



ENVIRONMENTAL REQUIREMENTS FOR
FEDERALLY FUNDED PROJECTS:
SECTION 106 AND SECTION 4(F)



Oklahoma Association of County Engineers
November 8, 2016

Law and Regulatory Requirements:

Section 106

National Historic Preservation Act of 1966 (NHPA)

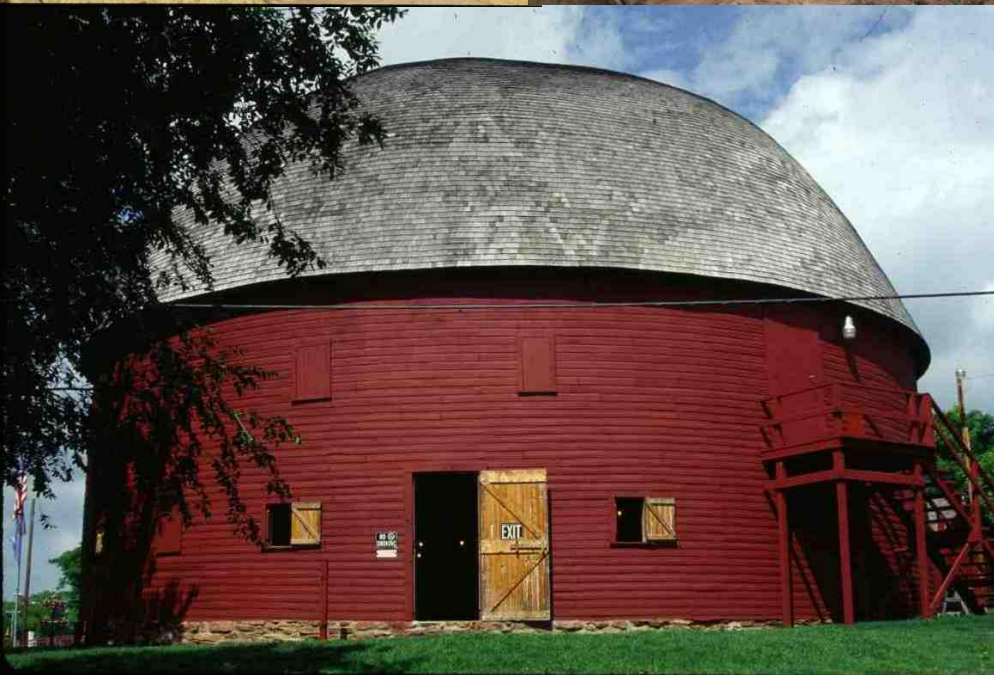
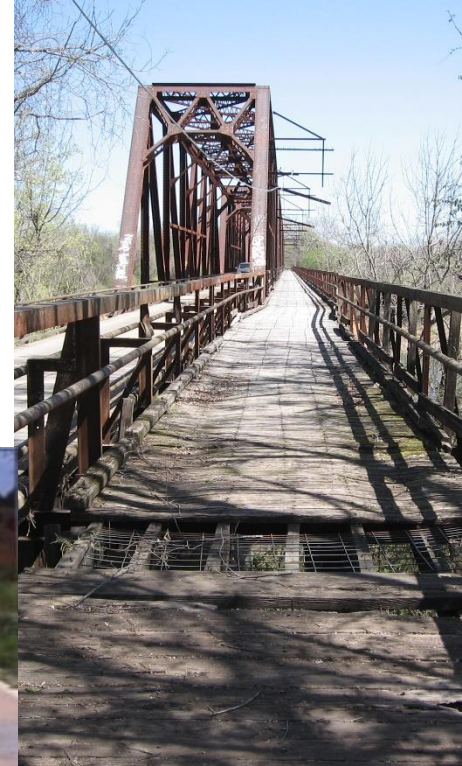
- Legislation intended to preserve historical and archeological sites in the U.S.
 - ▣ Signed as policy on October 15, 1966
 - ▣ Section 106 of NHPA
 - System of “procedural” steps that encourage protection of certain cultural resources
 - Three basic concepts:
 - Consultation
 - Identification of “historic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

Consultation

- ...the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process.
- On behalf of FHWA, consultation with
 - ▣ SHPO
 - ▣ State Archaeologist
 - ▣ Native American Tribes (38)
 - ▣ Other interested parties

