

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE OUACHITA NATIONAL FOREST  
AND THE  
OKLAHOMA STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE  
RECOVERY OF SIGNIFICANT INFORMATION  
FROM ARCHEOLOGICAL SITE 34Mc576  
THE HERNDON SITE**

WHEREAS, the Ouachita National Forest (ONF) has determined that the Herndon Site Excavation may have an adverse effect on the Herndon Site, which is eligible for the National Register of Historic Places, and has consulted with the Oklahoma State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f); and

WHEREAS, the Ouachita National Forest has consulted with the Choctaw Nation of Oklahoma and the Chickasaw Nation for which the Herndon Site has religious and cultural significance, and has invited the Tribes to sign this Memorandum of Agreement as an invited signatory; and

WHEREAS, in accordance with 36 CFR Part 800, the Ouachita National Forest acknowledges and accepts the advice and conditions outlined in ACHP's "Recommended Approach for Consultation on the Recovery of Significant Information from Archeological Sites," published in the Federal Register on 18 May 1999; and

WHEREAS, the consulting parties agree that recovery of significant information from the archeological site listed above may be done in accordance with the published guidance, and that it is in the public interest to expend funds to implement this project through the recovery of significant information from the Herndon site to mitigate the adverse effects of a land exchange project; and

WHEREAS, to the best of our knowledge and belief, no human remains, associated or unassociated funerary objects or sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), are expected to be encountered in the archeological work; and

WHEREAS, in accordance with 36 CFR Section 800.6(a)(1), the Ouachita National Forest has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination with specified documentation and the Council has chosen not to participate in the consultation pursuant to 36 CFR Section 800.6(a)(1);

NOW THEREFORE, the Ouachita National Forest and the Oklahoma State Historic Preservation Officer 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

- A. The Ouachita National Forest will conduct excavations at the Herndon Site (34Mc576), located in McCurtain County, Oklahoma, a site that has been determined to be eligible for the National Register of Historic Places.
- B. The excavations will be conducted in association with the Oklahoma Anthropological Society field school, 24 May through 1 June, 2003.
- C. Ouachita National Forest Archeologists will provide overall direction and supervision for the field investigations, collections processing and reporting of the results of the investigations. The supervision of the fieldwork will be undertaken by personnel meeting the professional qualification standards of the Secretary of the Interior (36 CFR Part 61). The final report shall conform to the Standards of the Secretary of the Interior (42 FR 5377-79).

D. The excavations and analysis will follow the outline provided in the attached mitigation plan.

**OTHER TERMS AND CONDITIONS:**

IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).
2. MODIFICATION. Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.
3. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the Forest Service or the Cooperator(s) from participating in similar activities with other public or private agencies, organizations, and individuals.
4. COMMENCEMENT/EXPIRATION DATE. The instrument is executed as of the date of the last signature, filed with the council, and is effective through 1 May 2008 at which time it will expire unless extended.
5. TERMINATION. Any of the parties, in writing, may terminate or withdraw the instrument in whole, or in part, at any time before the date of expiration.

Neither party shall incur any new obligations for the terminated portion of the instrument after the effective date and shall cancel as many obligations as possible. Full credit shall be allowed for each Party's expenses and all non-cancelable obligations properly incurred up to the effective date of termination.

6. PRINCIPAL CONTACT. The principal contacts for this instrument are:

Forest Service Project Contact	SHPO Project Contact
Meeks Etchieson	Charles Wallis
Heritage Program Manager	SHPO Archeologist
Phone: 501-321-5252	Phone: 405-521-6381
FAX: 501-321-5382	FAX: 405-947-2918
E-Mail: metchieson@fs.fed.us	E-Mail: cwallis@ok-history.mus.ok.us

State Archeologist Contact	Choctaw Nation Contact
Robert L. Brooks	Olin Williams
State Archeologist	Tribal Historic Preservation Officer
Phone: 405-325-7211	Phone: 800-522-6170 x 2125
FAX:	FAX: 580-920-3102
E-Mail: rbrooks@ou.edu	E-Mail:

Chickasaw Nation Contact	
Rena Duncan	
Tribal Historic Preservation Officer	
Phone: 405-332-8685	
FAX:	
E-Mail: rena.duncan@chickasaw.net	

7. **NON-FUND OBLIGATING DOCUMENT.** This instrument is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.
8. **DISPUTES.** Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of ACHP to assist in resolving the dispute.

THE PARTIES HERERTO have executed this instrument

Ouachita National Forest: \_\_\_\_\_

date: \_\_\_\_\_

State Historic Preservation Officer: Melina Hirsch

date: 5-23-03

Choctaw Nation of Oklahoma: \_\_\_\_\_

date: \_\_\_\_\_

Chickasaw Nation \_\_\_\_\_

date: \_\_\_\_\_

State Archeologist: Walt N. Burt

date: May 23, 2003