

Advisory Council On Historic Preservation

1522 K Street, NW
Washington, DC 20005

MEMORANDUM OF AGREEMENT

WHEREAS, the Bureau of Reclamation proposes to construct the McGee Creek Project in Atoka County, Oklahoma; and,

WHEREAS, the Bureau of Reclamation, in consultation with the Oklahoma State Historic Preservation Officer (SHPO), has determined that this undertaking as proposed would have an adverse effect on properties eligible for the National Register of Historic Places; and,

WHEREAS, pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. Sec. 470f) and Section 800.4(d) of the regulations of the Advisory Council on Historic Preservation (Council), "Protection of Historic and Cultural Properties" (36 CFR Part 800), the Bureau of Reclamation has requested the comments of the Council; and,

WHEREAS, pursuant to Section 800.6 of the Council's regulations, representatives of the Council, the Bureau of Reclamation, and the Oklahoma SHPO have consulted and reviewed the undertaking to consider alternatives to avoid or satisfactorily mitigate the adverse effect;

NOW; THEREFORE, it is mutually agreed that the undertaking will be implemented in accordance with the following stipulations to avoid or satisfactorily mitigate adverse effects on the above-mentioned properties.

STIPULATIONS

The Bureau of Reclamation will ensure that the following measures are carried out.

I. Prior to ground-disturbing activities the following will be accomplished:

- A. An historic properties inventory will be completed that provides sufficient information to assess whether properties appear to meet the National Register Criteria (36 CFR Sec. 60.6).
- B. In consultation with the Oklahoma SHPO, all properties will be evaluated and determinations of eligibility will be sought from the Secretary of the Interior for those properties that appear to meet the National Register Criteria or about which there is a question of eligibility.

C. Mitigation will not be carried out at sites that are not eligible for the National Register.

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D. Properties found eligible for inclusion in the National Register will be treated as follows:

1. The project designs will be reassessed to determine which properties can be avoided by redesign or other means, including but not limited to fencing and installation of protective covering. A written report will be provided to the Oklahoma SHPO and the Council on the actions that will be taken to avoid eligible properties.
2. For properties that are eligible because of the information they are likely to yield, Part I, "Principles in the Treatment of Archeological Properties" of the Council's Handbook, Treatment of Archeological Properties (Attachment 1), will be applied to determine whether data recovery is appropriate.
 - a. If data recovery is determined to be inappropriate, a report supporting this determination will be prepared and submitted to the Oklahoma SHPO and the Council. The Oklahoma SHPO and the Council will have 15 days to object.
 - b. If data recovery is determined to be appropriate, or if the Council objects to a determination that data recovery is inappropriate, a data recovery plan will be developed and implemented. The plan will be developed by a *cm* ~~National Register~~ archeologist(s) meeting at least the minimum qualifications defined in proposed guidelines, 36 CFR Part 66, Appendix C (Attachment 2) and will take into account Part III, "Recommendations for Archeological Data Recovery," of the Handbook (Attachment 1). A copy of the plan will be furnished to the Oklahoma SHPO and the Council; if no objection is received within 15 working days the plan will be implemented.

3. For historic structures and objects found eligible:

Specific plans will be developed to mitigate adverse effects on eligible structures and objects. Where applicable the recommended approaches in "The Secretary of the Interior's Standards for Historic Preservation Projects with Guidelines for Applying the Standards" will be followed. The plans will be provided to the Oklahoma SHPO and the Council. If no objection is made within 15 working days they will be implemented.

II. Construction activity will be halted in the vicinity of any archeological sites discovered during construction until the steps detailed in 36 CFR. Sec. 800.7 of the Council's regulations have been complied with.

III. Failure to carry out the terms of this Agreement requires that the Council's comments again be requested in accordance with 36 CFR Part 800. If the terms of the Agreement cannot be met, no action will be taken or sanctioned or any irreversible commitment made that would foreclose the Council's consideration until the commenting process has been completed.

IV. If any of the signatories to this Agreement determine that the terms of the Agreement cannot be met or believes a change is necessary, that signatory will immediately request the consulting parties to consider an amendment or addendum to the Agreement. Such an amendment or addendum will be executed in the same manner as the original Agreement.

V. Within 90 days after carrying out the terms of the Agreement, Bureau of Reclamation will provide a written report to all signatories to the Agreement on the actions taken to fulfill the terms of the Agreement.

Robert Sawyer Sept 24, 1981
Executive Director (date)
Advisory Council on Historic Preservation

Regional Director (date)
Bureau of Reclamation

Chen Metcalf Sept 28, 1981
Oklahoma State Historic (date)
Preservation Officer

Chairman (date)
Advisory Council on Historic Preservation