

# OKLAHOMA DEPARTMENT OF TRANSPORTATION CULTURAL RESOURCES PROGRAM



Designers and non NEPA Professionals Workshop—  
August 29 and September 4, 2013

# Objectives:

- Introduction of ODOT-CRP
- National Historic Preservation Act (Section 106)
  - ▣ Identifying Historic Properties
  - ▣ Consultation
  - ▣ Types of Effects to Historic Properties
- Section 4(f) and Cultural Resources
- Agreement documents
- Streamlining measures implemented to expedite project delivery

# Introduction to the team

- Scott Sundermeyer – Director
- Robert Bartlett – Special Projects
- Rhonda Fair – Tribal Liaison
- Anna Eddings – Architectural Historian
- Tori Raines – Architectural Historian
- Mike McKay – Archeologist
- Kristina Wyckoff – Archeologist
- Nicholas Beale – Archeologist

# Tasks of ODOT-CRP

- Conduct Cultural Resources Reviews and Investigations
- Perform reconnaissance studies – early identification of historic properties
- Prepare 4(f) evaluations
- Prepare Memoranda of Agreements for effects to historic properties
- Implement mitigation measures
- Provide final NHPA compliance documentation to ODOT Division NEPA PMs

# Tasks of ODOT-CRP

- Off Project Facility Reviews: Division Residencies contact CRP for file search.
  - ▣ All borrow pits
  - ▣ Equipment staging areas
  - ▣ Spoil dumps
  - ▣ Asphalt/Concrete Plants
- Utility Permit Reviews:
  - ▣ All utility installations in ODOT R/W require an archeological file review.
  - ▣ Program maintains files of all archeological sites on ODOT R/W
- Investigation and Assessment of Inadvertent Finds



# NHPA

## Review and Compliance



# Law and Regulatory Requirements

## National Historic Preservation Act of 1966 (NHPA)

- Legislation intended to preserve historical and archeological sites in the U.S.
  - ▣ Signed as policy on October 15, 1966
  - ▣ Section 106 of NHPA
    - System of “procedural” steps that encourage protection of certain cultural resources
    - Three basic concepts:
      - Consultation
      - Identification of “historic properties”
      - Take into account the effects that projects have on these properties

# Property Types

- Properties listed in the Register are significant in American history, architecture, archeology, engineering, and culture.
  - ▣ Building – created principally to shelter any form of human activity
  - ▣ Structure – bridge, highway, railroad tunnel
  - ▣ Object – monument, milepost, statue, fountain
  - ▣ Site – location of significant events...where location itself possesses historic, cultural, or archeological value
  - ▣ District – a continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development



# Definitions

## Undertaking

a project, activity, or program

(A) carried out by or on behalf of the agency;

(B) carried out with federal financial assistance;

(C) requiring a federal permit, license, or approval;

(D) subject to state or local regulation administered pursuant to a delegation or approval by a federal agency.

**Federal Action** in NEPA lingo

## Historic Property

any prehistoric or historic district, site, building, structure, or object included in, **or eligible for inclusion in**, the National Register of Historic Places maintained by the Secretary of the Interior.

## Effect

alteration to the characteristics of a historic property qualifying it for inclusion in or eligible for the National Register.

# Properties must have Integrity

## □ Seven aspects of integrity:

- location – place where property was constructed or event occurred
- design – combination of elements that create the form
- setting – the physical environment of property
- materials – physical elements that were combined or deposited
- workmanship – craft of a particular culture, person, or people
- feeling – property's expression of historic sense of particular time
- association – direct link between the event or person

# Eligibility Criteria

## National Register Criteria for Evaluation:

- **A: *Awesome Event*:** Resources “that are associated with events that have made a significant contribution to the broad patterns of our history”
- **B: *Big People*:** Resources “that are associated with the lives of persons significant in our past”
- **C: *Cute Properties*:** Resources “that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction”
- **D: *Data*:** Resources “that have yielded, or may be likely to yield, information important in prehistory or history”

# Section 106 in Practice

ODOT EPD has been informed that the project is an “undertaking”, requiring FHWA funds.

A Tribal Consultation and CR Study Request is forwarded to CRP.

