

MEMORANDUM OF AGREEMENT
BETWEEN FEDERAL HIGHWAY ADMINISTRATION AND
THE INDIANA STATE HISTORIC PRESERVATION OFFICER
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION PURSUANT TO 36 C.F.R. SEC. 800
REGARDING THE REPLACEMENT OF PERRY COUNTY
BRIDGE #14 CARRYING CR 104 OVER POISON CREEK IN
TOBIN TOWNSHIP, PERRY COUNTY, INDIANA

WHEREAS the Federal Highway Administration (FHWA) proposes to fund the replacement of Perry County Bridge #14 carrying CR 104 over Poison Creek in Tobin Township, Perry County, Indiana and

WHEREAS the FHWA, pursuant to 36 C.F.R. 800 has defined the Area of Potential Effect (APE) on 4 April 2002 as follows: A 3.7 acre region of southeastern Perry County that includes all areas physically adjacent to Perry County Bridge #14 replacement, and all properties within a 200 feet square around Perry County Bridge #14. Perry County Bridge #14 in included within the APE.

WHEREAS the FHWA in consultation with Indiana State Historic Preservation Officer (Indiana SHPO), pursuant to 36 C.F.R. Sec. 800 consider Perry County Bridge #14 to be eligible for inclusion in the National Register of Historic Places; and

WHEREAS the FHWA in consultation with Indiana SHPO have determined that the bridge replacement project will have an adverse effect on Perry County Bridge #14 carrying CR 104 over Poison Creek in Tobin Township, Perry County, Indiana; and

WHEREAS the FHWA has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f) and its implementing regulations (36 C.F.R. Part 800) to resolve the adverse effect of the bridge replacement project on Perry County Bridge #14; and

WHEREAS the FHWA and the Indiana SHPO have invited the Board of Commissioners of Perry County (Commissioners) and the Indiana Department of Transportation to participate in the consultation and to become signatories to this memorandum of agreement;

NOW, THEREFORE, the FHWA and the Indiana SHPO agree that, upon the submission of a copy of this executed memorandum of agreement, as well as the documentation specified in 36 C.F.R. Section 800 to the Advisory Council on Historic Preservation ("Council" pursuant to 36 C.F.R. 800) and upon the FHWA's approval of the Perry County Bridge #14 Replacement Project, the FHWA shall ensure that the following stipulations are implemented in order to take into account the effect of the Perry County Bridge #14 Replacement Project on historic properties.

I. MITIGATION STIPULATIONS

If the FHWA provides federal funds for the replacement of Perry County Bridge #14 the FHWA shall ensure that the following stipulations are implemented;

- 1) The Commissioners shall offer the existing Bridge #14 truss for sale, or be given to an approved entity. The Perry County Bridge #14 will be offered for sale for 30 days in accordance with applicable federal regulations. In addition to agencies and organizations already contacted, the offer shall be made to the public through notices in The Indianapolis Star and a Local newspaper covering that portion of the State and by direct mail to local historical organizations.
- 2) The County (Commissioners), INDOT, FHWA, and the SHPO shall review proposed offers. The suitable applicant shall have sufficient funding to encompass the cost of the local funding portion (20 percent match) of the dismantling / relocation / reconstruction such that no additional cost shall be borne by Perry County.
- 3) A formal plan of action for dismantling / relocation / reconstruction of the bridge and cost shall be submitted by the applicant to FHWA / INDOT / SHPO / Perry County for review and approval. The timing of the dismantling of Perry County Bridge #14 shall compliment and coincide with the plans of the County for the construction of the new bridge. The formal plan shall be submitted within 30 days of the applicant's initial offer.
- 4) Eligible entities may receive Transportation enhancement funds, on a reimbursement basis up to 80% of eligible costs, for costs associated with relocating the bridge. Eligible entities are defined as Indiana Local Public Agencies and Indiana Non-Profit groups.
- 5) If it is decided by the County, INDOT, FHWA, and the SHPO that the offer and the applicant is suitable and satisfactory to all parties, Perry County Bridge #14 will be approved for sale and dismantling / relocation / reconstruction.
- 6) If no acceptable proposals are received after the thirty (30) day advertising period, the bridge will be dismantled and moved to the old county highway garage on Route 5 in Gatchel and stored for a minimum period of 10-years. During this 10 year time period, the bridge will be advertised on the Indiana Department of Transportation's Historic Bridge Marketing Program website.
- 7) Letters will be sent out to surrounding Indiana counties offering Perry County Bridge #14 for relocation and rehabilitation. This letter will describe the bridge structure and condition along with letting the counties know that any non-profit or Indiana LPA would be eligible for Transportation Enhancement funds for relocating the bridge. Counties to be sent this letter will include, but are not limited to Spencer, Dubois, Crawford, and Harrison.
- 8) Bridge #14 carrying CR 104 over Poison Creek in Perry County, Indiana shall be documented, prior to the commencement of dismantling and construction activities, at a minimum, in the following manner:
 - a. A cover page with the historic name or names (e.g. Dewey Burton Bridge), most recent name (if any), and street address of the historic property, typed or printed on 8" by 11" paper.

