



Washington State
Department of Transportation
Douglas B. MacDonald
Secretary of Transportation

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

206-440-4000
TTY: 1-800-833-6388
www.wsdot.wa.gov

December 28, 2006

Jay Osborne,
King County Road Services Division
Department of Transportation
201 South Jackson St.
Seattle, WA 98104-3856

Dear Mr. Osborne,

Attach please find the executed Memorandum of Agreement Between King County, Federal Highway Administration (FHWA) and Washington State Historic Preservation Officer (SHPO) for the Mount Si Bridge Replacement Project. If you have any questions, please call me at 206-440-4736.

Sincerely,

A handwritten signature in black ink, appearing to read 'Phil Segami'.

Phil Segami,
Assistant Local Programs Engineer

cc: Ian Kanair, HR Director, Snoqualmie Tribe (with copy of executed MOA)
Trevin Taylor, Environmental Engineer, WSDOT H&LP (w/o attachment)

**MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION,
WASHINGTON STATE HISTORIC PRESERVATION OFFICER,
PURSUANT TO 36 CFR PART 800.6 (c)
REGARDING THE
KING COUNTY MOUNT SI BRIDGE REPLACEMENT PROJECT
NEAR THE CITY OF NORTH BEND, WASHINGTON**

WHEREAS, the U.S. Department of Transportation, Federal Highway Administration (FHWA) has provided financial assistance to the King County Road Services Division (KCR) for the replacement of the Mt. Si Bridge No. 2550A, Federal Aid Project Number BRS-B172 (001), King County, State of Washington; and

WHEREAS, the project will result in the removal of the Mount Si Bridge,

WHEREAS, the FHWA has determined that the undertaking will adversely affect the Mt. Si Bridge, an historic property eligible for inclusion in the National Register of Historic Places, and has consulted with the Washington State Historic Preservation Office (SHPO), King County Road Services Division, King County Historic Preservation Office, the Snoqualmie Tribe, and the Advisory Council on Historic Preservation (The Council) pursuant to 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 (f); and

WHEREAS, The Council has declined to participate; and

WHEREAS, no other potentially eligible properties have been identified in two previous surveys;

WHEREAS, KCR and Washington State Department of Transportation (WSDOT) as proxy for the FHWA have participated in the consultation and have been invited to concur in this Memorandum of Agreement (MOA);

NOW, THEREFORE, WSDOT, KCR, and SHPO agree that it is in the public interest to accept the proposed impacts of the undertaking, and that the undertaking shall be implemented in accordance with the following stipulations, in order to take into account the effect of the undertaking on this historic property.

STIPULATIONS:

WSDOT, acting in authority for the FHWA, will ensure the following measures are carried out:

1. KCR will comply with the stipulations of the King County Landmarks Board Certificate of Appropriateness (COA) (Appendix 1) including, but not limited to those outlined briefly below. KCR will provide evidence of completion of items a through c and copies of the HAER documentation to the Washington SHPO and to the King County Historic Preservation Office.

- a. The design, fabrication, and placement of interpretive signage
- b. Design, fabrication, and placement of the freestanding sculptural display of pin-connected engineering
- c. Red twig dogwood planting on the site of the old bridge approach alignment
- d. Historic American Engineering Record documentation. Such recordation must be done in accordance with the requirements of the Historic American Engineering Record (HAER).

2. Removal Of The Culturally Modified Tree:

Within 45 days of execution of this agreement, KCR, in consultation with the Washington SHPO and the King County Historic Preservation Office, will remove the peeled cedar tree and deliver it in a state as whole as is practicable to the Snoqualmie Tribe. Details of that arrangement will be determined by discussions between KCR and the Tribe.

3. Inadvertent Discovery Plan For Cultural Resources And Human Remains:

KCR, in consultation with SHPO and the King County Historic Preservation Office, will abide by the inadvertent discovery plan (Appendix 2) for cultural resources and human remains that might be unearthed during removal and replacement of the Mt. Si Bridge.

Amendment of the MOA

If a signatory or concurring party to this MOA determines that the terms of the MOA cannot be met or believes a change is necessary, that party may request the other parties to consider an amendment to the MOA. Such an amendment or addendum shall be executed in the same manner as the original MOA.