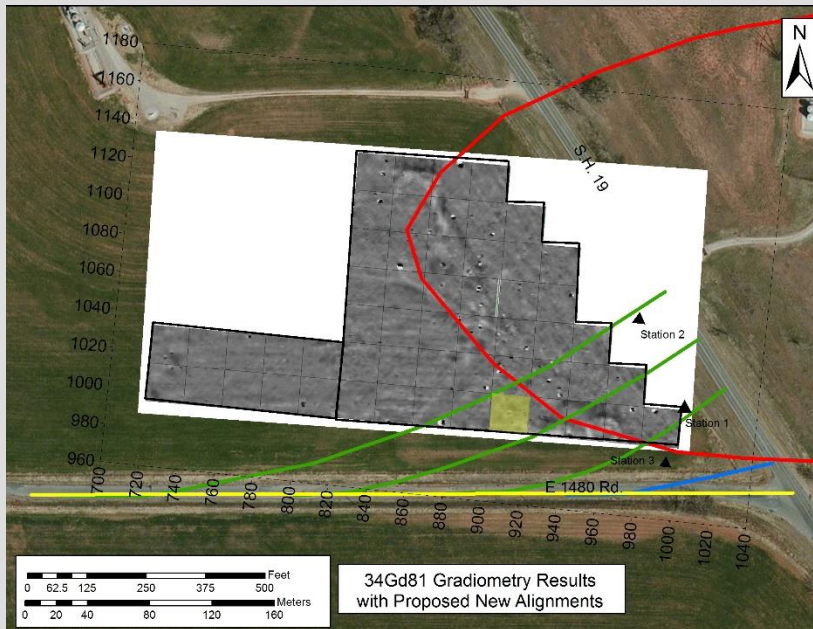
Properties on Transportation Projects

- Bridges and culverts
 - Truss and arch, Depression-era (WPA), Post-war
- 19th and 20th century archeological sites
- Prehistoric archeological sites
- 19th and 20th Century Buildings
- Historic Districts
 - towns, bridges, and archeological districts
- Places of Religious and Cultural Significance

