

**MEMORANDUM OF AGREEMENT
FOR CERTAIN PROJECTS WHICH MAY BE HANDLED AS
CATEGORICAL EXCLUSIONS
OUACHITA NATIONAL FOREST
OKLAHOMA**

WHEREAS it is the responsibility of the USDA Forest Service, Ouachita National Forest to manage and conserve cultural resources under its jurisdiction, and;

WHEREAS it is the responsibility of the Oklahoma State Historic Preservation Officer (SHPO), to protect and preserve Cultural Resources in Oklahoma; and

WHEREAS the Ouachita National Forest and the Oklahoma SHPO understand that sound management for the protection of cultural resources is a responsible and worthwhile goal of federal and state agencies; and

WHEREAS the Ouachita National Forest and the Oklahoma SHPO understand the need to manage cultural resources as a resource, including inventory, evaluation, protection, and enhancement; and

WHEREAS, during the planning of an undertaking, the USDA Forest Service is responsible under Section 106 of the National Historic Preservation Act and Title 36, Code of Federal Regulations, Part 800.4 to take positive action to identify properties in the undertaking's area of environmental impact which are potentially eligible for the National Register of Historic Places and to consider the effect the Forest undertakings may have on such properties; and

WHEREAS, the National Historic Preservation Act (16 U.S.C. 470) and its implementing regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800) require that the Advisory Council be afforded the opportunity to comment on undertakings prior to their implementation, and

WHEREAS, the Ouachita National Forest has determined that management of this forest involves a number of undertakings which are unlikely to have an effect on properties that may be eligible for inclusion on the National Register of Historic Places, and;

WHEREAS, these projects may occur with overall frequency and on any of the Ranger Districts across the Ouachita National Forest, and;

NOW, THEREFORE, the USDA Forest Service, Ouachita National Forest and the Oklahoma SHPO agree that:

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BY SHPO

1. The professional archeological staffs of all parties to this understanding will work together to develop sound management programs which inventory, evaluate, protect, enhance and which meet the legal requirements of Section 106 in a timely and efficient manner.
2. The parties agree that the following undertakings described in this Memorandum of Understanding are unlikely to have an effect on properties eligible for inclusion on the National Register, and therefore, may be handled as Categorical Exclusions.

Undertakings To Be Handled As Categorical Exclusions

1. **Prescribed burns in areas which have been burned previously.** Prescribed burns are low intensity burns conducted in order to enhance browse for wildlife and to remove slash/ground litter to lower the damage from possible wildfires. The areas in which these prescribed burns are utilized have often been burned repeatedly in past years. The low intensity of these burns will not likely adversely affect prehistoric sites. Historic wooden features located within these areas will have previously been burned. When it can be documented that an area has been previously burned, no archeological survey will be necessary. **NOTE:** Any new fireline construction will require a survey of the lines.
2. **Maintenance/construction on FS buildings which are less than 50 years old.** Any maintenance work or other construction on Forest Service buildings which are less than 50 years old. **NOTE:** Buildings constructed by the Civilian Conservation Corps or German Prisoners of War are exceptions.
3. **Special use actions which take place in existing road rights-of-way.** The Forest receives numerous requests for special use permits for use of existing roads. These actions may include overhead or buried transmission/phone lines and access along forest service roads into adjacent private lands. In these cases, there is no additional construction on the existing roads.
4. **Chainsaw/herbicide site prep.** Existing previously clearcut timber stands which are scheduled for chainsaw and/or herbicide site prep. In these cases, the action will consist of using a chainsaw to fell existing standing timber and/or the application of herbicide to

control undesirable vegetation. The herbicide use will not consist of broad scale application, but will be restricted to single stem application. No ground-disturbing action will take place.

5. **New crystal mines in areas which have been mined within the past 50 years.** Numerous requests for permits for mining of quartz crystals are received by the Forest. Many proposed quartz crystal mines are in areas which have been mined within the past 50 years. These activities may be handled as a categorical exclusion where there is no new surface disturbance.
6. **Thinning (timber) sales where heavy equipment (skidders) will not be used.** Timber sales occur on the forest where the primary objective is to thin a timber stand. In many instances, heavy equipment is not used during this logging operation and there is no ground disturbance. (**NOTE:** Any system roads or temporary roads constructed as part of this timber sale activity will be surveyed.)
7. **Reroofing historic buildings.** Numerous historic building occur across the forest, primarily in established Recreation Areas. These historic buildings were constructed, primarily, by the Civilian Conservation Corps. Since their original construction, most have had the roofs replaced at least once. Roofing as part of continued maintenance of these structures can be handled as a categorical exclusion. (**NOTE:** Roofing materials and any decking that must be replaced must be replaced with in-kind materials.)
8. **Reconstruction of logging roads.** Existing roadbeds occur throughout the forest which are no longer in general use, or in some cases, have been abandoned. In order to access timber sales, these old roads are frequently rehabilitated to allow log trucks direct access into the timber sale areas. The rehabilitation may include one or more of the following actions: blading (usually with a bulldozer), trimming vegetation from along the road right-of-way, adding culverts, water bars, lead-off ditches, and/or adding a gravel surface. Reconstruction of roads that have been constructed within the past 50 years can be handled as a categorical exclusion. (**NOTE:** Actions that must continue to be surveyed as a part of road reconstruction include: sections of road which will be constructed outside of the existing road bed, lead-off ditches in areas where they did not previously occur. Reconstruction of roads where CCC rock and/or concrete culverts occur require documentation of these historic features.)