Dispute Resolution

Should any signatory or concurring party to this agreement object to any plans, specifications or actions proposed pursuant to this MOA, WSDOT shall consult with the objecting party to resolve the objection. If WSDOT determines that the objection cannot be resolved, WSDOT shall request the comments of the Advisory Council on Historic Preservation pursuant to 36 CFR Part 800.6(b). Any Council comment provided in response to such a request will be taken into account by WSDOT in accordance with 36 CFR Part 800.6(c)(2) with reference only to the subject of the dispute; WSDOT's responsibility to carry out all actions under this agreement that are not the subject of the dispute will remain unchanged.

Failure to Carry Out Terms

Failure to carry out the terms of this MOA requires that WSDOT request the Council's comments in accordance with 36 CFR Part 800. If WSDOT cannot carry out the terms of the MOA: (i) it will not take or sanction any action to make an irreversible commitment that would

result in an adverse effect with respect to the eligible property covered by the MOA; (ii) WSDOT will not foreclose the Council's considerations of modifications or alternatives that could avoid or mitigate the adverse effect on the property until the commenting process has been completed.

Report to Signatories

Within 90 days after carrying out the terms of this Agreement, King County Road Services Division shall report to all signatories on all the actions taken.

Execution of the Memorandum of Agreement by the signatories (WSDOT and SHPO) and concurring parties (King County Road Services Division, King County Historic Preservation Office, and the Snoqualmie Tribe) and its subsequent acceptance by the Advisory Council on Historic Preservation, and the implementation of its terms, evidence that WSDOT has afforded the Council an opportunity to comment on Project No. B172(001) and its effect on historic properties and has satisfied the requirement of Section 106 of the National Historic Preservation Act, 16 U.S.C. 470(f).

SIGNED

FEDERAL HIGHWAY ADMINISTRATION
Dan Mathis
Division Administrator

By: Daniel M. Mathis Date: 12/18/06

WASHINGTON STATE HISTORIC PRESERVATION OFFICER
Dr. Allyson Brooks

By: [Signature] Date: 11/22/06

Concurring Parties

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
Kathleen B. Davis,
Director
Highways & Local Programs Division

By: Kathleen B. Davis Date: 9.14.06

KING COUNTY ROAD SERVICES DIVISION:

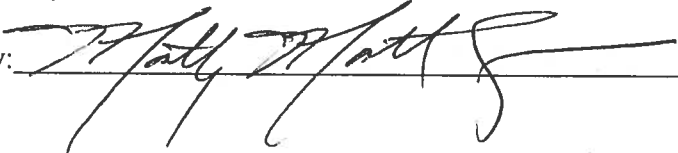
By: Tiberah Laruma for Date: 10-4-06
Linda Dougherty

KING COUNTY HISTORIC PRESERVATION OFFICER:

By: 

Date: 9/26/06

SNOQUALMIE TRIBE

By: 

Date: 10/25/06

Accepted:

ADVISORY COUNCIL ON HISTORIC PRESERVATION:

By: _____

Date: _____

Appendix 2

PLAN AND PROCEDURES FOR DEALING WITH THE UNANTICIPATED DISCOVERY OF CULTURAL RESOURCES DURING THE REMOVAL OF MT. SI BRIDGE, KING COUNTY, WASHINGTON

1. INTRODUCTION

In order to address the need for post review discovery and consultation among the U.S. Department of Transportation, Federal Highway Administration (FHWA), the Washington State Department of Transportation Highways and Local Programs (WSDOT H&LP), Washington State Historic Preservation Officer (SHPO), the King County Road Services Division (RSD), and affected tribe(s), this document serves as the primary guidance tool for the treatment of cultural resources discovered during the project. Discovered archaeological materials could include human skeletal remains, artifacts, sites, or any other cultural resources eligible, or potentially eligible, for listing in the NRHP. This plan is intended to provide guidance to King County and their contractors so they can:

- Comply with any applicable Federal and State laws and regulations, particularly 36 CFR 800 (as amended August 5, 2004) that implements section 106 of the National Historic Preservation Act of 1966, and seek guidance from Title 27 Revised Codes of Washington Chapter 27.44 Indian Graves and Records, Chapter 27.53 Archaeological Sites and Resources, and
- Describe to regulatory and review agencies the procedures agents will follow to prepare for and deal with unanticipated discoveries, and
- Provide direction and guidance to project personnel for the proper procedures to be followed should an unanticipated discovery occur.

2. DISCOVERY OF CULTURAL RESOURCES

Should construction activities cause disturbance to underground cultural/archaeological resources the following section establishes provisions for the professional archaeological treatment of cultural materials discovered during usual construction activities.