## 1) Initiate the Process – Consult

*If the undertaking is a type of activity that does not have the potential to cause effects on historic properties...the agency official has no further obligations under section 106 or this part*

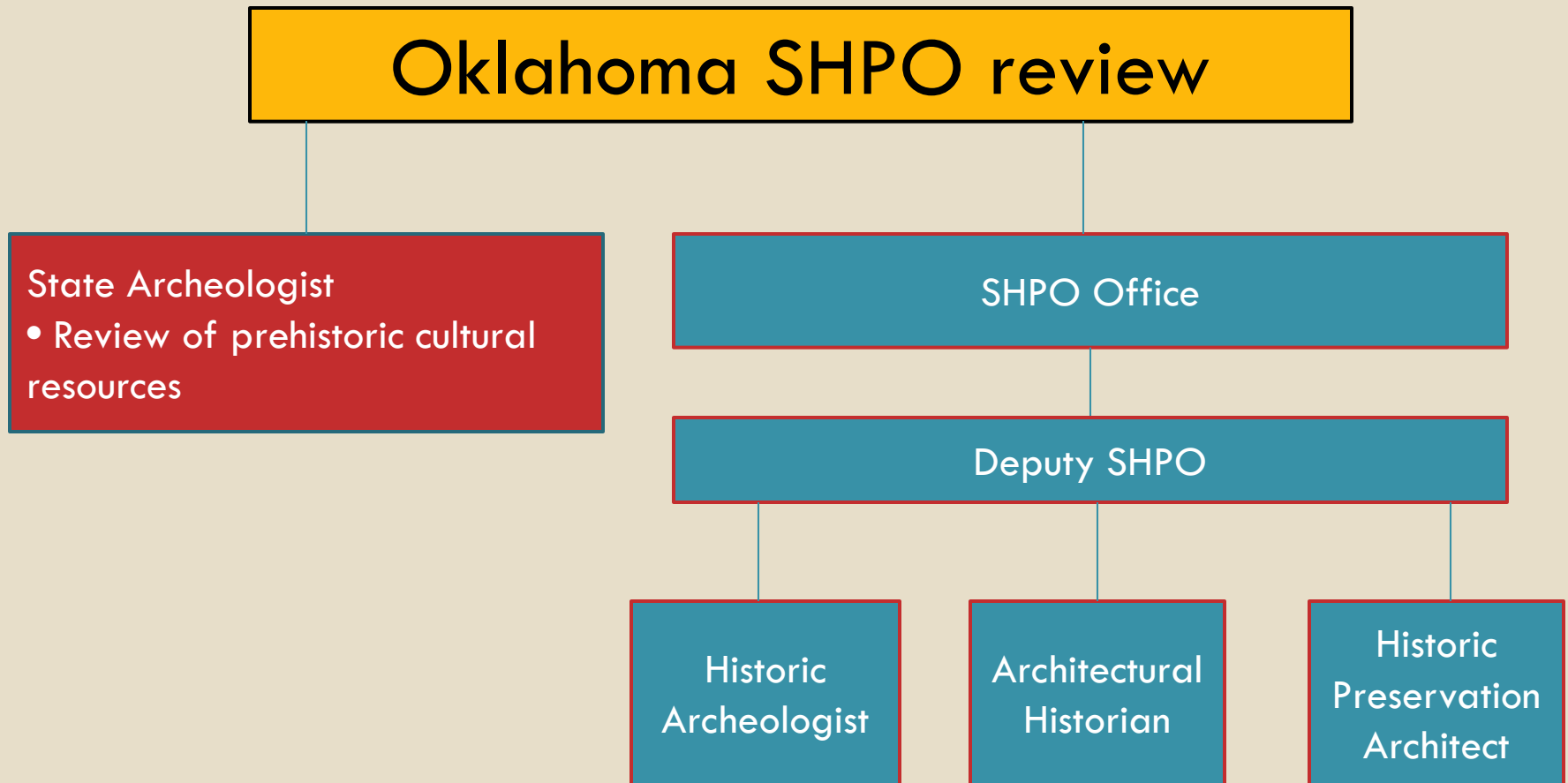
## 2) Identify Historic Properties within APE (study area)

## 3) Apply eligibility criteria to those properties

## 4) Determine effects – Consult

## 5) Resolve effects that are adverse - Consult

# Oklahoma SHPO Review Procedures



# Types of Properties ODOT Projects will encounter

- Bridges
  - Truss and arch, Depression-era (WPA), Post-war
- Culverts
- 19<sup>th</sup> and 20<sup>th</sup> century archeological sites
- Prehistoric archeological sites
- 19<sup>th</sup> and 20<sup>th</sup> Century Buildings
- Historic Districts (towns and archeological districts)
- Traditional Cultural Properties (TCPs)