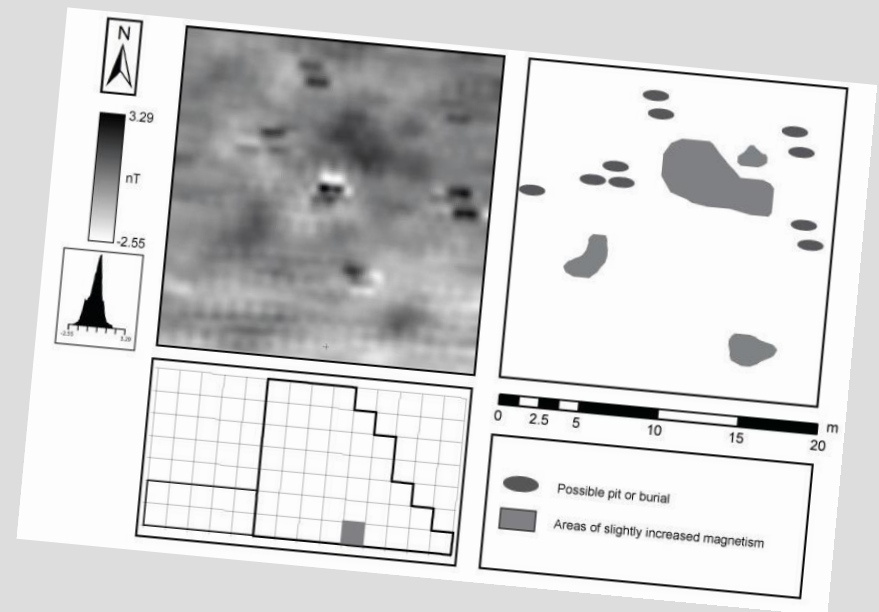


Effects to Historic Properties: Avoid

SH-19 improvements project
Archeological site 34GD81



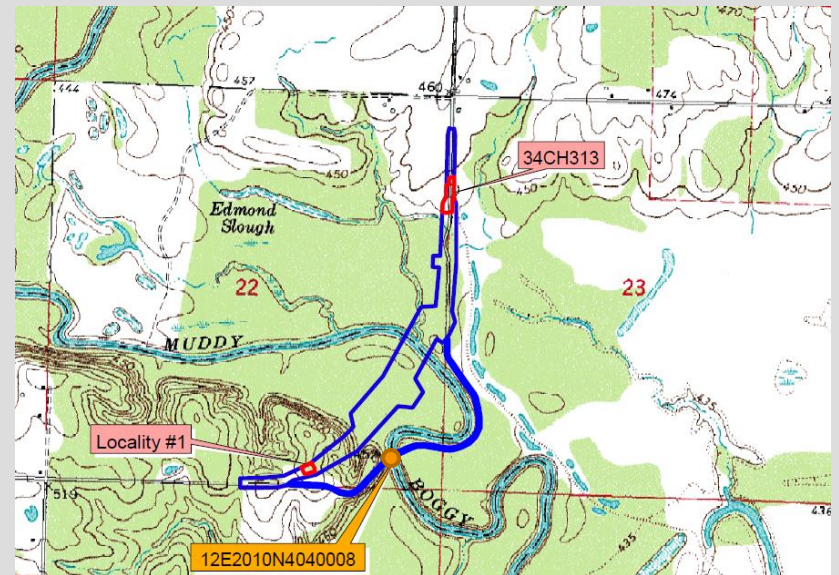
Gradiometer results of 20 m grid



Effects to Historic Properties: Minimize

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

New bridge on new alignment
- Minimized the adverse effect



Effects to Historic Properties: Minimize 2

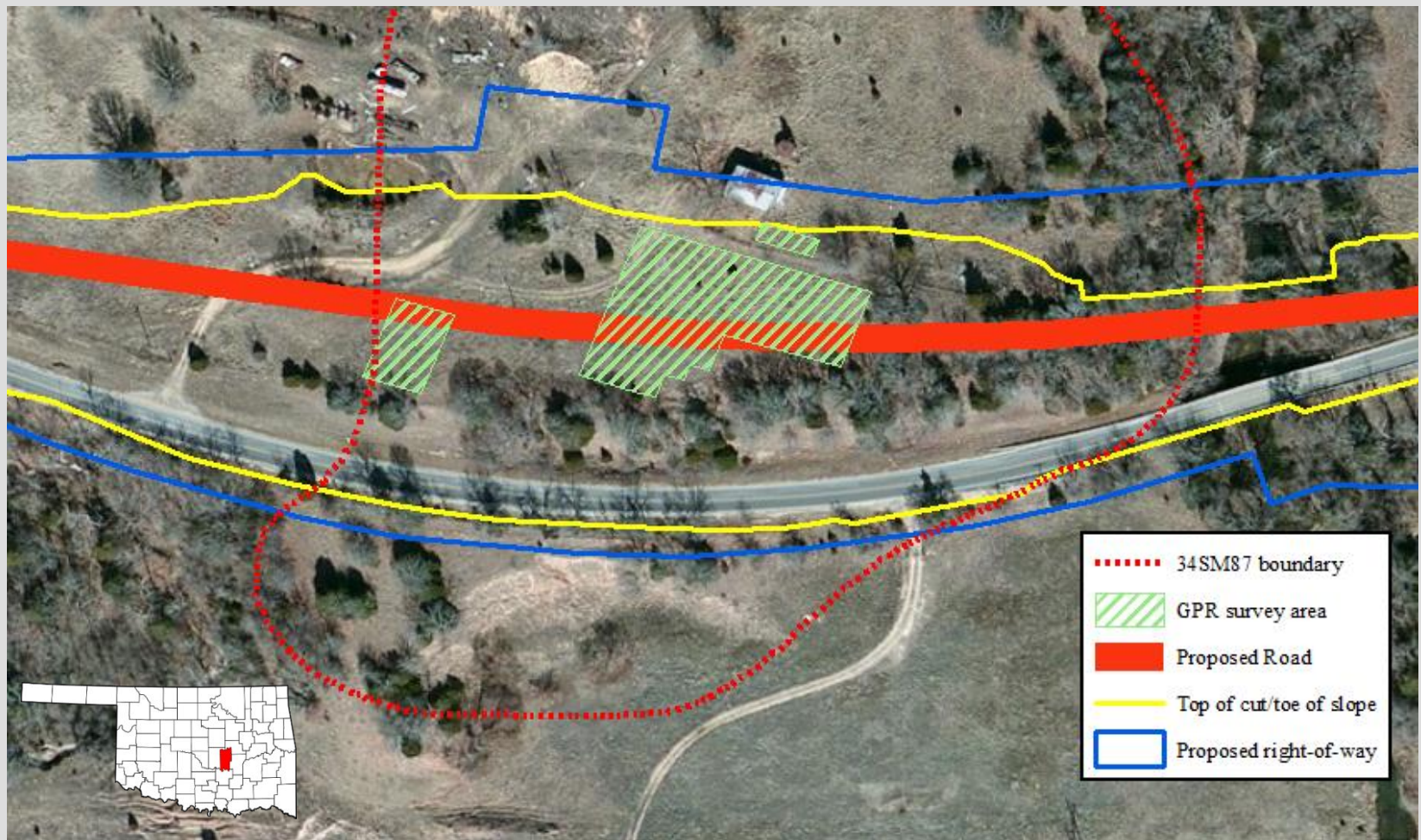
Mixed truss bridge constructed as a rail bridge in 1910

