

Appendix C

Cultural Resources Survey

Section 106 MOAs

SHPO and ACHP Coordination



South Carolina
Department of Transportation

December 15, 2016

Ms. Elizabeth Johnson
Deputy State Historic Preservation Officer
South Carolina Department of Archives & History
8301 Parklane Road
Columbia, South Carolina 29223-4905

Re: Re-evaluation of I-73 North (From I-95 to North Carolina) and I-73 South (From Myrtle Beach to I-95)

Dear Ms. Johnson:

As part of the Re-evaluation being performed for the I-73 Environmental Impact Statement and Record of Decision, the Department reviewed the results of previous cultural resource investigations conducted for the I-73 Northern and Southern Corridors. Previous investigations of the I-73 Southern Corridor identified no historic properties within the project's Area of Potential Effects (APE). The 2007 and 2008 investigations of the Northern Corridor resulted in the identification of seven archaeological sites (38ML291, 38ML296, 38ML309, 38ML340, 38DN165, 38ML297, and 38ML342) that require additional testing and one historic architectural resource (Resource 031 0011 Beauty Spot Court Office) that was determined eligible for listing in the National Register of Historic Places (NRHP). A revisit in October 2016 determined these resources to be intact and unaltered by recent development (see attached report).

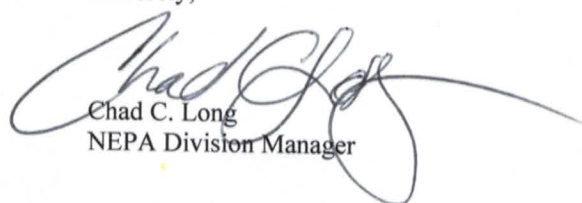
In 2008, the Department determined that the construction of I-73 would result in an adverse effect to the Beauty Spot Court Office. The proposed mitigation for resolving adverse effects is outlined in the July 17, 2008 Memorandum of Agreement (MOA) between the South Carolina Department of Transportation (SCDOT), the Federal Highway Administration (FHWA), and the South Carolina State Historic Preservation Office (SC-SHPO). The Department maintains the commitment to mitigate the adverse effects to the Beauty Spot Court Office per the requirements of the 2008 MOA (see attached).

A separate MOA between SCDOT, FHWA, and SC-SHPO was executed on September 23, 2008 for the management of archaeological sites 38ML291, 38ML296, 38ML309, 38ML340, 38DN165, 38ML297, and 38ML342. Because this MOA expired in September 2013, the Department and FHWA would like to renew consultation for the management of these resources per the requirements of Section 106 of the National Historic Preservation Act. A revised and updated draft Memorandum of Agreement is enclosed for your review and comment.

Per the terms of the Section 106 Programmatic Agreement executed on August 18, 2014, the Department is providing this information on behalf of the Federal Highway Administration.

It is requested that you review the enclosed material and provide any comments and/or suggestions as it relates to the Department's compliance with Section 106 of the National Historic Preservation Act.

Sincerely,



Chad C. Long
NEPA Division Manager

cc: Michelle Herrell, FHWA

File: ENV/CCL

**MEMORANDUM OF AGREEMENT BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION,
THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION,
AND THE SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICE**

Whereas, the Federal Highway Administration (FHWA) has determined that the Interstate 73 Project in Marlboro County, South Carolina, will have an adverse effect upon the Beauty Spot Motor Court Office (Survey Site # 0011), a property determined eligible for inclusion in the National Register of Historic Places, and

WHEREAS, the FHWA has notified the Advisory Council on Historic Preservation of the adverse effect determination in accordance with Section 106 of the National Historic Preservation Act (36 CFR Part 800.6 (a)) and the Council has elected not to participate, and

WHEREAS, the FHWA has delegated responsibility to the South Carolina Department of Transportation (SCDOT) to coordinate with the South Carolina State Historic Preservation Officer (SHPO) on matters related to Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f), and

WHEREAS, the SCDOT has consulted with the South Carolina SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f) and its implementing regulations (36 CFR Part 800) to resolve adverse effects, and

NOW, THEREFORE, the FHWA, the SCDOT, and the South Carolina SHPO agree that the undertaking will be implemented according to the following stipulations in order to take into account the effects of the undertaking on the Beauty Spot Motor Court Office:

STIPULATIONS

The FHWA and the SCDOT will ensure that the following stipulation is implemented:

- 1.) A "popular" publication, such as a brochure or poster, focusing on the history of the Beauty Spot Motor Court Office and providing a brief context of motor court and early automobile-related tourism history in Marlboro County will be produced. The term "popular" is used because the publication should include images, graphics, and language designed to appeal to the general public. The publication may cover areas and resources beyond Marlboro County if those are pertinent to the history and context. Two Thousand (2,000) copies of this publication will be produced and copies will be distributed to the Marlboro County Historical Society, the Marlboro County Historic Preservation Commission, the Marlboro County Public Library, and the Pee Dee Council of Governments. The remaining copies will be submitted to the SHPO. Additionally, an electronic copy in PDF format will be submitted to the South Carolina SHPO for posting on the South Carolina SHPO's website.

Late Discoveries

If unanticipated cultural materials (e.g., large, intact artifacts or animal bones; large soils stains or patterns of soil stains; buried brick or stone structures; clusters of brick or stone) or human skeletal remains are discovered during construction activities, then the Resident Construction Engineer shall be immediately notified and all work in the vicinity of the discovered materials shall cease until an evaluation can be made by the SCDOT archaeologist in consultation with the South Carolina SHPO.

Dispute Resolution

The FHWA, the SCDOT, and the South Carolina SHPO will attempt to resolve any disagreement arising from the implementation of the MOA. This will include any disputes that arise concerning the contents of the report(s), including but not limited to its merit as a cultural resource management document.

In the event that the terms of this agreement cannot be carried out, the FHWA and SCDOT will submit a new (or amended) MOA to the South Carolina SHPO and the Council for review. If consultation to prepare a new MOA or amendments proves unproductive, the FHWA will seek Council comment in accordance with 36CFR Part 800.6(b)(1).

Amendment and Modification

Any party to this MOA may request that it be amended or modified at any time, whereupon the parties will consult with each other to consider such amendment or modification.

Execution of this Memorandum of Agreement by the Federal Highway Administration, the South Carolina Department of Transportation, and the South Carolina State Historic Preservation Office and implementation of its terms, is evidence that the FHWA has taken into account the effects of the undertaking on the Beauty Spot Motor Court Office in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f) and its implementing regulations (36 CFR Part 800).

Federal Highway Administration

By: Patrick J. Zyzanski Date: 7-17-08

South Carolina Department of Transportation

By: Wayne D. Roberts Date: 7/14/08

South Carolina State Historic Preservation Office

By: Richard E. Stew Date: 5/15/08

MEMORANDUM OF AGREEMENT

**BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION,
THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AND THE
SOUTH CAROLINA HISTORIC PRESERVATION OFFICER
REGARDING THE INTERSTATE 73 PROJECT IN
MARLBORO AND DILLON COUNTIES, SOUTH CAROLINA**

WHEREAS the Federal Highway Administration (FHWA) and the South Carolina Department of Transportation (SCDOT) plan to approve the I 73 project (undertaking) pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f); and

WHEREAS the undertaking consists of construction of an interstate highway along new alignment beginning at the North Carolina border in Marlboro County and ending near Centerville Road just north of I-95 in Dillon County; and

WHEREAS, FHWA and SCDOT have defined the undertaking's area of potential effect (APE) as a corridor with a maximum width of 400 feet that is within a 600 foot wide archaeological survey universe and extending the length of the undertaking; and

WHEREAS the FHWA has delegated responsibility to the SCDOT to coordinate with the South Carolina State Historic Preservation Officer (SHPO) on matters related to Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f), and

WHEREAS the FHWA and SCDOT agree that the undertaking may have an adverse effect on archaeological sites 38ML291, 38ML296, 38ML309, and 38ML340, which are potentially eligible for listing in the National Register of Historic Places (NRHP), and have consulted with the South Carolina Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f). Three additional sites (38DN165, 38ML297, and 38ML342) require additional work before their NRHP eligibility can be assessed; and

WHEREAS in accordance with 36 C.F.R. § 800.6(a)(1), FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its potential adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, FHWA, SCDOT, and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The FHWA and SCDOT shall ensure that the following measures are carried out:

1. SHPO's August 15, 2008 Comments on the draft archaeological survey report will be addressed and a final report produced according to the SHPO's established guidelines.
2. The final design of the project will attempt to avoid and/or minimize adverse effects to historic properties, where possible.
3. Upon right-of-way acquisition or signed right-of-entry permission, the SCDOT's archaeological consultant, or staff, will perform test excavations at sites that are within the APE to make a final determination of National Register eligibility. The results of test excavations and the SCDOT's recommendation of National Register eligibility will be summarized in a technical report and submitted to the South Carolina SHPO for review. Sites determined not eligible in consultation with the SHPO will no longer be historic properties.
4. If there are adverse effects to historic properties that cannot be avoided (i. e. "preserved in place"), the affected historic properties will undergo data recovery in consultation with the SHPO and Catawba Indian Nation Tribal Historic Preservation Officer (THPO).
5. SCDOT's archaeological consultant, or staff, will develop a treatment plan for data recovery investigations. The treatment plan will include a description of the project's research design and sampling strategy. The treatment plan will be submitted to the South Carolina SHPO and THPO for review and approval prior to any fieldwork. The South Carolina SHPO and THPO will be afforded thirty (30) days to review the treatment plan(s) and provide comments.
6. All plans and reports developed for the treatment of sites subjected to data recovery shall incorporate guidance from the Secretary of the Interior's "Standards and Guidelines for Archaeological Documentation" (48 FR 44734-37) and the President's Advisory Council on Historic Preservation publication, Treatment of Archaeological Properties (ACHP 1980). In addition, these materials will be consistent with South Carolina Standards and Guidelines for Archaeological Investigations (2005).
7. At least one on-site meeting between the SCDOT, the South Carolina SHPO, and the THPO will take place during field investigations in order to discuss any necessary revisions to the original scope of work. Any revisions made to the original scope of work will be attached to the approved treatment plan and this agreement.
8. A minimum of two copies of the draft technical report of data recovery investigations will be submitted to the South Carolina SHPO and THPO for review and approval within twelve (12) months from the last day of fieldwork. The draft technical report will be consistent with the standards outlined in South Carolina Standards and Guidelines for

Archaeological Investigations (2005). The South Carolina SHPO and THPO reserve the right to submit the draft technical report to qualified professional archaeologists for the purpose of peer review.

9. Within three (3) months of draft report approval, SCDOT shall provide one bound copy and one compact disk containing a Portable Document Format (PDF) of the final technical report for the SHPO and THPO, and two bound copies, one unbound copy, and one PDF copy of the final technical report for the South Carolina Institute of Archaeology and Anthropology, all submitted to SHPO. The PDF file will be developed according to the specifications and requirements of the SHPO. A separate digital abstract from the report (in Word or html format) will also be provided to the SHPO and THPO. The abstract file can be provided on the same CD as the PDF file.
10. The SCDOT will ensure that all artifacts recovered during archaeological investigations are stabilized and processed for curation at the South Carolina Institute of Archaeology and Anthropology. Copies of all records, including but not limited to field notes, maps, catalogue sheets, and representative photographs and negatives will be submitted for curation with the artifacts.
11. The SCDOT, the South Carolina SHPO, and THPO will consult to determine the appropriate format for a public education component. A public education plan will be submitted with the draft technical report and all public education materials will be developed within two (2) years from the last day of fieldwork.

IV. DURATION

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, FHWA and SCDOT may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

V. POST-REVIEW DISCOVERIES

If potential late discoveries or unanticipated effects on historic properties are found, the FHWA and the SCDOT shall implement standard late discovery procedures with appropriate consultation with the SHPO and ACHP.

VI. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires or is terminated, FHWA and the SCDOT shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's and the SCDOT's efforts to carry out the terms of this MOA.

VII. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA and SCDOT shall consult with such party to resolve the objection. If FHWA and SCDOT determine that such objection cannot be resolved, the FHWA and SCDOT will:

A. Forward all documentation relevant to the dispute, including the FHWA and SCDOT's proposed resolution, to the ACHP. The ACHP shall provide FHWA and SCDOT with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA and SCDOT will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA and SCDOT may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA and SCDOT shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. FHWA and SCDOT's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

IX. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA and SCDOT must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. FHWA and SCDOT shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the FHWA, SCDOT, and SHPO and implementation of its terms

evidence that FHWA and SCDOT have taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Federal Highway Administration