Provisions of the Cultural / Archaeological Resource Procedures are as follows:

A. If any King County employee, contractor, or subcontractor believes that he or she has uncovered any cultural resource at any point in the project, all work adjacent to the discovery shall cease. The King County Project Engineer will immediately notify the RSD archaeologist who will determine whether actual resources have been encountered. If such a determination has been made the RSD archaeologist will immediately notify the WSDOT H&LP Engineer who will notify the WSDOT H&LP Archaeologist immediately. A cultural resource discovery could be prehistoric or historic and consist of

- areas of charcoal or charcoal - stained soil and stones,
- stone tools or waste flakes (i.e. an arrowhead, or stone chips),
- bones, burned rocks, or other food related materials in association with stone tools or flakes,
- or a cluster of tin cans or bottles, logging or agricultural equipment older than 50 years.

B. In order to protect the integrity of a discovery the King County Project Engineer will take appropriate steps to protect the discovery site by ceasing all work in an area of 30 feet to provide for the total security, protection, and integrity of the resource. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse the discovery site. Work in the immediate area will not resume until treatment of the discovery has been completed following provisions for treating archaeological/cultural material as set forth in this document. All communications between RSD and any agency on cultural resource issues will go through the RSD archaeologist.

C. King County Project Engineer, or their appointee, will immediately contact the RSD archaeologist. The RSD archaeologist will determine on site whether actual historic resources or human remains have been encountered. If such a determination is made or if the finding is unclear the RSD archaeologist will immediately contact the appropriate WSDOT H&LP Engineer and they will contact the WSDOT H&LP Archaeologist to immediately report any unanticipated discovery of cultural resources. All material will be treated as potentially eligible for listing in the NRHP. Any material encountered during construction will be reported to the Regional FHWA Administrator, or the proper designee, (Administrator) for the purpose of establishing contact with the concerned parties on a government-to-government level. Notifications will begin with the King County Project Engineer who will contact Tom Minichillo, RSD archaeologist who will contact Ed Conyers, WSDOT H&LP, who will contact Garth Baldwin the WSDOT H&LP Archaeologist, who will notify the Administrator, the SHPO, and the WSDOT Tribal Liaison's Office. The WSDOT Tribal Liaison's Office will contact the affected tribe(s) and inform them of the unanticipated discovery. Construction will be halted within the immediate area of the discovery and the scene will be protected until consultation to determine the appropriate course of action has been conducted.

D. Archaeological deposits discovered during construction will be assumed eligible under criteria d for inclusion in the NRHP for the purposes of section 106 compliance, in accordance with 36 CFR 800.13(c).

E. Where cultural resources are encountered during construction, but additional project effects to the resources are not anticipated, project construction may continue while documentation and assessment of the cultural resources proceed. Continued construction will be conducted to the extent that no additional impacts to resources should take place. The total area of work stoppage will be adequate to provide for the security, protection, and integrity of the discovery in accordance with Washington State Law. Construction may continue at the discovery location only after the process outlined in this plan is followed and the FHWA is satisfied the caveats of section 106 have been met.

F. Routine documentation of newly discovered cultural material should not impact construction schedules. Where complex or extensive cultural remains are encountered, the project manager, RSD archaeologist and qualified archaeological personnel will determine the appropriate level of documentation and treatment of the resource after consultation with SHPO, WSDOT, and affected tribal representatives.

G. Non-intrusive field documentation of all human remains will be undertaken immediately. All prehistoric and historic cultural material discovered during project construction will be professionally recorded on a State of Washington cultural resource site or isolate form using standard techniques. Site overviews, features, and artifacts will be photographed; stratigraphic profiles and soil/sediment descriptions will be prepared for any subsurface exposures. Discovery locations will be documented on scaled site plans and site location maps.

H. Cultural features, horizons, and artifacts detected in buried sediments may require further evaluation using hand-dug test units to clarify aspects of integrity, stratigraphic context, or feature function. Units may be dug in controlled fashion to expose features, collect radiocarbon or animal/plant macrofossil samples from undisturbed contexts, or interpret complex stratigraphy. A test excavation unit or small trench might also be used to cross-section a feature to determine if an intact occupation surface is present. Test units will be used only when necessary to gather information on the nature, extent, and integrity of subsurface cultural deposits to evaluate the site's potential to address significant research domains. Excavations will be conducted using state-of-the-art techniques for controlling provenience of recovered remains.