# Adverse Effects

- Adverse effect
  - ▣ undertaking may directly or indirectly alter characteristics of a historic property that qualify it for inclusion in the NRHP
- In order –Avoid, then Minimize, then Mitigate if avoidance or minimizing is not possible
- Reach consensus through consultation
  - Agreement on mitigation measures
  - ▣ MOA
    - Documentation of the consensus
    - Specifies what will be done to mitigate adverse effects -- or it accepts them
    - Signed by agency, ACHP, SHPO, others



## Types of Adverse Effects

# Archeology

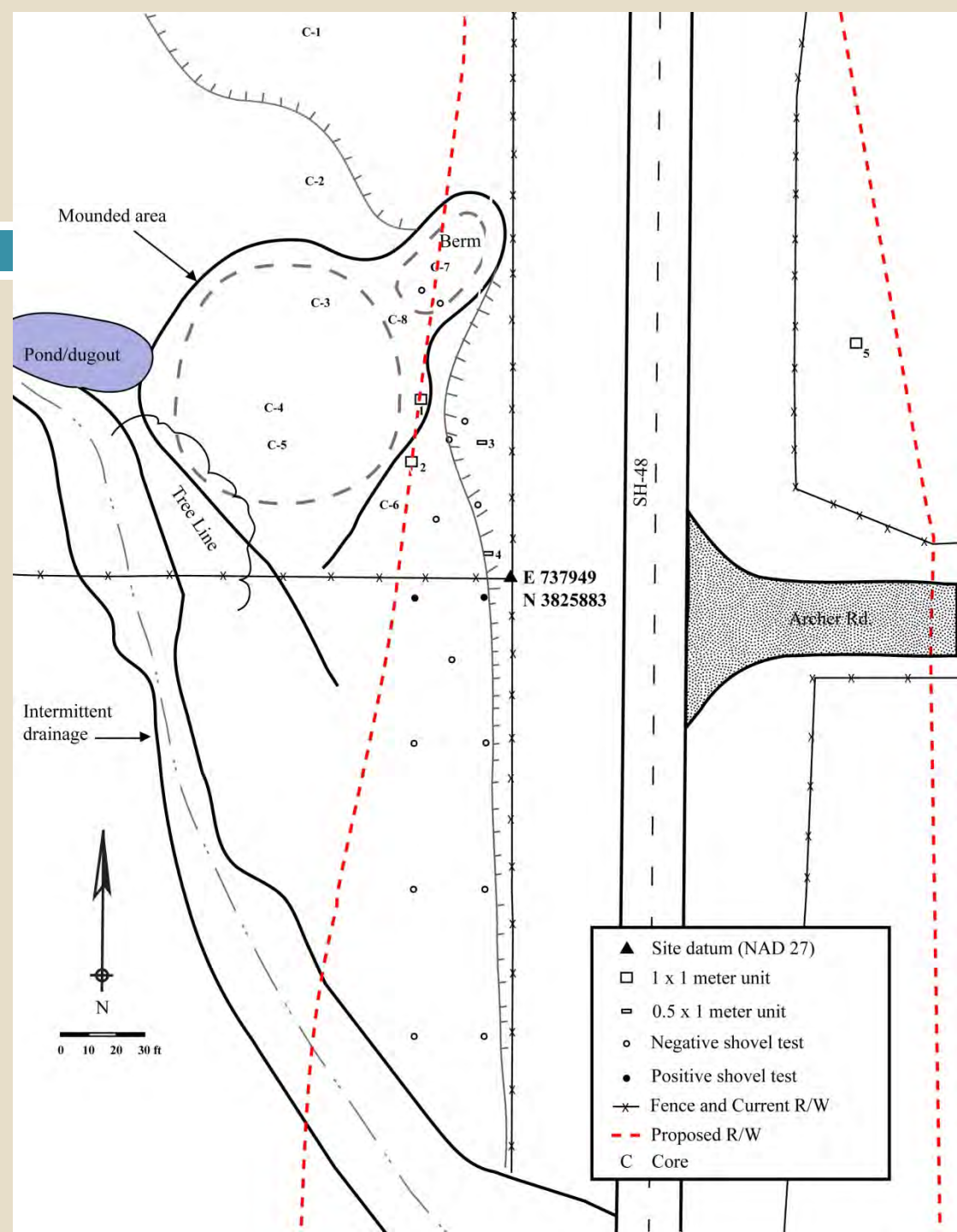
SH-48 over tributary to Clear Boggy Creek

Coal County – site 34CO29

Site was reported by a sociology professor from Southeastern Oklahoma State in 1974.

