the extent necessary to enhance outdoor recreational and educational opportunities.

2. The Reserve will be managed following the policies articulated in the Management Plan (Attachment 1) and administered through the Board in cooperation and consultation with the Nation. The application of the Management Plan shall be consistent on both state and tribal lands within the Reserve. The Board shall have responsibility for managing state lands and the Nation shall have responsibility for managing tribal lands within the Reserve. The policies of both the Board and the Nation shall be consistent with the mutually agreed upon Management Plan.

3. The lands to be transferred to the Department of the Interior, in trust for the Nation are: those areas located within the Reserve identified on the attached Map A and generally encompassing portions of Sections 15, 22, 23, 26, in the township of Whitestown and those portions of Sections 4 and 9 in the township of Stark.

4. The Management Plan will be reviewed three (3) years after the transfer of lands are made to the State and to the U.S. Department of the Interior in trust for the Nation, and each fifth year thereafter at which times the State and the Nation may agree to changes to the Management Plan in order to address changed circumstances.

5. The Board acting on behalf of the State agrees to limit public disclosure of the location or existence of each site of particular cultural or religious significance to the Nation, to the extent the law allows.

6. The State shall seek legislation adding two (2) voting representatives of the Nation with expertise in archaeological and cultural resources to the Board. The Board shall seek an amendment to chapter 41, Wisconsin Statutes, providing the Board with the authority to transfer lands to the Nation consistent with the WATER RESOURCES DEVELOPMENT ACT.

7. The Board and the Nation shall develop a Memorandum of Agreement within one year of the signing of this Memorandum of Understanding, incorporating enforcement of the Reserve's policies and procedures, and addressing law enforcement concerns for the entire property to prevent desecration of archaeological, sacred and historic sites or damage to the natural environment.

8. In balance with the State responsibility, the Nation may agree to pay a sum sufficient in lieu of taxes to the local government directly affected by the placement of lands into trust located within their geographical boundary.

9. Following each review of the Management Plan conducted pursuant to Part 4 of this Memorandum of Understanding, the State, through the Board, agrees to consider future transfers of land within the Reserve to the U.S. Department of the Interior to be held in trust for the Nation which contain sites, discovered subsequent to the transfer of the initial 1200 acres described in Part 3 of the Memorandum of Understanding, of cultural or religious significance to the Nation. The consideration of future transfers under this section of the memorandum of Understanding shall include the following:

    a. Whether the subsequently discovered site or sites of religious or cultural significance to the Nation located on State land in the Reserve may not be adequately protected under state ownership.
    b. Whether the site or sites that have been discovered, subsequent to the original transfer described in part 3 of this Memorandum of Understanding, on State lands within the Reserve are of cultural and religious significance to the Nation
    c. Such other criteria that the State and Nation agree to include in the Management Plan.

It is understood that any associated lands transferred with a site or sites of religious and cultural significance to the Nation under this section of the Memorandum of Understanding shall include those lands minimally necessary to afford adequate protection of the site or sites. It is also understood by the State and the Nation that future land transfers are not guaranteed under any circumstances, but will be given fair consideration.

10. The State and the Nation jointly request that the simultaneous transfer of the entire 8,569 acres from the U.S. Army Corps of Engineers to the State and the U.S. Department of the Interior Bureau of Indian Affairs in trust for the Nation required under the Water Resources Development Act of 1996, be no later than January 1, 1999.

11. The lands to be transferred to the Department of the Interior, in trust for the Nation shall be placed in trust, pursuant to the Water Resources Development Act of 1996, at the same time title to the remaining lands of the Reserve are given to the State.

Signed this 30th day of October 1997 by:

_____	_____
Mr. Jacob H. LoneTree	Mr. Tommy G. Thompson
President, Ho-Chunk Nation	Governor, State of Wisconsin

JOINT MANAGEMENT PLAN
FOR THE
KICKAPOO VALLEY RESERVE

INTRODUCTION

The Water Resources Development Act of 1996, §361 provides for the transfer of lands acquired by the federal government for the Kickapoo River Flood Control Project to the Ho-Chunk Nation, to be held in trust by the Bureau of Indian Affairs, and to the State of Wisconsin. The State of Wisconsin, acting through the Kickapoo Reserve Management Board, and the Ho-Chunk Nation have agreed that the Kickapoo Valley Reserve, being of such unique value, shall be preserved in its natural state and developed only to the extent necessary to enhance recreational and educational opportunities.