- b. A typed or printed description of the historic property on 8" by 11" paper, including at least the following:
 - i. A verbal description of the bridge, including a description of materials and notable architectural features and a statement of the dimensions of the overall bridge (e.g., length and width);
 - ii. A map of the County with the location of the historic property marked;
- c. A brief description of the alterations that have been or will be completed.
- d. A brief, typed or printed history of the bridge and a written statement of the bridge's significance of Perry County on 8" by 11" paper, focusing, in particular, on its history prior to 1950.
- e. Black and white 35 mm photographs of all visible sides of the bridge (e.g., up stream and down stream and approaching the bridge) and photographs of major features dating from the bridge's period of significance (e.g., rails, iron trusses, and piers, etc); the photographs need not be mounted; the photographs shall be labeled on the reverse side to indicate the bridge's name, location, direction and brief description of view, and name of the photographer (labels shall be typed and affixed onto the photograph).

II. DISPUTE RESOLUTION

Disagreement and misunderstanding about how this memorandum of agreement is or is not being implemented shall be resolved in the following manner:

A. If the Indiana SHPO or any invited signatory to this memorandum of agreement should object in writing to the FHWA regarding any action carried out or proposed with respect to the Perry County Bridge #14 Replacement Project or implementation of this memorandum of agreement, then the FHWA shall consult with the objecting party to resolve this objection. If after such consultation the FHWA determines that the objection cannot be resolved through consultation, then the FHWA shall forward all documentation relevant to the objection to the Council, including the FHWA's proposed response to the objection. Within 45 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

- i. Provide the FHWA with a staff-level recommendation, which the FHWA shall take into account in reaching a final decision regarding its response to the objection; or
- ii. Notify the FHWA that the objection will be referred for formal comment pursuant to 36 C.F.R. 800.7(c), and proceed to refer the objection and comment. The FHWA shall take into account the Council's comments in reaching a final decision regarding its response to the objection.

B. The FHWA shall take into account any Council comment or recommendations provided in accordance with this stipulation with reference only to the subject of the objection. The FHWA's responsibility to carry out all actions under the memorandum of agreement that are not the subjects of the objection shall remain unchanged.

III. POST REVIEW DISCOVERY

In the event that one or more historic properties, other than Perry County Bridge #14 are discovered or that unanticipated effects on historic properties are found during the implementation of this memorandum of agreement, the FHWA shall follow the procedure specified in 36 C.F.R. 800.13

IV. AMENDMENT

Any signatory to this memorandum of agreement may request that it be amended, whereupon the parties shall consult to consider the proposed amendment. 36 C.F.R. 800.6(c)(7) shall govern the execution of any such amendment.

V. TERMINATION

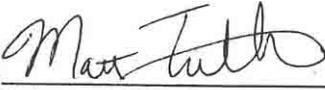
A. If the terms of this memorandum of agreement have not been implemented by 2014, then this memorandum of agreement shall be considered null and void. In such an event, the FHWA shall so notify the parties to this memorandum of agreement and, if it chooses to continue with the Perry County Bridge #14 Replacement Project, then it shall reinitiate review of the Perry County Bridge #14 Replacement Project in accordance with 36 C.F.R. 800.3 through 800.7.

B. Any signatory to the memorandum of agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties shall consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the FHWA shall comply with 36 C.F.R. 800.3 through 800.7 with regard to the review of the Perry County Bridge #14 Replacement Project.

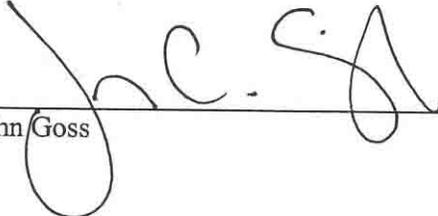
C. In the event that the FHWA does not carry out the terms of this memorandum of agreement, the FHWA shall comply with 36 C.F.R. 800.3 through 800.7 with regard to the review of the Perry County Bridge #14 Replacement Project.

The execution of this memorandum of agreement by the FWHA, INDOT, Perry County Board of Commissioners, and the Indiana SHPO, the submission of it to the Council with the appropriate documentation specified in 36 C.F.R. 800.11(e) and (f), and the implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the Perry County Bridge #14 Replacement Project and its effect on historic properties and that the FHWA has taken into account the effects of the Perry County Bridge #14 Replacement Project on historic properties.

FEDERAL HIGHWAY ADMINISTRATION

By: 
John R. Baxter, P.E.
INDIANA STATE HISTORIC PRESERVATION OFFICER

Date: 4/10/03

By: 
John Goss

Date: 8-11/03

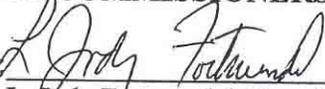
INVITED SIGNATORIES:

INDIANA DEPARTMENT OF TRANSPORTATION

By: 
Name and Title: Acting Commissioner

Date: 4-2-03

BOARD OF COMMISSIONERS OF PERRY COUNTY

President: 
L. Jody Fortwendel, President County Commissioners

Date: 3-3-03

Member: 
Dale Sprinkle, Commissioners

Date: 3-3-03

Member: 
Terry Lock, Commissioners

Date: 3-3-03