Site was recorded (mound only) in 1974 and revisited in 1980 and 1987. Site has been described as an Archaic through Woodland period midden mound with well-preserved deposits.

ODOT-CRP revisited site in March and August 2009





# 34CO29 Data Recovery





# 34CO29 Data Recovery



# 34CO29 Data Recovery



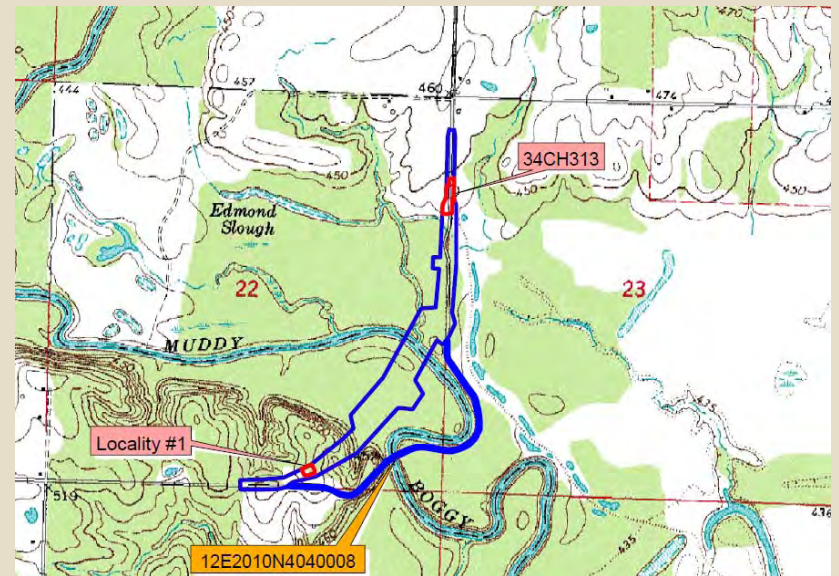


# Adverse Effect - minimize

Mixed truss over Muddy Boggy Creek  
in Choctaw County  
Constructed in 1919



New bridge on new alignment  
- Minimized the adverse effect



# Carpenter's Bluff Bridge

Mixed truss bridge constructed as a rail bridge in 1910

Has a wagon shelf to allow pedestrians, horses, and horse-drawn vehicles