The Kickapoo Valley Reserve is an 8,569 acre tract of land located in Vernon County directly north of La Farge, Wisconsin. The Reserve extends from the northern boundary of La Farge approximately nine miles north to the southern border of Wildcat Mountain State Park, near Ontario, Wisconsin.

AUTHORIZATION

The Federal Water Resources Development Act (WRDA) of 1996 authorizes the transfer of ownership of the Reserve property from the U.S. Army Corps of Engineers to the Ho-Chunk Nation (HCN) and State of Wisconsin. Wisconsin Act 349 Laws of 1993 established the Kickapoo Reserve Management Board (KRMB) and their authority to govern the Kickapoo Valley Reserve. Article V, Section 2(i) of the Ho-Chunk Nation Constitution, grants the Ho-Chunk Nation Legislature the authority to "negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals."

WRDA requires that for the land to transfer ownership the following documents need to be in place by October 31, 1997:

1) A Programmatic Agreement prepared by the U.S. Army Corps of Engineers - St. Paul District and agreed to by the Bureau of Indian Affairs, the Advisory Council on Historic Preservation, the Wisconsin State Historic Preservation Office, the HCN, and KRMB in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations for the protection of cultural resources.
2) A Management Plan, which includes conceptual terms and conditions for management of the lands. This document serves as and shall be incorporated in full text into the Memorandum of Understanding.
3) A Memorandum of Understanding prepared and approved by the State of Wisconsin and HCN which includes: this Management Plan, a description of sites and associated lands going to the Secretary of Interior to be held in trust by the Bureau of Indian Affairs for the

Ho-Chunk Nation, a provision for review of land holdings, and a confidentiality agreement for the protection of significant cultural sites.

MANAGEMENT PRINCIPLES

The resources of the Kickapoo Valley Reserve shall be managed jointly by the KRMB and the HCN to promote, preserve and enhance its unique natural, scenic and cultural features.

The management of the Reserve shall:

1. Protect the Reserve's aesthetic, cultural, scenic and wild qualities as well as the native wildlife and plant communities. Special emphasis will be placed on designated state natural areas, federal and state listed species, species of special concern and other unique biotic features.
2. Protect, conserve and maintain all significant cultural sites.
3. Provide for and manage the use and enjoyment by visitors and maintain a diversity of low-impact recreational opportunities for people of all abilities.
4. Utilize sound natural resource and agriculture management practices to improve water quality, maintain soil productivity and protect wildlife habitat.
5. Strive to operate a self-supporting project through grants, donations, bequests and fee-based recreation that are consistent with the overriding commitment to preserve the Reserve's natural features.
6. Establish and maintain a Rural Education Center which includes information on the history of Native American tribes and Euro-American habitation of the Reserve.
7. Develop and maintain a Land Use Master Plan for the Reserve which includes specific conservation management plans in the areas of : agriculture, forestry, natural areas, recreation, wildlife management, education, cultural resources, and emergency response.

MANAGEMENT POLICIES

A. Management Area Boundary

The Reserve boundary is recognized as the area registered under federal ownership through legal description, including: Section 31, Township 14 North, Range 1 West of the 4th Principal Meridian; Sections 2 through 11, and 16, 17, 20, and 21, Township 13 North, Range 2 West of the 4th Principal Meridian; Sections 15, 16, 21 through 24, 26, 27, 31, and 33 through 36, Township 14 North, Range 2 West of the 4th Principal Meridian; located entirely within Vernon County, Wisconsin.

Within that boundary the Department of Interior, Bureau of Indian Affairs holds in trust for the HCN 1,200 acres which are in portions of Sections 15, 22, 23, and 26, in the township of Whitestown and portions of Sections 4 and 9 in the township of Stark. The remaining property within the Reserve boundary, excluding the lands held in trust, shall be transferred to the State of Wisconsin. Both parties recognize existing road and utility easements on the property.

In accordance with the Water Resources Development Act of 1996, §361, and the Memorandum of Understanding, upon mutual agreement during review of the Management Plan, the State of Wisconsin may transfer additional acres to the United States of any additional site(s) discovered to be culturally significant to the HCN.

