

PROGRAMMATIC AGREEMENT  
AMONG  
THE USDA-FOREST SERVICE, OUACHITA NATIONAL FOREST  
THE ARKANSAS STATE HISTORIC PRESERVATION OFFICER  
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
THE OKLAHOMA STATE ARCHEOLOGIST  
THE CADDO NATIONS OF OKLAHOMA  
THE CHOCTAW NATION OF OKLAHOMA  
THE QUAPAW TRIBE  
AND  
THE CHICKASAW NATION

REGARDING THE TREATMENT OF HISTORIC PROPERTIES  
WITHIN THE  
ICE DAMAGE TREATMENT AREAS RESULTING FROM DECEMBER, 2000  
ICE STORMS

*Whereas*, the December 2000 ice storm caused extensive damage to large areas of the Ouachita National Forest, both in Arkansas and Oklahoma (See map, Appendix A); caused excessive build-up of down woody fuels creating a significantly increased wildland fire risk to forest resources and private property; created a large accumulation of down or damaged merchantable timber that will lose economic value if not salvaged within a short time frame; has had Adverse Effects on known eligible properties; and has created significant safety hazards to Forest Service field staff and forest users; and

*Whereas*, there is an urgency to act quickly to reduce the high fuel loads where the increased fire risk represents a threat to private property, and to salvage downed and damaged merchantable timber before it loses its value; and

*Whereas*, the current forest condition, with extensive areas of fallen and broken timber and hazardous conditions make it difficult, if not impossible, to conduct normal heritage investigations, and

*Whereas*, the Ouachita National Forest (Forest Service) proposes timber salvage and other actions within ice damage treatment areas resulting from the December, 2000 ice storms and to assess effects on Historic Properties located within these areas; and

*Whereas*, the proposed treatments include, but may not be limited to: salvage logging, cut and leave, cut and chip/mulch, clearing, burning, firewood salvage, temporary road/fireline construction, and reforestation, and

*Whereas*, the area of potential effects (APE) for specific undertakings involved in ice damage treatment will be determined in accordance with 36 CFR 800.16(d) and

*Whereas*, the Forest Service has determined that the ice damage treatment effort may have effects on significant or potentially significant historic properties; and

*Whereas*, the Forest Service has determined that the ice storm itself may have had effects on significant or potentially significant historic properties due to uprooted timber; and

*Whereas*, pursuant to Section 101(d)(6)(B) of NHPA, the Forest Service has invited the Caddo Nation, Choctaw Nation, Quapaw Tribe, and Chickasaw Nation (tribes) to participate in the consultation and be signatories to this PA; and

*Whereas*, the Forest Service has consulted with the Arkansas and Oklahoma State Historic Preservation Officers (SHPOs), the Advisory Council on Historic Preservation (Council), the tribes, and the Office of the Oklahoma State Archeologist pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 (NHPA), and

NOW, THEREFORE, the Forest Service, the Advisory Council, SHPOs and the tribes agree that, upon the Forest Service's decision to proceed with the ice damage treatments, the Forest Service shall ensure that the following stipulations are implemented in order to take into account the effects of the ice damage treatments on historic properties.

### **Stipulations**

#### **A. IDENTIFICATION OF HISTORIC PROPERTIES**

1. The Forest Service shall complete a background review for the APE, as defined in Appendix B of this document, for planned undertakings to determine the presence or likely presence of historic properties.
2. Heritage inventories (reconnaissance survey, intensive survey, sample survey) shall be conducted prior to or following the ice damage undertakings as determined by an archeologist - with consideration of forest conditions, presence or absence of known sites, and safety factors. Monitoring shall be conducted during the undertakings if heritage inventories are conducted following the undertaking. The survey methods will follow the *Guidelines for Completing Heritage Resource Surveys on the National Forest in Arkansas and Oklahoma* (See Appendix C).
3. If during investigations it is found that one or more of the designated survey areas are in fact too dangerous to enter and survey, these areas will be surveyed upon completion of the salvage timber sale operations. The potential danger includes hanging trees that could fall at any time, and large

piles of downed trees, which constitute an unstable walking surface. If the areas are unsuitable for survey due to vegetation cover or other environmental factors, one or more other site sensitive areas in the project area will be identified and surveyed.