Converted to vehicular traffic in 1960s





# Alternatives Considered

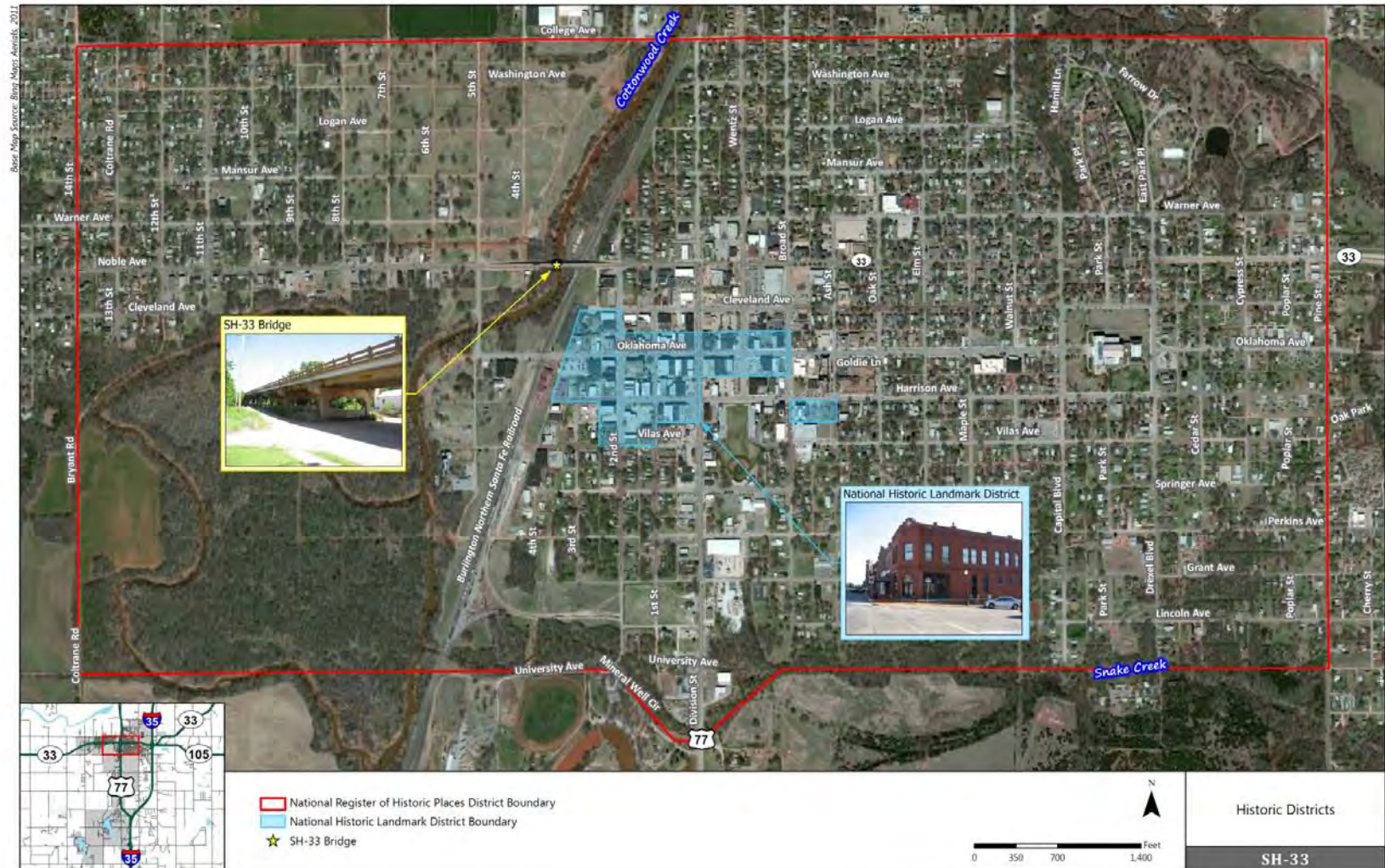
Alternatives 1, 2,  
and 3 are north of  
existing bridge

Alternative 4 is  
parallel to existing  
bridge





# SH-33 over Cottonwood Creek - mitigate





- 1937 double-deck bridge
- Funded by a New Deal-era grade-crossing program
- Eligible for NRHP in 2009
- In Guthrie NRHP District
- Adjacent to Guthrie NHL\* District
  - nationally significant historic places designated by the Secretary of the Interior because they possess exceptional value or quality in illustrating or interpreting the heritage of the United States