B. Management Authority

The KRMB and HCN are committed to cooperatively managing the Reserve lands. To achieve this goal, the parties hereby agree to the terms and conditions established through this management agreement and the adjoining Memorandum of Understanding and Programmatic Agreement.

The State of Wisconsin through §41.41, Wis. Stats., established the KRMB, articulating the KRMB's duties and authority to act. The KRMB's membership shall consist of: four local representatives; two watershed representatives; and three at large appointments representing recreation and tourism, education, and environment; and two representatives for the HCN with cultural resource expertise (pending introduction and approval by the Wisconsin State Legislature pursuant to part six of the MOU).

Lands held in trust by the Bureau of Indian Affairs for the HCN shall be managed consistently with the Reserve lands to the extent practical. The HCN Legislature has the authority to further restrict activities or grant special permits for those lands held in trust after notifying and considering comment by the KRMB.

The KRMB shall set policy, approve a Master Plan, and be fiscally responsible for the Reserve lands held by the State as outlined in portions of chapters 15, 20, and 41, Wis. Stats. The KRMB is attached to the Wisconsin Department of Tourism. The Department is responsible for support on administrative, personnel, legal and budget issues.

C. General Land Management Policies

1. Agriculture

The KRMB will continue the practice of agriculture leases on the state-owned portions of the Reserve. The KRMB will continue to require all lessees to follow a conservation management plan. Pesticide restrictions will continue in those areas identified in the Endangered Species Protection Agreement developed by the Wisconsin Department of Agriculture, Trade and Consumer Protection and U.S. Army Corps of Engineers. A detailed Agriculture Management Plan assessing soil suitability, productivity, bid process and impacts on natural areas and cultural resources will be completed during the preparation of the Master Plan for the Reserve.

2. Forestry

The Kickapoo Valley Reserve contains a treasure in forestry resources. The forestry resources include types and ages of trees that need the utmost protection, poorly managed cultivated forests that need selective harvesting, as well as areas in need of reforestation. Logging and harvesting of timber primarily for commercial purposes are prohibited on all Reserve lands.

To properly manage the forest resources, a Forest Management Plan will be included in the overall Master Plan. The Plan will inventory the resources; identify areas and methods for protecting and maintaining a healthy forest system within the Reserve; and make recommendations for appropriate restoration of oak savannas, prairies or other native forest habitats.

3. Natural Areas

Significant tracts of natural areas exist within the Reserve. The Wisconsin Department of Natural Resources has identified the areas meeting the legislatively defined criteria as Natural Areas in §23.27, Wis. Stats, within the Reserve. In addition, the Reserve is listed federally as a National Natural Landmark through the U.S. National Park Service. In the event any portion of the Reserve transfers ownership, a conservation easement is placed on Natural Area lands for protection through perpetuity.

A Natural Areas Management Plan will be included in the Master Plan to meet the obligation set by having these designations and ensure protection of the unique characteristics that make up the Natural Areas.

D. Recreation Management and Facilities Development

A Recreation Management Plan will be developed for inclusion in the Master Plan in the spring of 1998. The Recreation Plan will provide details on camping, trail use and maintenance, map of accessible locations, registration, a visitor's "Outdoor Code of Ethics" describing proper procedures (litter control, noise, etc.), and user fees. Following are policy recommendations to be incorporated into the Plan:

1. Camping

Low-impact campsites are appropriate in the Reserve. Low-impact is defined as those campsites which have minimal impact or intrusion upon the natural environment and ecosystems. Physical permanent structures are prohibited. Temporary tents or camping equipment that do not require permanent fixed features or support are included as an example of possible low-impact campsites. The development of campgrounds shall be prohibited within the Reserve. Small, minimal impact sites that serve to highlight the geographical features of the Reserve while minimizing the environmental impact are more appropriate. Sites that have to be traveled to by foot or other non-motorized means will be included. User fees will be established by the KRMB. All visitors will be required to follow a "pack-it-in, pack-it-out" rule for litter control. It is the position of the KRMB and HCN that there are areas within the Reserve that are so culturally and environmentally significant that no camping will be allowed. Those areas shall be designated by the KRMB and HCN, jointly.

