

**MEMORANDUM OF AGREEMENT
AMONG THE U.S. ARMY CORPS OF ENGINEERS,
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION,
AND
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER
FOR
THE REPLACEMENT OF BRIDGE NOS. 174 AND 175
ON SR 1332 (WATERVILLE ROAD) OVER BIG CREEK
HAYWOOD COUNTY, NORTH CAROLINA
WBS NO. 14SP.20441.1 AND 14SP.20441.2**

WHEREAS, the U.S. Army Corps of Engineers (USACE) has determined that the replacement of Bridge Nos. 174 and 175 over Big Creek on SR 1332 (Waterville Road) (the Undertaking), will have an adverse effect upon Haywood Bridge Nos. 174 and 175, both girder and floorbeam bridges which are eligible for listing in the National Register of Historic Places (NRHP) because the undertaking will require the removal of the historic bridge; and

WHEREAS, the USACE has consulted with the North Carolina State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. 306108); and

WHEREAS, the USACE has notified the Advisory Council on Historic Preservation (Council) of the adverse effect and the Council has declined to comment or participate in the consultation;

WHEREAS, the North Carolina Department of Transportation (NCDOT) has participated in the consultation and been invited by USACE and the North Carolina SHPO to be a signatory to this Memorandum of Agreement (MOA); and

NOW, THEREFORE, USACE, NCDOT, and the North Carolina SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on the historic property.

STIPULATIONS

The USACE will include the following measures in their permit conditions:

I. Photorecording

Prior to the initiation of construction, NCDOT will record the existing condition of Bridge Nos. 174 and 175 with their surroundings in accordance with the attached Historic Structures and Landscape Recordation Plan (Appendix A). Copies of the documentation will be deposited in the files of the State Historic Preservation Office, and the NCDOT Historic Architecture Section.

II. Design Review

Bridge Nos. 174 and 175 are contributing elements to the Waterville Historic District. NCDOT and SHPO will review design plans to ensure that the replacement bridges are compatible to the character of the historic district.

III. Unanticipated Discovery

In accordance with 36 CFR 800.13(b), if NCDOT identifies additional cultural resource(s) during construction and determine them to be eligible for the NRHP, all work will be halted within the limits of the NRHP-eligible resource(s) and the USACE and SHPO contacted. If after consultation with the Signatory and Parties additional mitigation is determined necessary, the NCDOT, in consultation with the Signatory and Parties, will develop and implement appropriate protection/mitigation measures for the resource(s). Inadvertent or accidental discovery of human remains will be handled in accordance with North Carolina General Statutes 65 and 70.

IV. Dispute Resolution

Should any of the Signatory or Parties object within (30) days to any plans or documentation provided for review pursuant to this Agreement, the USACE shall consult with the objecting party(ies) to resolve the objection. If the USACE or the objecting party(ies) determines that the objection cannot be resolved, the USACE will forward all documentation relevant to the dispute to the Council. Within thirty (30) days after receipt of all pertinent documentation, the Council will either:

1. Provide the USACE with recommendations, which the USACE will take into account in reaching a final decision regarding the dispute, or
2. Notify the USACE that it will comment pursuant to 36 CFR Section 800.7(c) and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the USACE in accordance with 36 CFR Section 800.7 (c) (4) with reference to the subject of the dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; NCDOT's responsibility to carry out all of the actions under this agreement that are not the subject of the dispute will remain unchanged.

V. Amendments

If any Signatory to this MOA believes that its terms cannot be carried out or that an amendment to the terms must be made, that party(ies) shall immediately consult with the other party(ies) to develop amendments in accordance with 36 CFR 800.6(c)(7). If an amendment cannot be agree upon, the dispute resolution process set forth in Stipulation VI will be followed.

VI. Termination

Any Signatory to this MOA may terminate the agreement by providing notice to the other parties, provided that the signatories and concurring parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination of this MOA will require compliance with 36 CFR 800. This MOA may be terminated by the execution of a subsequent MOA that explicitly terminates or supersedes its terms.

VII. Duration


Unless terminated pursuant to Stipulation VI above, this MOA will be in effect until USACE, in consultation with the other Signatory Party(ies), determines that all of its terms have satisfactorily been fulfilled or if NCDOT is unable or decides not to construct the Undertaking.

Execution of this Memorandum of Agreement by USACE, NCDOT and the North Carolina SHPO, its subsequent filing with the Council, and implementation of its terms are evidence that USACE has afforded the Council an opportunity to comment on the Undertaking and that USACE has taken into account the effects of the Undertaking on the historic properties.

AGREE:

United States Army Corps of Engineers

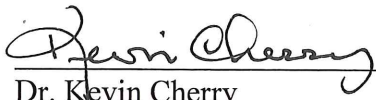
FOR THE COMMANDER



Scott McLendon
Chief, Regulatory Division
Wilmington District

14 March 2018
Date


State Historic Preservation Officer:



Dr. Kevin Cherry
North Carolina State Historic Preservation Officer
North Carolina Department of Cultural Resources Officer

2/22/2018
Date

North Carolina Department of Transportation:



Phillip S. Harris III, P.E., C.P.M.
Environment Analysis Unit Head
North Carolina Department of Transportation

01/31/2018
Date

FILED:

By: _____
Advisory Council on Historic Preservation

Date

APPENDIX A

Historic Structures and Landscape Recordation Plan For The Replacement of Bridge Numbers 174 and 175 On SR 1332 (Waterville Road) over Big Creek Haywood County, North Carolina

PHOTOGRAPHIC REQUIREMENTS

- Elevations and oblique views of Bridge Numbers 174 and 175 with their setting.
- Representative structural and ornamental details of the bridge.

Photographic Format

- Color digital images (all views). Images are to be shot on a SLR digital camera with a minimum resolution of 6 megabyte pixels, at a high quality (preferably RAW) setting, to be saved in TIF format as the archival masters and labeled according to the State Historic Preservation Office standards.
- All processing to be done to archival standards.
- The accompanying printed inventory of the images – including subject, location, date, and photographer information for each image – is to be completed according to the State Historic Preservation Office standards.

Copies and Curation

- One (1) set of all above mentioned photographic documentation, including a compact disc of labeled images, will be deposited with the North Carolina Office of Archives and History/Historic Preservation Office to be made a permanent part of the statewide survey and iconographic collection.
- One (1) contact sheet shall be deposited in the files of the Historic Architecture Section of NCDOT.