Patrick Tyndall Date 9-23-08
Patrick Tyndall

South Carolina Department of Transportation

Wayne D. Roberts Date 9/17/08
Wayne D. Roberts

South Carolina Historic Preservation Office

Elizabeth M. Johnson Date 9/19/08
Elizabeth Johnson

MEMORANDUM OF AGREEMENT

BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA HISTORIC PRESERVATION OFFICER REGARDING THE INTERSTATE 73 PROJECT IN MARLBORO AND DILLON COUNTIES, SOUTH CAROLINA

WHEREAS the Federal Highway Administration (FHWA) and the South Carolina Department of Transportation (SCDOT) previously approved the I-73 project (undertaking) pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f); and

WHEREAS the undertaking consists of construction of an interstate highway along new alignment beginning at the North Carolina border in Marlboro County and ending near Centerville Road just north of I-95 in Dillon County; and

WHEREAS, FHWA and SCDOT have defined the undertaking's area of potential effect (APE) as a corridor with a maximum width of 400 feet that is within a 600 foot wide archaeological survey universe and extending the length of the undertaking; and

WHEREAS the FHWA has delegated responsibility to the SCDOT to coordinate with the South Carolina State Historic Preservation Officer (SHPO) on matters related to Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f), and

WHEREAS the FHWA and SCDOT agree that the undertaking may have an adverse effect on archaeological sites 38ML291, 38ML296, 38ML309, 38ML340, 38DN165, 38ML297, and 38ML342 which require additional work before their eligibility for the National Register of Historic Places (NRHP) can be assessed, and

WHEREAS, SCDOT has consulted with the South Carolina Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) regarding the effects to these sites, and

WHEREAS in accordance with 36 C.F.R. § 800.6(a)(1), FHWA previously notified the Advisory Council on Historic Preservation (ACHP) of its potential adverse effect determination with specified documentation and the ACHP chose not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, FHWA, SCDOT, and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The FHWA and SCDOT shall ensure that the following measures are carried out:

1. The final design of the project will attempt to avoid and/or minimize adverse effects to historic properties, where possible.
2. Upon right-of-way acquisition or signed right-of-entry permission, the SCDOT's archaeological consultant, or staff, will perform test excavations at sites 38ML291, 38ML296, 38ML309, 38ML340, 38DN165, 38ML297, and 38ML342 that are within the APE to make a final determination of National Register eligibility. The results of test excavations and the SCDOT's recommendation of National Register eligibility will be summarized in a technical report and submitted to the South Carolina SHPO for review. Sites determined not eligible in consultation with the SHPO will no longer be historic properties.
3. If there are adverse effects to historic properties that cannot be avoided (i. e. "preserved in place"), the affected historic properties will undergo data recovery in consultation with the SHPO and Catawba Indian Nation Tribal Historic Preservation Officer (THPO).
4. SCDOT's archaeological consultant, or staff, will develop a treatment plan for data recovery investigations. The treatment plan will include a description of the project's research design and sampling strategy. The treatment plan will be submitted to the South Carolina SHPO and THPO for review and approval prior to any fieldwork. The South Carolina SHPO and THPO will be afforded thirty (30) days to review the treatment plan(s) and provide comments.
5. All plans and reports developed for the treatment of sites subjected to data recovery shall incorporate guidance from the Secretary of the Interior's "Standards and Guidelines for Archaeological Documentation" (48 FR 44734-37) and the President's Advisory Council on Historic Preservation publication, Treatment of Archaeological Properties (ACHP 1980). In addition, these materials will be consistent with South Carolina Standards and Guidelines for Archaeological Investigations (2005).
6. At least one on-site meeting between the SCDOT, the South Carolina SHPO, and the THPO will take place during field investigations in order to discuss any necessary revisions to the original scope of work. Any revisions made to the original scope of work will be attached to the approved treatment plan and this agreement.
7. A minimum of two copies of the draft technical report of data recovery investigations will be submitted to the South Carolina SHPO and THPO for review and approval within twelve (12) months from the last day of fieldwork. The draft technical report will be consistent with the standards outlined in South Carolina Standards and Guidelines for

Archaeological Investigations (2005). The South Carolina SHPO and THPO reserve the right to submit the draft technical report to qualified professional archaeologists for the purpose of peer review.