2. Trails

All future plans for recreational trails will make use of existing trails to the extent possible rather than risk causing damage by creating new trails. Where mitigation and restoration of a trail are required, the KRMB must make all accommodations necessary to avoid adverse impact on cultural sites that may be affected by the modification(s). Trail use shall be limited to pedestrian traffic, hiking, non-motorized bicycles, horseback riding, snowmobile, cross-country skiing, snow-shoeing and handicap access. Trail access will be regulated by season, time, and may be subject to rotation or restricted use to protect the quality of the designated Natural Areas. Special permits may be granted by the KRMB on State lands and the HCN on trust lands for formal and/or accredited educational instruction or training.

3. Canoeing

Bodies of water and navigable streams are recognized with special status by law. The Kickapoo River is the most densely used area in the Reserve. Impact of canoeing on the Reserve is inevitable. Litter control and waste disposal are essential to protecting the Reserve, therefore canoeists will be required to follow the same "pack-it-in, pack-it-out" policy of the Reserve. The KRMB shall designate a limited number of areas upon which it would be appropriate for canoeists to launch or exit the waterways. Such areas should be designated with consideration given to multiple purposes such as areas that have existing launches or campsites and where human impact is at a minimum on the Reserve.

4. Hunting and Gathering

The State and HCN agree to allow public hunting in the Reserve following the State hunting seasons, licensing, permits and regulations. Under §29.106, Wis. Stats., members of the HCN may be granted permission to take deer out of the state calendar season for religious feasts, funeral rights, and warrior feasts. Such permits require notification of the conservation warden by a clan leader. A separate agreement will be developed for gathering of ceremonial or medicinal plants on non-federal land. Visitors to the Reserve are allowed to gather mushrooms, wild berries, and other herbs without special permits except those species listed as endangered or threatened.

5. Fishing

State laws govern fishing on waters within the Reserve. State imposed licensing, size and bag limits will be followed and enforced.

6. Other Recreation Activities

The Reserve will encourage a wide variety of compatible activities be held in the Reserve. For example: bird watching, photography and ceremonial events are appropriate activities which may be addressed in other areas within the Master Plan. Event permits will be developed by the KRMB for activities including but not limited to: dog trials, special hunts, skill tests and races.

F. Cultural Resources

The Programmatic Agreement elaborates on the protection of significant cultural sites as established by the federal criteria set forth in the National Register 36 CFR sec. 60.4, 800.4, National Register Bulletin No. 38 and the Cultural Resources Management Plan.

The Cultural Resources Management Plan will address the process to allow reasonable access for Native Americans, including members of the Ho-Chunk Nation, to cultural resources on lands transferred to the State for the purpose of practicing religious and cultural traditions and research. Equivalent consideration will be granted for access to cultural resources on trust lands.

Both parties agree to notify the other and the State Historical Society of any activity on their lands which may have an adverse effect on a significant site(s). Activities that require notification include: ground disturbance, physical destruction, damage or alteration of any part of a property which would adversely affect the historic significance of that property; isolation of a property from or alteration of the character of the property's setting when that character contributes to the property's qualification as a listed property; introduction of visual, audible or atmospheric elements that are out of character with a property or alter its setting; neglect of a property resulting in its deterioration or destruction. The State Historical Society Officer will be given the opportunity to comment within thirty (30) days and be afforded reasonable opportunity to perform a survey and provide a response.

Notification is not required for such activities as: re-issuance of agricultural leases which contain no significant cultural sites and maintenance of existing infrastructure including roads, trails and camp sites. Marker Trees, as defined in the Cultural Resource Management Plan, will be protected from all cutting and/or adverse impact.

Following the transfer, cultural research and surveys conducted on state owned land within the Reserve will require a permit from the State Archeologist as outlined in §44.47(2), Wis. Stats.

E. Education

Education for all ages on a variety of topics is a focal point for the Kickapoo Valley Reserve. Within five years the KRMB, in conjunction with other entities, will develop the structural blueprint, outline funding commitments, explore feasibility of location and detail cooperative arrangements for construction of a Rural Education Center.