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

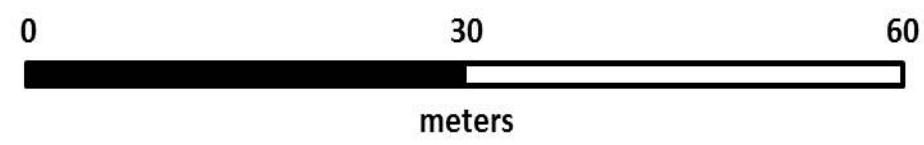
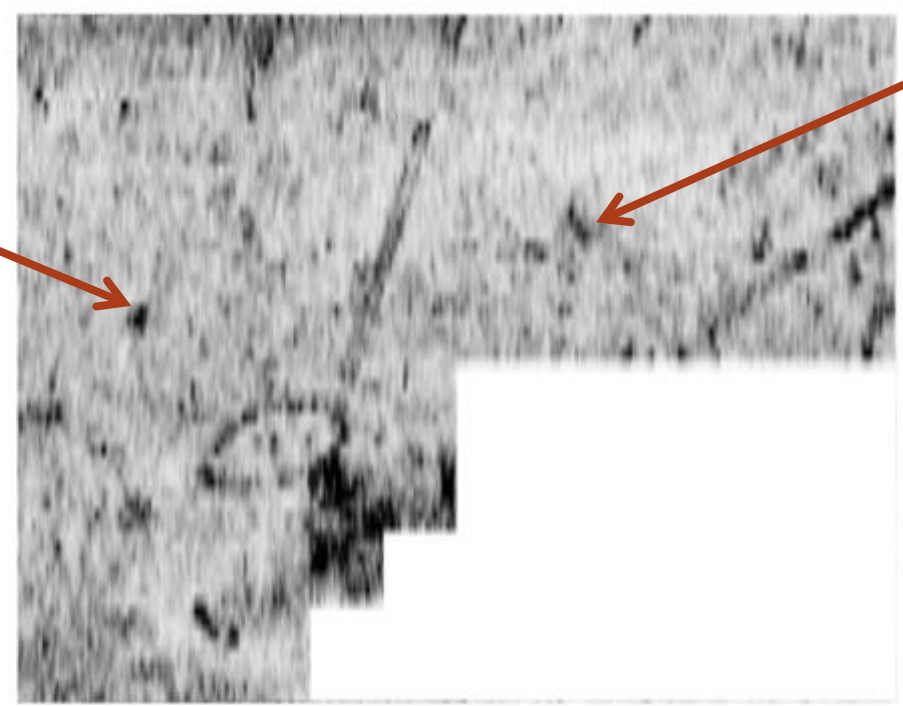
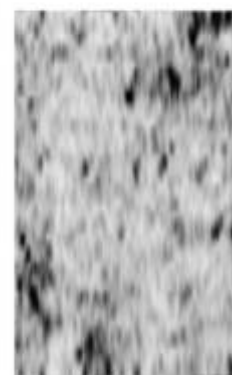
Converted to vehicular traffic in 1960s



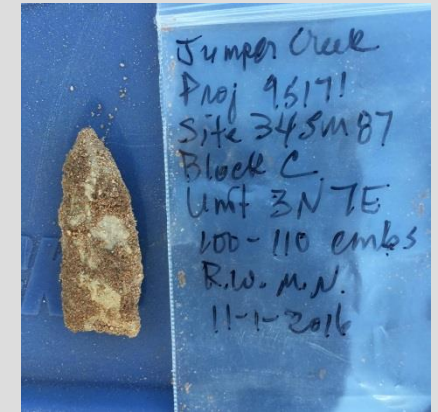
Effects to Historic Properties: Mitigate



Anomalies consistent with burned rock features



Mitigate - Archaeological Excavations



Law and Regulatory Requirements:

Section 4(f)