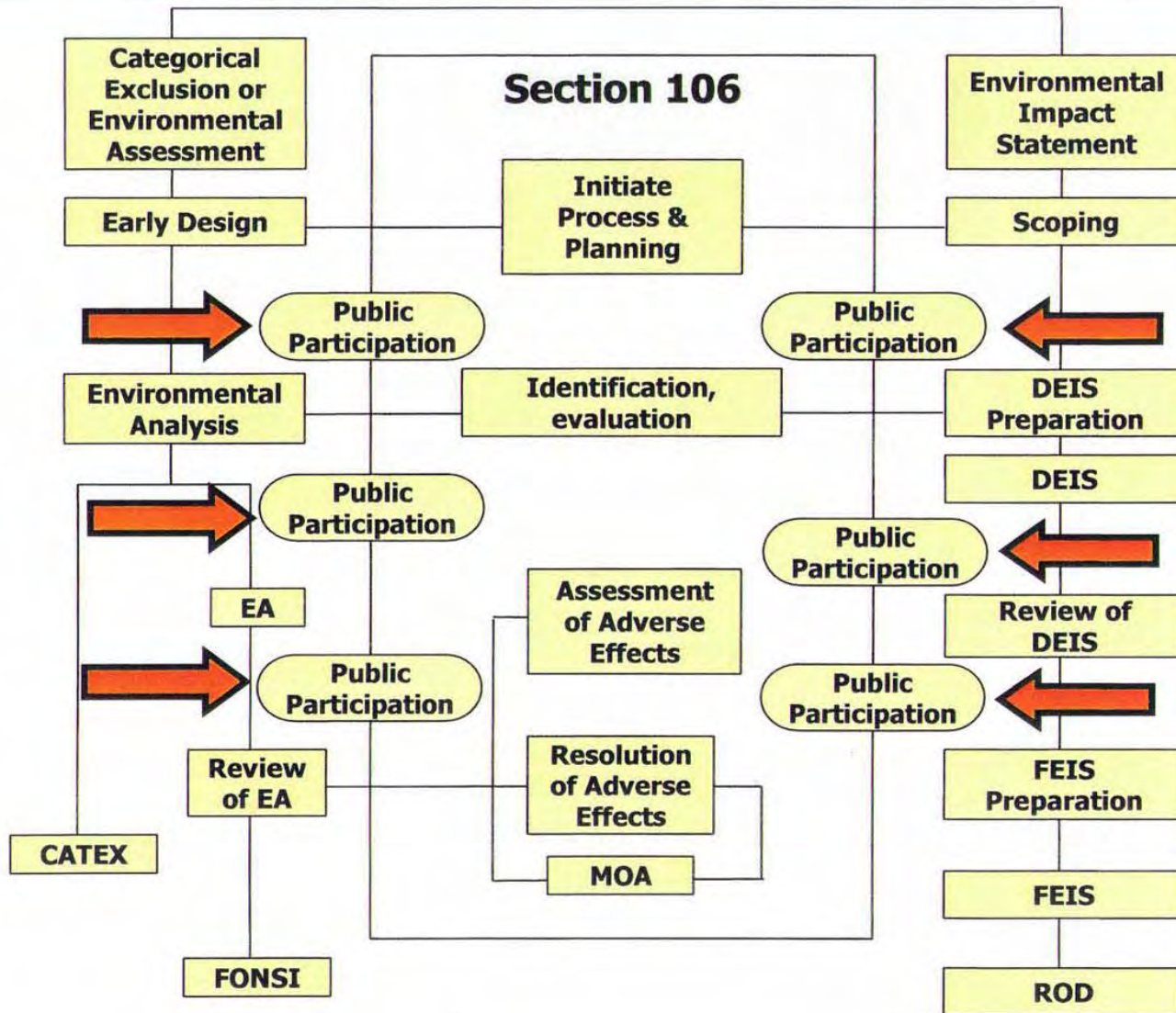








# NEPA and Section 106 Coordination





# Section 4(f)

- Section 4(f) of the USDOT Act of 1966
  - ▣ Signed into law on October 15, 1966 (same day as NHPA)
  - ▣ Law applies only to USDOT agencies
  - ▣ Substantive – not Procedural



# Interstate Era

## Engineering vs. community values

Use of public parkland seen as less destructive and a path of least resistance

- “The highway program is being operated by barbarians. We ought to have some civilized understanding of just what we do to spots of historic interest and great beauty by building eight-lane highways through the middle of our cities.”
  - ▣ Senator Joseph Sill Clark (PA) 1966

## 37 Interstate openings in 1964

Threatened parks and recreation areas

- “Interstate highways are cutting great swaths through urban communities and demolishing the intricate, closely woven texture of the city’s tapestry.”
  - ▣ Senator Ralph Yarborough (TX) 1966

# The Regulation (23 CFR 774)

- USDOT Agencies (FHWA, FTA, FRA, FAA, etc.)
- (a) (1) The Administration may not approve the use of land from a significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:
  - (i) There is no feasible and prudent alternative to the use of land from the property; and
  - (ii) The action includes all possible planning to minimize harm to the property resulting from such use.