A thorough Education Plan will be included in the Master Plan. Topics in the Education Plan should address a broad spectrum including but not limited to: cultural history, history of the La Farge Dam Project, Native American Culture, historical farming and forestry, the story of the Kickapoo River itself, the cultural diversity of the area, sustainable land use, conservation, modern agriculture, lumbering and timber management, alternative energy, living exhibits, working animals, driftless area natural history, geology, plant and animal communities, prairie restoration, native animals and the role of community based conservation.

G. Infrastructure

1. Transportation Systems

The State and Ho-Chunk Nation recognize the need for highway safety but are obviously concerned about the impact re-construction could have on the overall appearance of the Reserve in terms of noise, impact during construction, and aesthetics. Therefore, the KRMB and HCN will work closely with the Federal Highway Administration, Wisconsin Department of Transportation, and County Highway Commission to offer input on design, materials, construction methods and unique opportunities for safe, Reserve-friendly highways.

2. Law Enforcement

A separate agreement for enforcement will be established as referenced in part seven of the Memorandum of Understanding. In general, legislation authorizes enforcement by the Wisconsin Department of Natural Resources for state hunting and fishing regulations. Law enforcement on highways and roads within the Reserve will follow standard procedure by state and local police departments. Funding and staff considerations will need to be addressed in the Master Plan and annual budgets for patrolling and enforcement of visitors beyond hunting, fishing, and road traffic.

3. Emergency Response Measures

Inherent to a project of this magnitude is the need to plan for the worst: flash floods, forest fires, injured visitors or other unexpected problems. The KRMB will work with emergency response experts from local communities to write an Emergency Response Plan to be included in the Master Plan by spring of 1998.

PROHIBITED ACTIVITIES

The following acts or uses are expressly forbidden within the Reserve. There shall be no:

1. destruction or removal of cultural features or artifacts;
2. removal of natural features (exceptions for edible fruits, nuts, berries, grasses, etc.);
3. removal of rocks, minerals or similar materials;
4. litter, dumping or improper disposal of waste or hazardous materials;
5. destruction or removal of property having historic or educational purpose, unless it poses an immediate risk of danger to life and health;
6. fireworks of any kind;
7. release of dogs, cats or other pets prone to becoming feral; domestic animals in the reserve must be under command or physical control of their owner;
8. off-road vehicles used within the Reserve except when permitted or authorized by the Reserve Board for environmental, educational and cultural research;
9. parking in the Reserve, except in designated areas only.

Signs and informational markers shall be posted within the Reserve to provide notice to all who enter of the jurisdiction upon which they have entered or crossed. Visitors to the Reserve will be informed that there exists multiple legal jurisdictions subjecting them to state, tribal and federal laws.

MEDIATION OF DISPUTES

If a dispute arises between the State of Wisconsin through the KRMB, and Bureau of Indian Affairs through the HCN, either party may refer the dispute to mediation by request made in writing to the other. Within fourteen (14) days of the receipt of such a request, the parties may each select one (1) mediator and mutually agree on the selection of a third trained and impartial mediator, who shall compose in-full a panel of three persons to preside at and over a mediation between the parties.

DEDICATION OF HUMAN AND FISCAL RESOURCES

Annual budgets and staffing plans will be prepared in January of each calendar year in preparation for request through the State and HCN's fiscal year. A long-term financial management plan will be included in the Master Plan for the Reserve.

CONCLUSION

The State of Wisconsin and the Ho-Chunk Nation reserve unto themselves the rights not requiring further approval of the Kickapoo Reserve Management Board to engage in all uses that are permitted by governmental, state and tribal law or regulation, that do not substantially impair the conservation and preservation values of the Kickapoo Reserve or are not inconsistent with the purpose of the Reserve as articulated in the Programmatic Agreement, Management Plan, Water Resources Development Act and Memorandum of Understanding. The Kickapoo Reserve Management Board, with the financial cooperation of the State, the Bureau of Indian Affairs and the Ho-Chunk Nation reserve the right to maintain and repair trails, bridges, structures, and appurtenances that are already in existence within the Reserve or may be built in the future consistent with the aforementioned documents. The Ho-Chunk Nation and the Kickapoo Reserve Management Board reserve the right to conduct and grant permission to conduct educational and non-profit activities that are consistent with the protection, conservation and preservation values stated within the Memorandum of Understanding.