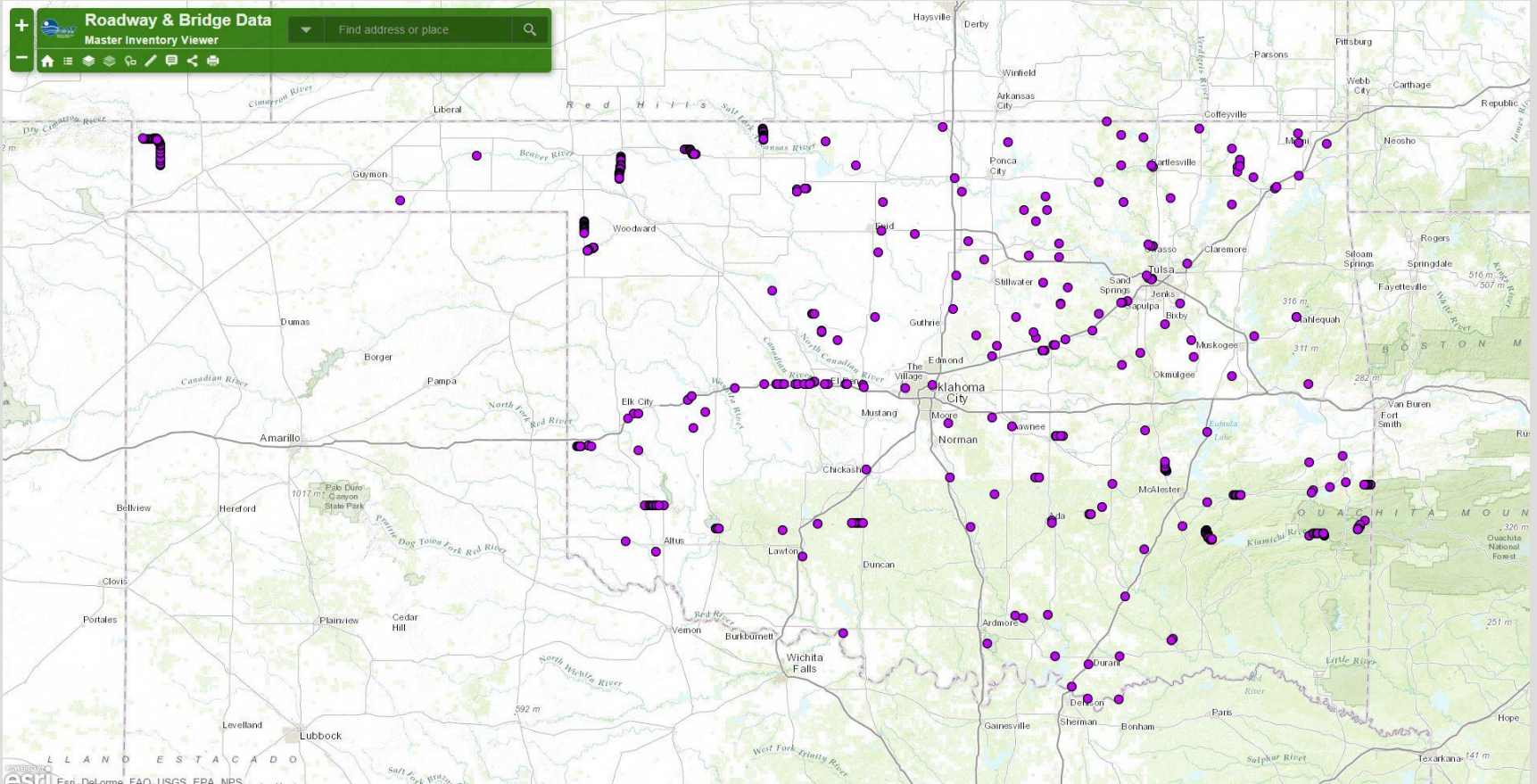
USDOT Act of 1966 (Section 4f) – substantive regulation

- 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.
- In Cultural Resources, Section 4(f) occurs mainly with bridges
 - Three alternatives must be reviewed through a detailed analysis:
 - 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

- Summary of bridge studies to-date
 - ▣ Trusses/arches (1993, 2007)
 - ▣ Route 66 (2002)
 - ▣ Post-WWII (2012)
 - ▣ New Deal (2015)