8. Within three (3) months of draft report approval, SCDOT shall provide one bound copy and one compact disk containing a Portable Document Format (PDF) of the final technical report for the SHPO and THPO, and two bound copies, one unbound copy, and one PDF copy of the final technical report for the South Carolina Institute of Archaeology and Anthropology, all submitted to SHPO. The PDF file will be developed according the specifications and requirements of the SHPO. A separate digital abstract from the report (in Word or html format) will also be provided to the SHPO and THPO. The abstract file can be provided on the same CD as the PDF file.
9. The SCDOT will ensure that all artifacts recovered during archaeological investigations are stabilized and processed for curation at the South Carolina Institute of Archaeology and Anthropology. Copies of all records, including but not limited to field notes, maps, catalogue sheets, and representative photographs and negatives will be submitted for curation with the artifacts.
10. The SCDOT, the South Carolina SHPO, and THPO will consult to determine the appropriate format for a public education component. A public education plan will be submitted with the draft technical report and all public education materials will be developed within two (2) years from the last day of fieldwork.

IV. DURATION

This MOA will be null and void if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, FHWA and SCDOT may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

V. POST-REVIEW DISCOVERIES

If potential late discoveries or unanticipated effects on historic properties are found, the FHWA and the SCDOT shall implement standard late discovery procedures with appropriate consultation with the SHPO and ACHP.

VI. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires or is terminated, FHWA and the SCDOT shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's and the SCDOT's efforts to carry out the terms of this MOA.

VII. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA and SCDOT shall consult with such party to resolve the objection. If FHWA and SCDOT determine that such objection cannot be resolved, the FHWA and SCDOT will:

A. Forward all documentation relevant to the dispute, including the FHWA and SCDOT's proposed resolution, to the ACHP. The ACHP shall provide FHWA and SCDOT with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA and SCDOT will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA and SCDOT may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA and SCDOT shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. FHWA and SCDOT's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

IX. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA and SCDOT must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. FHWA and SCDOT shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the FHWA, SCDOT, and SHPO and implementation of its terms evidence that FHWA and SCDOT have taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Federal Highway Administration

_____ Date
Michelle Herrell

South Carolina Department of Transportation

_____ Date
Chad C. Long

South Carolina Historic Preservation Office

_____ Date
Elizabeth Johnson



Preserving America's Heritage

January 3, 2017

Ms. Michelle Herrell
Environmental Protection Specialist
Federal Highway Administration
South Carolina Division Office
1835 Assembly Street, Suite 1270
Columbia, SC 29201

Ref: *Proposed I-73 North-New Alignment Interstate Project from North Carolina Border to I-95
Dillon and Marlboro Counties, South Carolina*

Dear Ms. Herrell:

The Advisory Council on Historic Preservation (ACHP) has received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and it is determined that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the South Carolina State Historic Preservation Office (SHPO), and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA, and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the notification of adverse effect. If you have any questions or require further assistance, please contact Christopher Wilson at 202-517-0229 or via e-mail at cwilson@achp.gov.

Sincerely,

LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637
Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov

MEMORANDUM OF AGREEMENT

BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA HISTORIC PRESERVATION OFFICER REGARDING THE INTERSTATE 73 PROJECT IN MARLBORO AND DILLON COUNTIES, SOUTH CAROLINA

WHEREAS the Federal Highway Administration (FHWA) and the South Carolina Department of Transportation (SCDOT) previously approved the I-73 project (undertaking) pursuant to Section 106 of the National Historic Preservation Act (54 USC 300101 et seq.); and

WHEREAS the undertaking consists of construction of an interstate highway along new alignment beginning at the North Carolina border in Marlboro County and ending near Centerville Road just north of I-95 in Dillon County; and

WHEREAS, FHWA and SCDOT have defined the undertaking's area of potential effect (APE) as a corridor with a maximum width of 400 feet that is within a 600 foot wide archaeological survey universe and extending the length of the undertaking; and

WHEREAS the FHWA has delegated responsibility to the SCDOT to coordinate with the South Carolina State Historic Preservation Officer (SHPO) on matters related to Section 106 of the National Historic Preservation Act (54 U.S.C. 300101 et seq.), and

WHEREAS the FHWA and SCDOT agree that the undertaking may have an adverse effect on archaeological sites 38ML291, 38ML296, 38ML309, 38ML340, 38DN165, 38ML297, and 38ML342 which require additional work before their eligibility for the National Register of Historic Places (NRHP) can be assessed, and

WHEREAS, SCDOT has consulted with the South Carolina Historic Preservation Officer (SHPO) and the Catawba Indian Nation Tribal Historic Preservation Office pursuant to 36 C.F.R. Part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. 300101 et seq.) regarding the effects to these sites, and

