

MEMORANDUM OF AGREEMENT
BETWEEN THE
UNITED STATES DEPARTMENT OF AGRICULTURE – AGRICULTURAL RESEARCH
SERVICE
AND THE
OKLAHOMA STATE HISTORIC PRESERVATION OFFICE
REGARDING THE DEMOLITION OF EIGHT BUILDINGS IN EL RENO,
CANADIAN COUNTY, OKLAHOMA

WHEREAS the Agricultural Research Service (ARS) plans to carry out the demolition of eight buildings that are contributing resources to the National Register of Historic Places listed Fort Reno Historic District, pursuant to the Federal Management Regulation Subchapter C, Delegation of the Department of Agriculture Part §102-75.1075; and

WHEREAS the undertaking consists of demolition of the eight buildings to the footprint: USDA # 621800B026 (Machine Shop); 621800B106 (Hay Barn); 621800BA04-06 & 08-10 (Coal Houses B19, B20, B5, B16 B08, & B09); and, 621800BA10 (Garage near Bakery) which are contributing resources to the NRHP-listed Fort Reno Historic District (all labeled as #9 on the NRHP map). Fort Reno was established in 1874 to provide security in the Cheyenne and Arapaho lands. It was home to both the 9th and 10th Calvary (Buffalo Soldiers) and served in this capacity until 1909. At that time, the post was converted into a U.S. Army Quartermaster remount station. In 1949 it was turned over to the USDA for agricultural research.

WHEREAS, ARS has defined the undertaking's area of potential effect (APE) as the footprint of the associated eight buildings within a portion of T13N R08W S34 NE4, County Parcel ID 291341-000000-000000.

WHEREAS ARS has determined that the undertaking will have an adverse effect on the Fort Reno Historic District listed in the National Register of Historic Places. ARS has consulted with the Oklahoma State Historic Preservation Officer (SHPO), pursuant to 36 C.F.R. 800, of the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, the SHPO and Oklahoma Archeological Survey (OAS) have entered into a cooperative agreement under which the State Archaeologist at the OAS provides special services to the SHPO in the Section 106 review process. OAS maintains the inventory of Oklahoma's archaeological resources and provides professional services to the SHPO in prehistoric and historic archaeological resources. The State Archaeologist at the OAS reviews federal undertakings for possible impacts on prehistoric archaeological resources and provides written comments as the SHPO's official representative; and

WHEREAS, ARS has consulted with the OAS on the development of this MOA pursuant to 36 CFR 800.14(b)(2)(ii) and the OAS has elected to sign the MOA as an Invited Signatory; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), ARS 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 pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

WHEREAS, in accordance with 36 CFR 800, ARS has consulted with the Cheyenne and Arapaho Tribes, for religious and cultural significance, and no response has been received by the Tribes.

NOW, THEREFORE, ARS and 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

ARS shall ensure that the following measures are carried out:

I. INTERPRETIVE SIGNAGE

ARS will contract for interpretative signage which describes the history of the buildings in relation to the Fort Reno Historic District. The signage will be placed on ARS Fort Reno land for public viewing.

A. ARS will receive SHPO's written concurrence of plaque verbiage prior to creation.

B. Prior to installation, ARS will consult with the SHPO regarding appropriate placement/location of plaque.

II. DURATION

This MOA will expire if its terms are not carried out within eighteen (18) months from the date of its execution. Prior to such time, ARS may consult with SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation V below.

III. POST-REVIEW DISCOVERIES

Pursuant to 36 CFR § 800.13(b)(3), if historic properties are discovered or unanticipated effects on historic properties are found after construction on an undertaking has commenced, the ARS shall ensure that the Inadvertent Discovery Plan in Appendix B will be followed.

