

**MEMORANDUM OF AGREEMENT
AMONG
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT,
LEFLORE COUNTY, AND
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICE
REGARDING
PROPOSED REPLACEMENT OF BRIDGE 40E1550N4800000 (NBI NO.06497) OVER
BIG CREEK, LEFLORE COUNTY, OK**

WHEREAS, the U.S. Army Corps of Engineers, Tulsa District (SWT) issues permits for the discharge of dredged or fill material into waters of the United States within its area of responsibility under Section 404 of the Clean Water Act (33 U.S.C. 1344), which is administered under Federal regulations 33 C.F.R. 320-332 and provides the Corps of Engineers with regulatory jurisdiction over all waters of the United States (WoUS); and

WHEREAS, it has been determined that the proposed replacement of bridge 40E1550N4800000 (NBI No.06497) on County Road Major Collector 4041C over Big Creek in LeFlore County, Oklahoma requires a permit under Section 404 of the Clean Water Act and has been determined to constitute an undertaking pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, bridge 40E1550N4800000 (NBI No.06497) (hereafter, Big Creek Bridge) is a Pratt through truss bridge constructed in 1938 and has been determined eligible for the National Register of Historic Places and therefore removing the Big Creek Bridge will have an adverse effect to the historic property; and

WHEREAS, LeFlore County published a Notification To Remove Historic Bridge in The Heavener Ledger on July 18, 2013 to request comments on the bridge replacement project and to seek interested parties to assume ownership of and relocate the historic bridge (attached); and

WHEREAS, on July 18, 2013 Gene Heavener provided a letter stating that he and his family would like to assume ownership of the bridge for use on their farm in the Haw Creek Community approximately 2 miles from the existing bridge site (attached); and

WHEREAS, an agreement was signed on August 19, 2013 between the Heavener Family and LeFlore County for the relocation and reassembling of the Big Creek Bridge. The agreement requires the Landowners to preserve the bridge with similar features that give it its historic significance and to preserve the historic configuration of the bridge (attached); and

WHEREAS, SWT 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. 470f); and

WHEREAS, in accordance with 36 CFR Part 800.6(a)(1), SWT 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 CFR Part 800.6(a)(1)(iii) and

WHEREAS, in accordance with 36 CFR 800.6(b)(1)(iv), this Agreement will become final upon submitting a copy of the executed Agreement, along with the documentation specified in 36 CFR 800.11(f), to the ACHP prior to approving any undertaking in order to meet the requirements of Section 106 and 36 CFR 800.6(b)(1);

NOW, THEREFORE, SWT, LeFlore County, and the Oklahoma 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
BIG CREEK PRATT THROUGH TRUSS
BRIDGE 40E1550N4800000

I. Stipulations. SWT will ensure that the following measures are carried out by LeFlore County:

1. Prior to the construction of the new bridge, the existing bridge will be recorded at the equivalent of Level II documentation as specified by the Historic American Engineering Record (HAER) and incorporated into the 1993 *Oklahoma Historic Bridge Project Preservation and Management Plan*, as approved by the Oklahoma SHPO. This documentation will include the following:

A. High Quality, digital photographs, of the bridge documenting its present appearance and major structural or decorative details, together with an archival gold CD containing digital TIFF files that meet or exceed the minimum requirement for pixel depth. The photographs will be a minimum 4" x 6" and no larger than 8" x 10", and will be clearly labeled with the following information:

- a. Name of property;
- b. Location (county, city, state, and street address);
- c. Name of photographer;
- d. Date of photograph;
- e. Location of photographic negative;
- f. Indication of direction camera is pointing;
- g. Number of photograph in series.

Photographs are to be submitted and approved by SHPO as meeting the conditions outlined above before any work takes place that will affect the property.

B. Photographic reproduction of selected original construction plans and historic photographs, if they exist.

C. Preparation of a brief written technical description of the bridge and historical summary.

Person(s) producing the required documentation shall meet the Secretary of the Interior's Standards and Guidelines Professional Qualifications Standards, as appropriate. All documentation will be edited, catalogued and packaged in a manner acceptable to the Oklahoma SHPO. The Oklahoma SHPO will be the repository for the documentation.

2. LeFlore County will ensure that the relocation and reassembling of the bridge in its historic configuration is completed as detailed in the agreement signed on August 19, 2013 between the Heavener Family and LeFlore County. SWT will include this stipulation as a condition of the Section 404 permit for the Big Creek Bridge replacement project.

II. Dispute Resolution. Should any signatory party to this MOA object at any time to the actions proposed or the manner in which the terms of this MOA are implemented, SWT shall consult with such party to resolve the objection. If SWT determines that such objection cannot be resolved, SWT will:

1. Forward all documentation relevant to the dispute, including SWT's proposed resolution, to the ACHP. The ACHP shall provide SWT 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, SWT shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties, and provide them with a copy of this written response. SWT will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, SWT may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, SWT shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the

ACHP with a copy of such written response.

3. SWT's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

- III. Amendment. This MOA may be amended when such amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all the signatories is filed with the ACHP.
- IV. Termination. If any signatory to this MOA determines that its terms will or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per stipulation IV, 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, SWT 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. SWT shall notify the signatories as to the course of action it will pursue.
- V. Duration. This MOA shall be in effect for ten (10) years from the date of its execution. Within six (6) months of the expiration date, any signatory party may consult with other signatories to consider renewal of the MOA, or reconsider the terms of the MOA and amend it in accordance with Stipulation V above. No extension or amendments shall be effective unless all signatory parties to the MOA have agreed in writing.

Execution of this Memorandum of Agreement and implementation of its terms evidence that SWT has afforded the Council an opportunity to comment on the replacement of the Big Creek Pratt Through Truss bridge in LeFlore County (Structure 40E1550N4800000) and its effects on historic properties, and that SWT has taken into account the effects of the undertaking on historic properties.

**MOA for Pratt through truss bridge over Big Creek in LeFlore County, Oklahoma
(Structure 40E1550N4800000)**

SIGNATURES *(continued on next two pages)*:

U.S Army Corps of Engineers, Tulsa District

BY:  DATE: DEC 3 2014

ANDREW E. COMMER
CHIEF, REGULATORY OFFICE

(signature pages continued)

Oklahoma State Historic Preservation Officer

BY: Bob Blackburn DATE: 12/9/14
Bob L. Blackburn, Ph.D.

(signature pages continued)

LeFlore County

BY: C. E. Scott DATE: 11-19-14