Section 4(f) and Historic Bridges



<http://www.odotculturalresources.info>

Section 4(f) and Historic Bridges

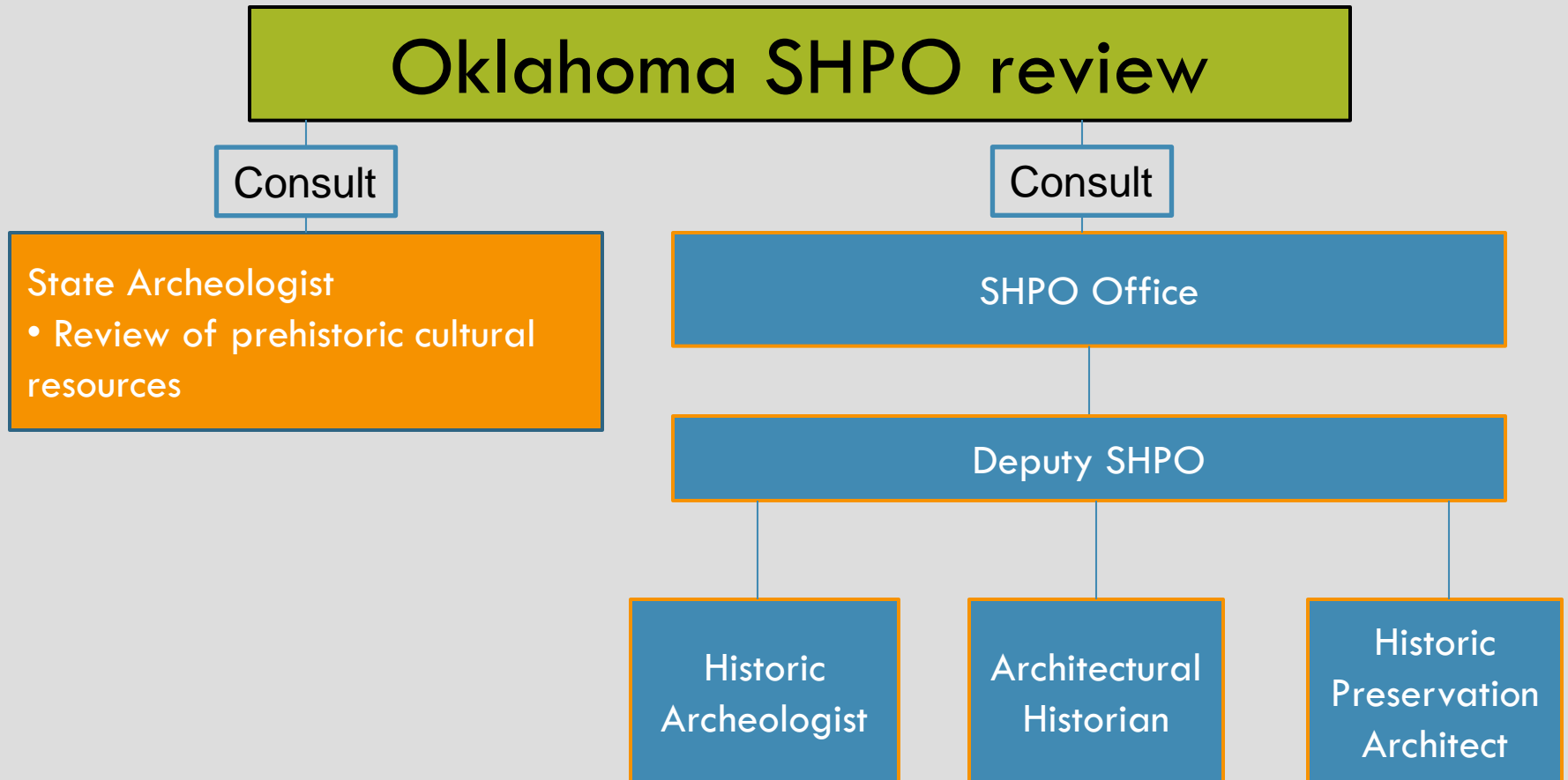
- The Section 4(f) Policy Paper
 - ▣ Not considered a “use” when bridges are left in place
 - historic integrity and value will be maintained
 - FHWA should ensure that a mechanism is in place for continued maintenance of the bridge that would avoid harm to the bridge due to neglect
 - ▣ If the existing bridge is made available for donation, there is no “use” – *Bridge marketing*



Anticipatory Demolition

- Section 110(k) of the National Historic Preservation Act
 - ▣ Federal agencies shall ensure that they will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant that has intentionally significantly adversely affected a historic property to which the grant would relate, in order to avoid the Section 106 process.

Oklahoma SHPO Review



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
- Previous CR studies and consultation

Post-review Discoveries



Expensive!
Complicated!
Takes on a life of its own!
But you can't escape from

CRM

