

**MEMORANDUM OF AGREEMENT
AMONG
U.S. ARMY CORPS OF ENGINEERS,
OKLAHOMA DEPARTMENT OF TRANSPORTATION,
AND
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICE
REGARDING
REPLACEMENT OF SH-30 BRIDGE OVER SALT FORK RED RIVER**

WHEREAS, the Oklahoma Department of Transportation (ODOT) plans to replace the existing bridge carrying SH-30 over the Salt Fork of the Red River, north of Hollis, Harmon County, Oklahoma, by constructing a new bridge on new alignment for State Job Piece 28768(04) (Project); and

WHEREAS, the Project requires compliance with Section 404 of the Clean Water Act, specifically the 2012 Nationwide Permit (NWP) 14 and the NWP General Conditions 20 and 31 for pre-construction notification, for which ODOT has submitted a Department of the Army Permit Application to the U.S. Army Corps of Engineers (USACE) Tulsa District for review (SWT-2016-423); and

WHEREAS, the USACE review and verification of NWP 14 for a project that may affect a Historic Property makes the project an undertaking subject to compliance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 300101 et seq), using the USACE current procedures for addressing the requirements of Section 106 and its implementing regulations (36 CFR Part 800) in 33 CFR Part 325 Appendix C, as well as USACE Interim Section 106 Guidance Memos of 2005 and 2007; and

WHEREAS, USACE has consulted with the Oklahoma State Historic Preservation Officer (SHPO) and has determined that the Project will have an adverse effect to the steel continuous I-beam bridge constructed in 1939 over the Salt Fork of the Red River (Structure 2908 1114X [NBI 07348]), a historic property determined eligible for inclusion in the National Register of Historic Places; and

WHEREAS, the USACE has consulted with the Apache Tribe of Oklahoma, Comanche Nation of Oklahoma, Kiowa Tribe of Oklahoma, Osage Nation, and Wichita and Affiliated Tribes of Oklahoma, in accordance with current USACE procedures for addressing the requirements of Section 106 and 36 CFR Part 800.2(c)(2), and determined that no properties of traditional religious cultural significance will be affected by the undertaking; and

WHEREAS, in accordance with 36 CFR Part 800.6(a)(1), the USACE 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; and

NOW, THEREFORE, USACE, ODOT, and the Oklahoma 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

USACE will ensure that the following measures are carried out. Measures will be met within the timeframes presented for each stipulation.

I. Documentation. Prior to the construction of the new bridge, ODOT will record the existing bridge at the equivalent of Level II documentation as specified by the Historic American Engineering Record (HAER).

A. High Quality 35mm black and white photographs of the bridge, documenting its present appearance and major structural or decorative details, together with all negatives on archival gold CD as digital TIFF files that meet or exceed the minimum requirement for pixel depth. Photographs are to be submitted by ODOT and approved by SHPO as meeting the conditions outlined above before any work takes place that will affect the property. The photographs will be a minimum 4 by 6 inches and no larger than 8 by 10 inches, and will be clearly labeled with the following information:

- (1) Name of property;
- (2) Location (county, city, state, and street address);
- (3) Name of photographer;
- (4) Date of photograph;
- (5) Location of photographic negative;
- (6) Indication of direction camera is pointing; and
- (7) Number of photograph in series

B. The document will include photographic reproduction of selected original (as-built) construction plans and historic photographs, if they exist.

C. The document will include a preparation of a brief written technical description of the bridge and historical summary.

D. All documentation will be edited, catalogued, and packaged in a manner acceptable to the Oklahoma SHPO. The Oklahoma SHPO will be the repository for the documentation.

E. ODOT will provide all research documentation, research materials, copies of photographs, and HAER documentation of the bridge to the Oklahoma SHPO and the USACE within three (3) years of the execution of this Memorandum of Agreement (MOA).

II. Duration. This MOA will be null and void if its stipulations are not carried out within ten (10) years from the date of its execution. At such time, and prior to work continuing on the undertaking, USACE shall either (a) execute a MOA pursuant to 36 CFR Part 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR Part 800.7. Prior to the MOA expiring, USACE may consult with signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation V below. USACE shall notify signatories as to the course of action it will pursue.

III. Post-Review Discoveries. If potential historic properties are discovered or unanticipated effects on historic properties found, ODOT shall follow ODOT Spec 107.09 Protection of

Archeological and Unmarked Human Burial Sites as well as comply with General Condition 21 of the 2012 NWP Program. Consultation will be completed in accordance with USACE current procedures for addressing the requirements of Section 106 and 36 CFR Part 800.13.

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

- A. Forward all documentation relevant to the dispute, including USACEs proposed resolution, to the ACHP. The ACHP shall provide USACE 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, USACE 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. USACE 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, USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USACE 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. USACEs responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

V. 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.

VI. 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 V, above. 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, and prior to work continuing on the undertaking, USACE must either (a) execute an MOA pursuant to 36 CFR Part 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR Part 800.7. USACE shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by USACE and SHPO and implementation of its terms evidence that USACE has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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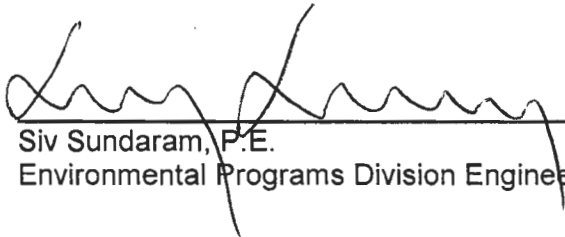
U.S. Army Corps of Engineers

BY:  DATE: 7/14/2017
Andrew R. Commer
Chief, Regulatory Office

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Oklahoma Department of Transportation

BY:  DATE: 4/21/17
Siv Sundaram, P.E.
Environmental Programs Division Engineer

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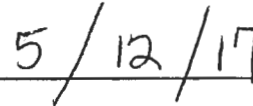
Oklahoma State Historic Preservation Office

BY:



Melvena Hensch
Deputy State Historic Preservation Officer

DATE:



5 / 12 / 17