9. **Hand planting of pine seedlings.** In areas previously logged, pine seedlings are sometime planted by hand. No mechanical site prep methods are employed.
10. **Southern Pine Beetles.** There are occasional occurrences on the forest where pine timber is killed through an infestation of Southern Pine Beetles. These areas are usually small and the infestation is curbed by the removal of the infected trees as well as a few buffer trees. Removal of infected trees in areas of less than two acres may be handled as a categorical exclusion. **NOTE:** Any roads which have to be constructed to access these infected areas will require an archeological survey.
11. **Precommercial thinning of pine plantations.** Where this work is done without the use of heavy equipment, it can be handled as a categorical exclusion.
12. **Revegetation.** Revegetation that is done by hand seeding which does not involve ground disturbance.
13. **Routine Recreation Area Site Maintenance.** This would involve nonground-disturbing activities such as replacement of barriers or signs, regraveling of roads and parking areas, maintenance of an existing trail within a campground, and hazard tree removal when a skidder is not used.
14. **Road Closures.** This would involve the installation of gates and barriers, such as post and cable or dirt/rock piles. **NOTE:** Construction of "tank traps" will require a survey unless the road has previously been surveyed.
15. **Seismic Lines.** Seismic surveys conducted along existing roads. **NOTE:** All other seismic lines require survey.
16. **Grazing permits.** Grazing permits will be handled as categorical exclusions unless roads and/or buildings/structures are to be constructed.

Stipulations

The Forest Service will insure that management of undertakings which fall within the above-described categorical exclusions will be handled with the following measures:

1. The Districts shall complete a Categorical Exclusion form for each project. These forms are to be signed by the District Ranger. [A copy of this categorical exclusion form is attached and made a part of this agreement.]
2. The District will submit these forms to the Forest Archeologist well in advance of the scheduled beginning date for project activity.
3. The final determination of whether a categorical exclusion applies to an undertaking is made by the Forest Archeologist. The Forest Archeologist will review the project to ensure that it meets the requirements for a Categorical Exclusion and sign if the requirements are met. If not, then recommendations will be made for an archeological survey.
4. Those projects where known National Register or potential National Register eligible sites occur within or adjacent to the project area will not be handled as Categorical Exclusions.
5. A package of the Categorical Exclusions will be forwarded to the SHPO for review on a quarterly basis.

The Categorical Exclusion forms will provide the following information.

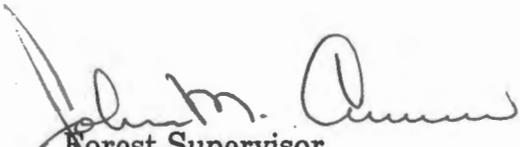
1. Description of the project.
2. Location of the project.
3. Project area clearly marked on a copy of a USGS topographic map.

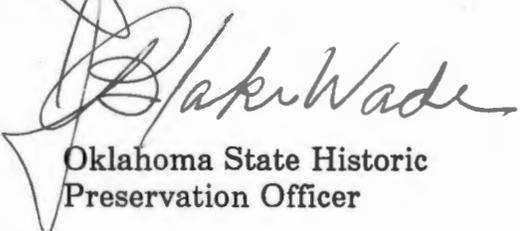
Administrative

1. No member of, or Delegate to, Congress or Resident Commissioner shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend this agreement if made with a corporation for its general benefit.
2. Nothing herein shall be construed as obligating the Forest Service to expend, or as involving the United States in any contract or other obligation for the future payment of money in excess of appropriations authorized by law or administratively allocated for the work.

3. This Memorandum of Agreement shall become effective when signed by the parties hereto and shall remain in force for one (1) year. At the end of one year, the Agreement shall be reviewed. As part of the review, all projects treated within this agreement will be reviewed jointly by the SHPO and Forest Service to determine the adequacy and effectiveness of the application of the agreement. If both parties agree that it is necessary and effective, the Agreement shall be continued for a period of one (1) year. Amendment to the Agreement may be proposed by any party and shall become effective upon approval by both parties. Termination of this Memorandum of Agreement shall be by mutual agreement by either party upon 30 days written notice.
4. Until these management guidelines are implemented, the Forest Service will continue to comply with Section 106 of the National Historic Preservation Act, as amended, in accordance with 36 CFR Part 800 for all its undertakings.
5. Execution of this Memorandum of Agreement evidences that the USDA Forest Service, Ouachita National Forest, has afforded the Council a reasonable opportunity to comment on the management of projects that are unlikely to have an effect on properties listed on or eligible for inclusion to the National Register of Historic Places.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date written below.


Forest Supervisor (date) 2/1/91
Ouachita National Forest


Oklahoma State Historic Preservation Officer 1/22/91
(date)

Concur: 
State Archeologist 1/29/91
Oklahoma Archeological Survey (date)