WHEREAS in accordance with 36 C.F.R. § 800.6(a)(1), FHWA previously notified the Advisory Council on Historic Preservation (ACHP) of its potential adverse effect determination with specified documentation and the ACHP chose not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, FHWA, SCDOT, and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The FHWA and SCDOT shall ensure that the following measures are carried out:

1. The final design of the project will attempt to avoid and/or minimize adverse effects to historic properties, where possible.
2. Upon right-of-way acquisition or signed right-of-entry permission, the SCDOT's archaeological consultant, or staff, will perform test excavations at sites 38ML291, 38ML296, 38ML309, 38ML340, 38DN165, 38ML297, and 38ML342 that are within the APE to make a final determination of National Register eligibility. The results of test excavations and the SCDOT's recommendation of National Register eligibility will be summarized in a technical report and submitted to the South Carolina SHPO for review. Sites determined not eligible in consultation with the SHPO will no longer be historic properties.
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4. SCDOT's archaeological consultant, or staff, will develop a treatment plan for data recovery investigations. The treatment plan will include a description of the project's research design and sampling strategy. The treatment plan will be submitted to the South Carolina SHPO and THPO for review and approval prior to any fieldwork. The South Carolina SHPO and THPO will be afforded thirty (30) days to review the treatment plan(s) and provide comments.
5. All plans and reports developed for the treatment of sites subjected to data recovery shall incorporate guidance from the Secretary of the Interior's "Standards and Guidelines for Archaeological Documentation" (48 FR 44734-37) and the President's Advisory Council on Historic Preservation publication, Treatment of Archaeological Properties (ACHP 1980). In addition, these materials will be consistent with South Carolina Standards and Guidelines for Archaeological Investigations (2013).
6. At least one on-site meeting between the SCDOT, the South Carolina SHPO, and the THPO will take place during field investigations in order to discuss any necessary revisions to the original scope of work. Any revisions made to the original scope of work will be attached to the approved treatment plan and this agreement.
7. A minimum of two copies of the draft technical report of data recovery investigations will be submitted to the South Carolina SHPO and THPO for review and approval within twelve (12) months from the last day of fieldwork. The draft technical report will be consistent with the standards outlined in South Carolina Standards and Guidelines for

Archaeological Investigations (2013). The South Carolina SHPO and THPO reserve the right to submit the draft technical report to qualified professional archaeologists for the purpose of peer review.

8. Within three (3) months of draft report approval, SCDOT shall provide one bound copy and one compact disk containing a Portable Document Format (PDF) of the final technical report for the SHPO and THPO, and two bound copies, one unbound copy, and one PDF copy of the final technical report for the South Carolina Institute of Archaeology and Anthropology, all submitted to SHPO. The PDF file will be developed according the specifications and requirements of the SHPO. A separate digital abstract from the report (in Word or html format) will also be provided to the SHPO and THPO. The abstract file can be provided on the same CD as the PDF file.
9. The SCDOT will ensure that all artifacts recovered during archaeological investigations are stabilized and processed for curation at the South Carolina Institute of Archaeology and Anthropology. Copies of all records, including but not limited to field notes, maps, catalogue sheets, and representative photographs and negatives will be submitted for curation with the artifacts.
10. If, after additional archaeological testing and National Register evaluation, it is determined there are adverse effects to historic properties that cannot be avoided, SCDOT, the South Carolina SHPO, and THPO will consult to determine the appropriate format for a public education component. A public education plan will be submitted with the draft technical report and all public education materials will be developed within two (2) years from the last day of fieldwork.

IV. DURATION

This MOA will be null and void if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, FHWA and SCDOT may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

V. POST-REVIEW DISCOVERIES

If potential late discoveries or unanticipated effects on historic properties are found, the FHWA and the SCDOT shall implement standard late discovery procedures with appropriate consultation with the SHPO and ACHP.

VI. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires or is terminated, FHWA and the SCDOT shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems

encountered, and any disputes and objections received in FHWA's and the SCDOT's efforts to carry out the terms of this MOA.

VII. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA and SCDOT shall consult with such party to resolve the objection. If FHWA and SCDOT determine that such objection cannot be resolved, the FHWA and SCDOT will:

A. Forward all documentation relevant to the dispute, including the FHWA and SCDOT's proposed resolution, to the ACHP. The ACHP shall provide FHWA and SCDOT with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA and SCDOT will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA and SCDOT may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA and SCDOT shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. FHWA and SCDOT's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

IX. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may

terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA and SCDOT must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7.