In the event of an unanticipated discovery of human remains, funerary objects, sacred objects or objects of cultural patrimony, work shall immediately cease within a 100 foot radius of the area of discovery and the ARS will follow the procedures outlined in the *ACHPs Policy Statement Regarding Treatment of Burial Sites, Human Remains, of Funerary Objects* (February 23, 2007), the procedures outlined by the Native American Graves Protection and Repatriation Act (NAGPRA) (43 CFR Part 10, Subpart B) and the Archeological Resources Protection Act (ARPA) of 1979 (43 CFR Part 7 and 18 CFR Part 1312). In addition, per the Inadvertent Discovery Plan in Appendix B, ARS shall contact the Canadian County Sheriff's Office and comply with the Oklahoma Statutes, Title 21, Part 21-1168.4 Discovery of human remains and Part 21-1168.7 Federal and state agencies encountering burial grounds, human skeletal remains or burial furniture.

ARS will ensure that the Project incorporates procedures to protect a post-review discovery to comply with the requirements of 36 CFR 800.13(b)(3) and (c).

IV. MONITORING AND REPORTING

Semi-annually following the execution of this MOA until it expires or is terminated, ARS shall provide the signatories a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in ARS' efforts to carry out the terms of this MOA.

V. DISPUTE RESOLUTION

Should any of the signatories object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, ARS shall consult with the signatories to resolve the objection. If ARS determines such objection cannot be resolved, ARS will:

A. Forward all documentation relevant to the dispute, including the ARS' proposed resolution, to the ACHP. The ACHP shall provide ARS 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, ARS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and provide them with a copy of this written response. ARS 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, ARS may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, ARS shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the MOA, and provide them and the ACHP with a copy of such written response.

C. ARS' responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VI. 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.

VII. TERMINATION

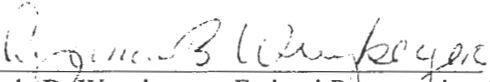
If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation V, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

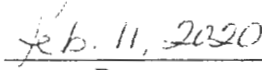
Once the MOA is terminated, and prior to work continuing on the undertaking, ARS must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. ARS shall notify the signatories as to the course of action it will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

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

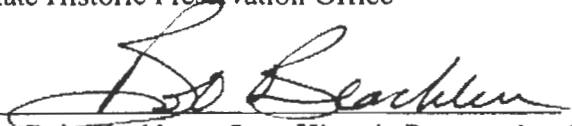
SIGNATORIES:

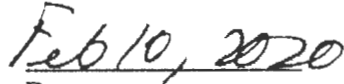
United States Department of Agriculture, Agricultural Research Service


Dr. Linda B. Wurzberger, Federal Preservation Officer

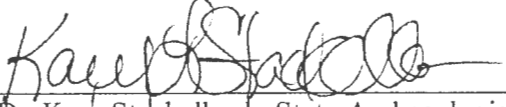

Date

State Historic Preservation Office


Dr. Bob Blackburn, State Historic Preservation Officer


Date

INVITED SIGNATORY
Oklahoma Archaeological Survey



Dr. Kary Stackelbeck, State Archaeologist

2/10/20

Date

Appendix A

USDA Asset #	USDA Asset Name	SHPO File #	Gross Sq. Ft.	USDA Acquired Date	Construction Date
621800B026	Machine Shop	2262-19	5,200	1948	1921
621800B106	Hay Barn	2261-19	6,480	1948	1948
621800BA04	Coal House B19	2261-19	280	1948	1934
621800BA05	Coal House B20	2261-19	280	1948	1934
621800BA06	Coal House B5	2261-19	280	1948	1890
621800BA08	Coal House B16	2261-19	280	1948	1910
621800BA09	Coal House B9	2261-19	112	1948	1890
621800BA10	Garage by Bakery	2261-19	338	1948	1933

Appendix B

Inadvertent Discovery Plan

The ARS recognizes that historic properties may be discovered or unanticipated effects on historic properties may be identified after the completion of the Section 106 process. Upon such a discovery during project implementation, the ARS will follow these procedures in accordance with 36 CFR Part 800.13:

- 1) The SHPO, THPO(s), OAS, and other consulting parties will be notified by the ARS within forty-eight (48) hours upon discovery that archaeological deposits have been discovered during an undertaking.
 - a. The initial notification shall be completed by phone call or email, with the expectation that additional documentation will be provided via email attachment(s). Such additional documentation must include (but is not limited to): text-based description of the nature, location, and context of the inadvertent discovery; photographs of the materials discovered (*in-situ* if possible); approximation of project completeness; and current status of project.
 - b. The relevant Point of Contact (POC) for each party is listed below.
 - c. If a POC cannot be reached via phone or email, arrangements shall be made to determine the preferred communication method.
- 2) If the undertaking has not been completed at the time the effect is discovered, all activities within one hundred (100) feet of the discovery shall cease, and reasonable efforts shall be taken to avoid or minimize further damage.
- 3) A qualified-heritage professional will evaluate the discovery, assess the effects, develop possible treatment recommendations and implement additional protection measures as necessary until the re-opened consultation process has been completed.
 - a. The qualified professional must meet or exceed the Secretary of the Interior's Professional Qualification Standards for archeology, which may be found at: https://www.nps.gov/history/local-law/arch_stnds_9.htm.
 - b. The resulting assessment shall be provided via email to the points of contact for the SHPO, THPO(s), OAS, and other consulting parties, unless other communication methods have been specified.
- 4) When the ARS and consulting parties agree that historic properties are not affected, the ARS will document the decision and the project may proceed as planned.
- 5) When the ARS and consulting parties agree that historic properties are affected, the ARS and consulting parties will develop a Memorandum of Agreement (MOA) to mitigate adverse effects to historic properties. The ACHP will be invited to participate in the development of the MOA.
 - a. In this scenario, the consultation process shall include consideration regarding the extent to which elements of the project may proceed upon approval by all consulting parties with appropriate provisions in place to guard against further impacts to the historic property.
- 6) When the ARS and consulting parties do not agree that historic properties are affected, the ARS shall seek a formal NRHP-eligibility determination from the Keeper and then revisit items #4 and #5 above with the consulting parties.

If the inadvertent discovery includes human remains, funerary objects, and/or materials associated with a burial:

- 7) All construction activities within 300 feet of the discovery will cease and steps will be taken to secure the location.
- 8) ARS will notify the appropriate law enforcement agency with jurisdiction within forty-eight hours. If the remains are confirmed to be human, law enforcement will determine whether they are of forensic interest or otherwise associated with a crime scene, in which case they would assume responsibility for ensuing treatment measures.
- 9) Upon determination that the discovered human remains are not of forensic interest, the ARS shall evaluate the potential to leave the remains in place and avoid further disturbance to the burial(s) and associated objects.
- 10) The ARS shall then notify the State Archeologist (OAS), SHPO, and any other interested Tribes who

may assert affiliation with the remains. The evaluation of avoidance shall be included as part of the notification of discovery to the SHPO, OAS, and the Tribes and request for further consultation per procedure 1(a-c) above.

- 11) If it is not possible to avoid further disturbance to the remains and associated materials, then ARS shall consult with SHPO, OAS, and Tribes to determine the appropriate treatment measures.
- 12) Construction shall not continue in the area until an appropriate treatment plan is executed.

Points of Contact:

State Historic Preservation Office (SHPO)

Catharine M. Wood
Historical Archaeologist
Section 106 Program Coordinator
Oklahoma Historic Preservation Office
Phone: (405) 521-6381
Email: cwood@okhistory.org

Oklahoma Archeological Survey (OAS)

Kary L. Stackelbeck
State Archaeologist
Oklahoma Archeological Survey
University of Oklahoma
Phone: (405) 325-7213
Email: kstackelbeck@ou.edu

Tribal Historic Preservation Office (THPO)

Cheyenne and Arapaho Tribes
200 Wolf Robe Circle
Concho, Oklahoma 73022

Exhibit A