# Section 4(f) Use

- Use of a Section 4(f) property occurs:
  - ▣ Permanent use –
    - when land is permanently incorporated into a transportation facility
  - ▣ Temporary use –
    - when there is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose
  - ▣ Constructive use –
    - a project's proximity impacts are so severe that the protected activities, features, or attributes of a property are substantially impaired
    - Does not require the incorporation of the 4(f) land

# Feasible and Prudent

## □ Feasible

- ▣ An alternative is not feasible if it cannot be constructed in accordance with sound engineering principles and practices

## □ Prudent

- ▣ An alternative is not prudent if it creates truly unique problems or does not meet the project purpose and need.
  - Truly unique problems exist when an avoidance alternative creates unusual factors or costs, or community disruption of an extraordinary magnitude.
    - unacceptable social, economic or environmental impacts
    - serious community disruption
    - safety and geometric problems
    - construction costs

# Section 4(f) Properties

- Parks, Recreation Areas, Refuges
  
- Historic Sites
  - ▣ Privately or public owned
  - ▣ Must be significant
    - Determined “significant” through the Section 106 process
  - ▣ Archeological resources are considered 4(f) resources only when
    - on or eligible for inclusion in the NRHP
    - Important for preservation in place
      - Versus what can be learned from their data recovery

# Section 4(f) and ODOT-CRP

- In CR, Section 4(f) occurs mainly with bridges
- Programmatic 4(f)
  - ▣ allow transportation and resource agency officials in the field to make key determinations on projects having minor impacts on areas protected by Section 4(f).
    - Independent Walkway and Bikeways Construction Projects
    - **Historic Bridges**
    - **Minor Involvements with Historic Sites**
    - Minor Involvements with Parks, Recreation Areas and Waterfowl and Wildlife Refuges
    - Net Benefits to a Section 4(f) Property

# Programmatic Historic Bridge 4(f)

- Three alternative must be reviewed:
  - ▣ Do nothing.
  - ▣ Build a new structure at a different location without affecting the historic integrity of the old bridge, as determined by procedures implementing the NHPA.
  - ▣ Rehabilitate the historic bridge without affecting the historic integrity of the structure, as determined by procedures implementing the NHPA.

# Section 4(f) and Historic Bridges

- The Section 4(f) Policy Paper
  - ▣ Not considered a “use” when bridges are left in place
    - historic integrity and value will be maintained
      - FHWA should ensure that a mechanism is in place for continued maintenance of the bridge that would avoid harm to the bridge due to neglect
  - ▣ If the existing bridge is made available for an alternative use, there is no “use” – *Bridge marketing*
  - ▣ *Currently*, in Oklahoma, the mechanism that FHWA and ODOT have implemented would result in a SHPO opinion of adverse effect”, however this would not be a 4(f) use.