I. Sediments excavated for purposes of cultural resources investigation will be screened through 1/8-inch mesh. Spatial information, depth of excavation levels, natural and cultural stratigraphy, presence or absence of cultural material, and depth to sterile soil, regolith, or bedrock will be recorded on a standard form. Test excavation units will be recorded on unit level forms, which include plan maps for each excavated level, and material type, number, and vertical provenience (depth below surface and stratum association where applicable) for all artifacts recovered from the level. Radiocarbon and macrofossil samples will be taken from intact subsurface features exposed by shovel/auger probes or test units. A stratigraphic profile will be drawn for at least one wall of each test excavation unit.

J. All prehistoric and historic artifacts collected from the surface and from probes and excavation units will be analyzed, catalogued, and temporarily curated by King County. Ultimate disposition of cultural materials will be determined in consultation with the SHPO and the affected tribe(s).

K. Within 90 days of concluding fieldwork, a management summary describing any and all monitoring and resultant archaeological excavations will be provided to the project manager or the region. The project manager will forward the report to the WSDOT H&LP Archaeologist for review and delivery to FHWA, SHPO, and the affected tribe(s).

L. If assessment activity exposes human remains (burials, isolated teeth, or bones) all defined procedures outlined below will be followed.

3. SPECIAL PROCEDURES FOR THE DISCOVERY OF HUMAN SKELETAL MATERIAL

Any human skeletal remains regardless of ethnic origin, which may be discovered during this project, will at all times be treated with dignity and respect. In the event that any human remains are discovered and they are determined to be of Native American origin, the affected Native American Tribe(s) will be immediately notified by the WSDOT.

A. During all project operations, if any King County employee or any of the contractors or subcontractors believes that he or she has made an unanticipated discovery of human skeletal remains, all work adjacent to the discovery shall cease. A 50-foot work stoppage area will be maintained around the discovery to provide for the total security, protection, and integrity of the human skeletal remains, in accordance with Washington State Law. No persons other than the proper law enforcement personnel, RSD archaeologist, WSDOT H&LP Archaeologist, and the SHPO will be authorized direct access to the discovery location after the area is secured. If the remains are determined to be of Native American ancestry thorough consultation with the SHPO, tribal access will be allowed when the affected tribe(s) representative(s) are designated. Coordination for tribal member access must go through the designated tribal representative. The strict control of a burial location is mandated to insure the safety and integrity of the burial feature and remains.

B. Representatives of King County are responsible for taking appropriate steps to protect the discovery. A 50-foot diameter area will be secured to provide for the total security, protection, and integrity of the resource. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse or enter the discovery site.

C. Following the specific guidance set forth here, the King County Project Engineer will immediately call the RSD archaeologist who will immediately call the local law enforcement official (county sheriff or police department) and will insure an individual competent and qualified to identify human skeletal remains is present. The ethnic origin, or ancestry, of the discovered human remains will be determined through consultation with the RSD archaeologist, WSDOT H&LP Archaeologist, SHPO, County Coroner and the affected tribe(s). The local law enforcement official may arrange for a representative of the King County Medical Examiner's office to assist the RSD archaeologist and WSDOT Cultural Resource Staff in the examination of the discovery and will together determine whether it should be treated as a crime scene, a historic Euro-American burial, or as a burial of Native American ancestry.

D. If the human skeletal remains are determined to be Native American, the participating parties will consult to determine what treatment is appropriate for the human remains. At this point, if warranted, FHWA will assume all authority over the government-to-government consultation process.

E. If disinterment of Native American human remains becomes necessary, the consulting parties, which will include the FHWA, WSDOT, SHPO, and affected tribe(s), will jointly determine the final custodian of the human skeletal remains for reinterment.

F. WSDOT and/or the FHWA will make a good faith effort at accommodating requests from the affected tribe(s) to be present after they are notified of discoveries, and prior to the implementation of mitigation measures related to the human remains.

CONTACT LIST

FHWA

Area Engineer Jim Leonard 360 753-9408

WSDOT

Garth Baldwin H&LP Archaeologist (360) 570-6650

Ed Conyers, H&LP Engineer (206) 440-4734

DAHP

Dr. Allyson Brooks, SHPO (360) 586-3066

Matthew Sterner, Archaeologist (360) 586-3082

Local Law Enforcement

King County Sheriff (206) 397-6195

King County Medical Examiner (206) 397-8405

King County Project Staff

(206) 296-8085
Tom Minichillo, RSD Archaeologist (206) 989-0018 pager
(206) 525-7404 home (emergency)