4. Ice damage treatment areas, including existing pine plantations, where “Cut and Leave,” “Cut and Mulch,” “Cut and Chip” techniques are employed, are exempt from review provided that there is no ground disturbance associated with the action and that there are no known historic properties present.
5. Low intensity prescribed burns will not require a comprehensive survey; a background review shall be made of the proposed burn area to ensure that historic sites containing wooden features will not be affected.
6. In all areas where timber salvage is the method of treatment or other intensive ground disturbing actions are proposed, such as new roads (including temporary roads), road reconstruction, or firelines, an archeologist will evaluate the likelihood of the presence of heritage resources and develop survey/sample methods to make a reasonable and good faith effort to identify historic properties. These survey methods will be based on the *Guidelines For Completing Heritage Resource Surveys On The National Forest In Arkansas And Oklahoma* (See Appendix B.) Timber harvest treatment areas are those areas where trees would be cut using chainsaws and the main portion of the tree (bole) would be skidded to a site where it would likely be loaded on a truck and hauled from the area. Temporary roads and logging decks may be constructed to access and remove the damaged, merchantable trees.
7. In those ice damage treatment areas where an adequate previous archeological survey has been conducted, no further survey will be necessary; however, site information should be updated with an assessment of site damage provided. Maps, references to prior reports and evidence of prior consultation with the SHPO for these areas will be prepared and submitted as a package for review by the Consulting Parties in accordance with stipulation #12.
8. If wildfires should occur during the term of this agreement, the Forest Service, as much as possible and practical given the emergency nature of a wildfire, will take into account the locations of eligible properties to ensure that they are not inadvertently damaged during fireline construction. The Forest Service shall comply with the requirements of 36 CFR 800.12(b)(2) in the case of a wildfire, except that immediate response and suppression activities conducted to preserve life or property are exempt from this requirement.
9. Within ice damage treatment areas, Historic Properties eligible for listing on the National Register of Historic Places (currently documented or newly documented as a part of this project) where uprooted trees occur, as a result of this ice damage, shall be documented in accordance with *A State Plan for the*

*Conservation of Archeological Resources in Arkansas and Oklahoma Archeology: A 1981 Perspective.* Assessments of damage shall include mapping and photographing the disturbances within the Historic Property. Although no standing structures are expected to be located within any APE, should any be found, they will be documented and evaluated based on the standards employed by the Arkansas and Oklahoma SHPO.

10. All cultural resources survey and identification work for ice storm treatment undertakings will be completed by or under the direct supervision of a qualified professional Forest Service archeologist as defined in the Forest Service, Southern Region ***Programmatic Agreement Concerning the Management of Historic Properties on National Forest Lands in the Southern Region.***
11. Within the area of potential effect, all historic properties considered eligible or potentially eligible for listing on the National Register of Historic Places shall be identified in the field for avoidance where prudent and feasible. Where direct or indirect effects cannot be avoided or in discovery situations, the undertaking shall be suspended in the vicinity of the property until the Forest Service consults with the SHPO and Tribes. A treatment plan will be developed in consultation with the consulting parties and following the procedures in 36 CFR 800.13(b) for the affected properties.
12. Quarterly summaries of survey results and assessments shall be submitted to the SHPOs and Tribes for review beginning three months from the date this PA is executed.
13. Reporting – The results of surveys and site assessments, will be submitted to the SHPOs and Tribes in a single report meeting or exceeding the specifications for Archeological Reports in the A State Plan for the Conservation of Archeological Resources in Arkansas. This report shall be submitted within two years from the date this PA is executed.
14. All parties to this PA shall provide name, address and point for contact for issues or questions arising under this PA. This list of contacts will be appended to this agreement.

#### **Administrative Stipulations**

1. Should any party to this agreement object to any action carried out or proposed by the Forest Service with respect to undertakings carried out pursuant to the terms of this PA, the Forest Service shall consult with the objecting party to resolve the objection. If after initiating such consultation, the Forest Service determines that the objection cannot be resolved, the Forest Service shall forward all documentation relevant to the objection to the

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Council. Within 30 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

- a. Provide the Forest Service with recommendations, which the Forest Service shall take into account in reaching a final decision regarding its response to the objection; or
  - b. Notify the Forest Service that the Council will comment pursuant to 36 CFR 800.7(c), and proceed to comment. The resulting comment shall be taken into account by the Forest Service in accordance with 36 CFR 800.7(c)(4) and Section 110(l) of the National Historic Preservation Act.
2. Any party to this PA may propose to the Forest Service that it be amended, whereupon the Forest Service shall consult with the other parties in accordance with 36 CFR 800.14.(b) to consider such amendment.
  3. Any party to this agreement may terminate it by providing thirty (30) days written notice to the other parties, provided that the parties consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Forest will comply with 36 CFR 800.3 through 800.6 with regard to individual undertakings covered by this agreement.
  4. This agreement in no way restricts the signatories from participating in similar activities with other public or private agencies, organizations, and individuals.
  5. Pursuant to Section 22, Title 41, United States Code, no member of, or Delegate to, Congress shall be admitted to any share or part of this agreement, or any benefits that may arise therefrom.
  6. This agreement is neither a fiscal nor a funds obligation document. Any endeavor 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 agreement does not provide such authority. Specifically, this agreement does not establish authority for non-competitive 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.
  7. This agreement shall be null and void if its terms are not carried out within two (2) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

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Execution of this PA by the Forest Service, the Council, SHPOs and Tribes, and implementation of its terms evidence that the Forest Service has taken into account the effects of the proposed treatments on historic properties and has afforded the Council an opportunity to comment on the ice damage treatments and their effects on historic properties.