# Programmatic Minor Involvement with Historic Sites 4(f)

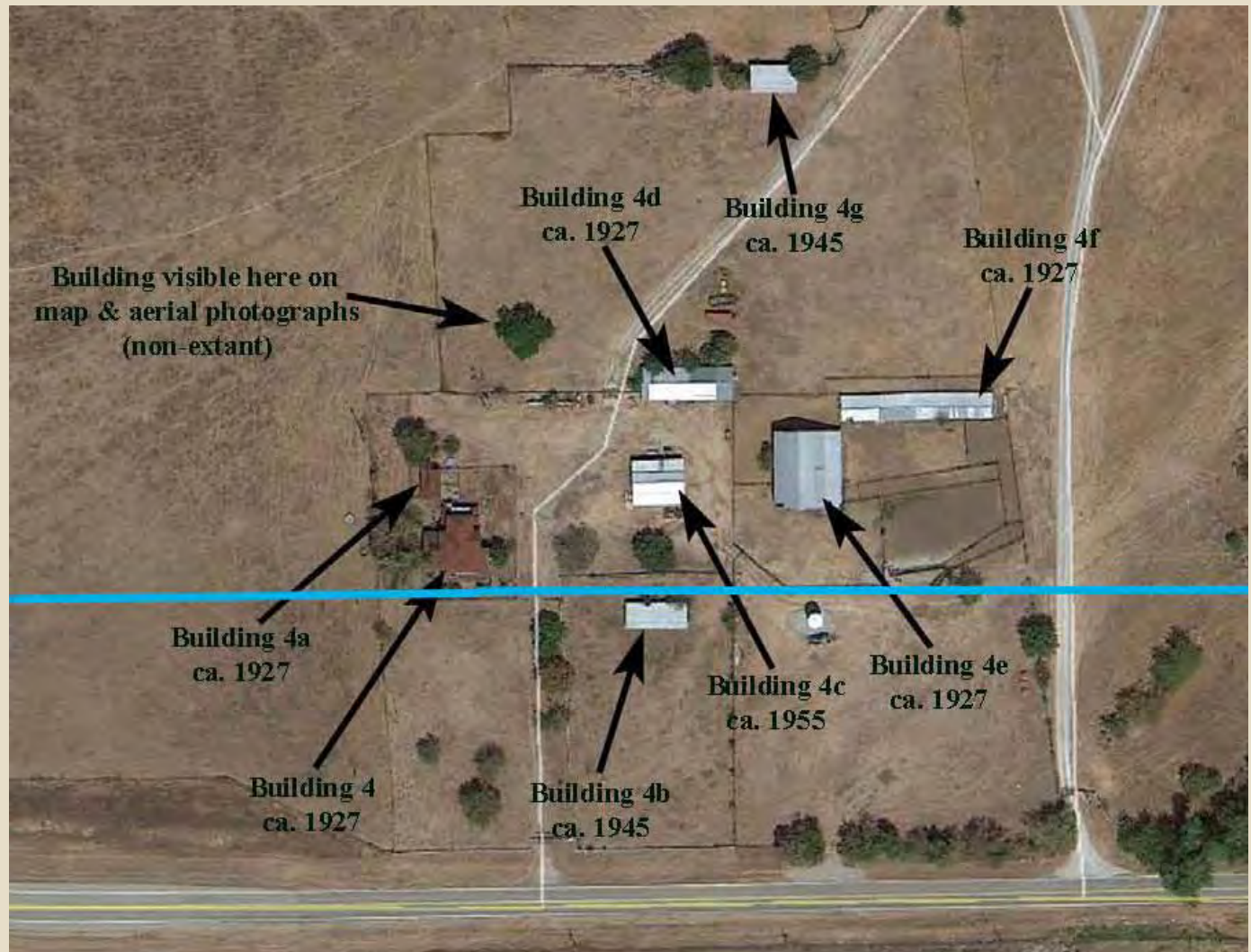
- Projects which improve existing highways and use minor amounts of land
  - ▣ The project does not require the removal or alteration of historic buildings, structures or objects on the historic site
  - ▣ Consultation with SHPO results in a “no effect” or “no adverse effect”

# Osage County SH-11 Improvements

No proposed  
take of  
Buildings, but  
project had  
proposed to  
take some R/W

Avoided  
Adverse Effect

Avoided 4(f)  
use





# Streamlining and Project Delivery (EDC)

- The Every Day Counts initiative is designed to identify and deploy innovation aimed at reducing the time it takes to deliver highway projects, enhance safety, and protect the environment.
- Methods for streamlining
  - ▣ Cultural resources studies
    - Planning studies
    - Broad-based NRHP evaluations of properties that are routinely encountered

## OKLAHOMA HISTORIC BRIDGE SURVEY

### Phase 1

*A Re-Evaluation of Spans of Time: Oklahoma Historic Highway Bridges*



Verdigris River 1925 Mixed Truss, Wagoner County



Bird Creek 1912 Stone Arch, Osage County

Oklahoma Department of Transportation  
Planning and Research Division  
Cultural Resources Program  
May 2007

# Bridge studies and streamlining

Creek County: Sand Creek near  
Bristow (May-December 2012)



Project with bridge study

Jackson County: unnamed creek near  
Altus (August 2009-June 2011)



Project without bridge study

**Both projects involved complete bridge replacements: adverse effect and 4(f) use**

# Streamlining and Project Delivery

## □ Methods for streamlining

### ■ “Screened Exemptions”

- Projects that do “not have the potential to cause effects to historic properties” [36 CFR 800.3(a)(1)]

- Within existing pavement lines
- Most on-system projects within existing R/W
- “Bridge rehab”
- “Some” bridge replacements

# Streamlining and Project Delivery

## □ Methods for streamlining

### ▣ Program Comments (can be used by all agencies)

#### ■ Post-1945 bridges (November, 2012)

- (A) Reinforced concrete slab bridges
- (B) Reinforced concrete beam and girder bridges
- (C) Steel multi-beam or multi-girder bridges
- (D) Culverts and reinforced concrete boxes

□ <http://www.odotculturalresources.info/post-1945-bridges.html>



# Streamlining and Project Delivery

- Methods for Streamlining
  - ▣ Program Alternatives
    - Programmatic Agreements
- A document that records the terms and conditions agreed upon to resolve the potential adverse effects of a Federal agency program, complex undertaking or other situations