USDA-FOREST SERVICE, OUACHITA NATIONAL FOREST

By: \_\_\_\_\_ Date: \_\_\_\_\_  
FOREST SUPERVISOR

ARKANSAS STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
SHPO

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
John M. Fowler, Executive Director

OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

By: Bob Blakewell Date: 4-17-01  
SHPO

CADDO NATION OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
CHAIRPERSON

CHOCTAW NATION OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
CHIEF

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USDA-FOREST SERVICE, OUACHITA NATIONAL FOREST

By: Alan [Signature] Date: 4/6/01  
FOREST SUPERVISOR

ARKANSAS STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
SHPO

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler [Signature] Date: 4/12/01  
John M. Fowler, Executive Director

OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
SHPO

CADDO NATION OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
CHAIRPERSON

CHOCTAW NATION OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
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USDA-FOREST SERVICE, OUACHITA NATIONAL FOREST

By: \_\_\_\_\_ Date: \_\_\_\_\_  
FOREST SUPERVISOR

ARKANSAS STATE HISTORIC PRESERVATION OFFICER

By: Cathie Matthews Date: 04/10/01  
SHPO

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
John M. Fowler, Executive Director

OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
SHPO

CADDO NATION OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
CHAIRPERSON

CHOCTAW NATION OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
CHIEF



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By: \_\_\_\_\_ Date: \_\_\_\_\_  
FOREST SUPERVISOR

ARKANSAS STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
SHPO

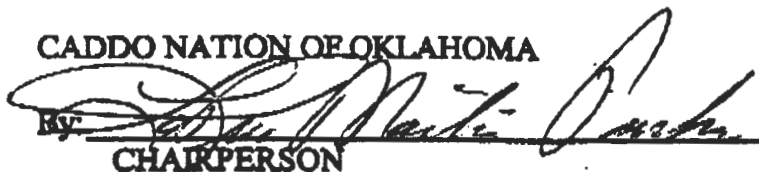
ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
John M. Fowler, Executive Director

OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
SHPO

CADDO NATION OF OKLAHOMA

By:  Date: 4-3-2001  
CHAIRPERSON

CHOCTAW NATION OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
CHIEF

Ice Damage PA [3/30/01]

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USDA-FOREST SERVICE, OUACHITA NATIONAL FOREST

By: \_\_\_\_\_ Date: \_\_\_\_\_  
FOREST SUPERVISOR

ARKANSAS STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
SHPO

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
John M. Fowler, Executive Director

OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
SHPO

CADDO NATION OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
CHAIRPERSON

CHOCTAW NATION OF OKLAHOMA

By:  \_\_\_\_\_ Date: 3/14/01  
CHIEF

QUAPAW TRIBE OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
CHAIRWOMAN

CHICKASAW NATION OF OKLAHOMA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
GOVERNOR

OKLAHOMA STATE ARCHEOLOGIST

By: *W. H. Brooks* Date: *April 3, 2001*  
STATE ARCHEOLOGIST

QUAPAW TRIBE OF OKLAHOMA

By: CHAIRWOMAN

Date:

CHICKASAW NATION OF OKLAHOMA

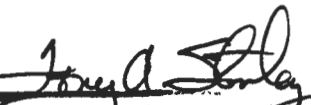
By: GOVERNOR

Date:

OKLAHOMA STATE ARCHEOLOGIST

By: STATE ARCHEOLOGIST

Date:

APPROVED:   
TONY A. STANLEY Date 4/9/01  
Agreements Coordinator

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APPENDIX A

Map showing the Ice Storm Damage within the Ouachita National Forest

APPENDIX B

DEFINITIONS OF TERMS USED IN THIS AGREEMENT

- a. **Reconnaissance Survey**: A spot check of localized areas within a proposed project area to determine whether or not archeological properties occur or to determine the need for an archeological survey.
- b. **Intensive Survey**: A pedestrian field examination of a project area utilizing standard archeological techniques consisting of transects spaced at 30-meter intervals and shovel testing at 30-meter intervals along those transects (shovel testing only where the where the ground slope is 12% or less).
- c. **Sample Survey**: An intensive archeological survey of a portion or portions of a project area.
- d. **Complete/Comprehensive Survey**: An intensive archeological survey of an entire project area.
- e. **Background Review**: An examination of maps, files and other records to determine what previous work may have occurred within a project area; or, to determine whether or not sites are known within or near the project area and to verify the locations of previously undocumented historic sites prior to the field investigations.
- f. **Cut and Leave**: Timber management techniques where select timber types are cut with chainsaws and left on the ground in the project area.
- g. **Cut and Mulch or Cut and Chip**: Timber management techniques where select timber types are cut and then mulched or chipped with large, tracked or wheeled heavy equipment. The mulch or chips are generally left on the ground in the project area.
- h. **Area of Potential Effect (APE)**: The APE means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.
- i. **Heritage Resources**: Heritage Resources encompass any resource that is related to prehistory or history. They may include, but not be limited to, prehistoric archeological sites, rock art, historic archeological sites, historic buildings, other standing structures (bridges, dams, stone walls, etc), or historic landscape features.

APPENDIX C

## **IX. Types of Surveys to be used on the Arkansas and Oklahoma National Forests\*\***

The Cultural Resource Programs on the National Forests in Arkansas and Oklahoma have utilized three basic survey methodologies over the past decade: Complete surveys, Reconnaissance Surveys, and Sample Surveys.

Project Survey Boundaries. Boundaries for survey projects shall be determined on the basis of natural or prominent man-made features. Examples of types of features include: stream channels, bluff lines, ridge crests, roads, pipelines or property boundaries.

It is the responsibility of the forest archeologists to determine which of the three following types of survey will be used for a proposed project.

A. Complete surveys. A complete survey is considered to be a 100% survey with even coverage of the entire project area. By conducting a complete survey, most sites that occur in a given project area should be located and documented. Occasionally low density and isolated artifact sites will be overlooked due to vegetation and soil cover. Following a complete survey, the project area can be "cleared" for project activity, once the impact to significant sites is mitigated or they are removed from the area of potential effect. Future projects will not require additional survey. However, during future projects, if undiscovered sites are found, then work in the vicinity of the site shall cease, the site documented, evaluated and mitigated.

Survey strategies, which meet the criteria to qualify as a complete survey, are outlined below. The distances for transect and shovel test spacing are designed to be maximum distances to meet the criteria for a complete survey. A forest archeologist or a HRT may tighten or shorten these distances if in their judgment there are indications that this might be necessary in order to assure that all significant sites within a project area are located and documented.

### Complete Survey Strategies:

Surveys on slopes between 0 and 12% transects and shovel tests will be placed at no greater than 30 meter intervals. Surveys on slopes between 12 and 25% transects and shovel tests will be placed at no greater than 100 meter intervals. Surveys on slopes

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\*\* Extracted from: Etchieson, Meeks, Gary D. Knudsen, Barbara Williams and Michael Pfeiffer, 1993, *Guidelines For Completing Heritage Resource Surveys On The National Forest In Arkansas And Oklahoma*. Ouachita and Ozark-St. Francis National Forests.

greater than 25% will have transects spaced at no greater than 100 meter intervals. On these slopes shovel tests will not be required. If during the survey of areas over 12%, slopes are located which are less than 12% or 25%, then these flatter areas will be surveyed at the appropriate transect and shovel test spacing. All rock outcrops and rock faces will be examined for rockshelters, rock art or other evidence of cultural utilization.

B. Reconnaissance surveys. A reconnaissance survey is a "spot check" of a particular project area. This type of survey does not allow for all sites that may be located within a given project area to be found and documented. A project cannot be "cleared" with this kind of survey activity and future projects will require additional survey work.

Survey strategies for these types of surveys will be designed by a forest archeologist on a case by case basis. All rock outcrops and rock faces will be examined for rockshelters, rock art or other evidence of cultural utilization.

C. Sample surveys. These surveys are basically random sample surveys. Survey areas for sample surveys are selected prior to the field work based on various criteria such as background research, environmental zones, soil types, etc., and the areas selected for survey are covered with an intensive survey. Theoretically the results from this kind of survey will provide information about site types and densities in the areas not examined.

Any sample surveys conducted on the forest shall be coordinated with a forest archeologist or through a contract with an Archeological Contracting/Consulting Firm.

Sample Survey Strategies:

Sample surveys on slopes between 0 and 12% will utilize transects and shovel tests spaced at no greater than 30 meter intervals. All slopes of less than 12% will be surveyed utilizing a complete survey strategy. All rock outcrops and rock faces will be examined for rockshelters, rock art or other evidence of cultural utilization. Slopes over 12% are surveyed using transect intervals spaced at no greater than 30 meters, however shovel testing will not be required on those slopes over 12%.