FHWA and SCDOT shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the FHWA, SCDOT, and SHPO and implementation of its terms evidence that FHWA and SCDOT have taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Federal Highway Administration

Michelle G. Herrell Date 1/13/2017
Michelle Herrell

South Carolina Department of Transportation

Chad C. Long Date 1/12/2017
Chad C. Long

South Carolina Historic Preservation Office

Elizabeth M. Johnson Date 1/11/2017
Elizabeth Johnson

Gordon Murphy
Michael Baker International
700 Huger St,
Columbia, SC 29201

October 31, 2016

Re: Interstate 73 North (I-73 North) Cultural Resources Reevaluation, Dillon and Marlboro Counties, South Carolina.

Dear Mr. Murphy:

In 2006 and 2007, Brockington and Associates, Inc., conducted an intensive architectural survey of the Interstate (I-) 73 Northern Corridor, an approximately 20-mile-wide and 40-mile long corridor that begins south of I-95 in Dillon County and ends at the North Carolina border in Marlboro County, South Carolina (Bailey et al. 2007). These investigations resulted in the identification of one National Register of Historic Places (NRHP)-eligible historic architectural resource, Resource 031 0011 (Beauty Spot Court Office). In 2007 and 2008, Brockington and Associates, Inc., conducted an intensive archaeological survey of the preferred alternate for the I-73 Northern Corridor (Baluha and Bailey 2013). These investigations resulted in the identification of seven archaeological sites (Sites 38DN165, 38ML291, 38ML296, 38ML297, 38ML309, 38ML342, and 38ML340) determined to be potentially eligible for listing in the NRHP.

On October 13, 2016, the current project archaeologist (Josh Fletcher) and project architectural historian (Rachel Bragg) revisited these previously identified cultural resources to determine if any substantial changes had taken place in these locations. The cultural resources and the current observations are summarized below. Figure 1 presents the locations of the previously recorded resources on the USGS 1983 Florence, SC and Laurinburg, NC 1:100,000 quadrangles.



Figure 1. Locations of previously recorded cultural resources (USGS 1983 Florence, SC and Laurinburg, NC 1:100,000 quadrangles).

Resource 031 0011 (Beauty Spot Court Office) was recorded by Bailey et al. (2007:65) as a Tudor-style commercial building constructed c. 1920. The building is located to the south of US 15 in an area surrounded by agricultural fields (Figure 2). The five-part building has an irregular shape, which is clad in weatherboard and sits on a brick foundation. The cross-gabled roof is covered in composite shingles and has a steep pitch. There are three brick chimneys on the ridges of the roof and three within the roof surface. The windows are a mix of wooden double-hung with either four-over-four or six-over-six pane configurations. The entrance is in the center of the northern elevation and is covered by an awning. There is a c. 2000 rear addition. Figure 3 presents views of Resource 031 0011. The resource maintains its integrity of location, design, setting, material, workmanship, and feeling. It is still recommended eligible for the NRHP under Criterion C (*architecture*) because it embodies the distinctive character of its type, style, and period of construction.



Figure 2. Location of Resource 031 0011 on a 2014 aerial photograph.



Figure 3. Views of Resource 031 0011, front (north) elevation (top), northeast oblique (middle), rear (southwest) oblique (bottom).

Site 38DN165 was recorded by Baluha and Bailey (2013:77) as a scatter of nondiagnostic Pre-Contact lithic artifacts located north of SC Route 34 in a fallow field southwest of Bingham. The site measures 25 feet north/south by 50 feet east/west. The site area is currently a fallow agricultural field and there have been no obvious alterations to the site (Figure 4). Figure 5 presents a current view of the area of Site 38DN165.



Figure 4. Location of Site 38DN165 on a 2014 aerial photograph.



Figure 5. View of Site 38DN165, facing west.

Site 38ML291 was recorded by Baluha and Bailey (2013:76-77) as a scatter of Middle Archaic and Woodland ceramic and lithic artifacts located in an agricultural field northeast of Bingham Road. The site measures 330 feet north/south by 250 feet east/west. The site area is currently a fallow agricultural field and there have been no obvious alterations to the site (Figure 6). Figure 7 presents a current view of the area of Site 38ML291.

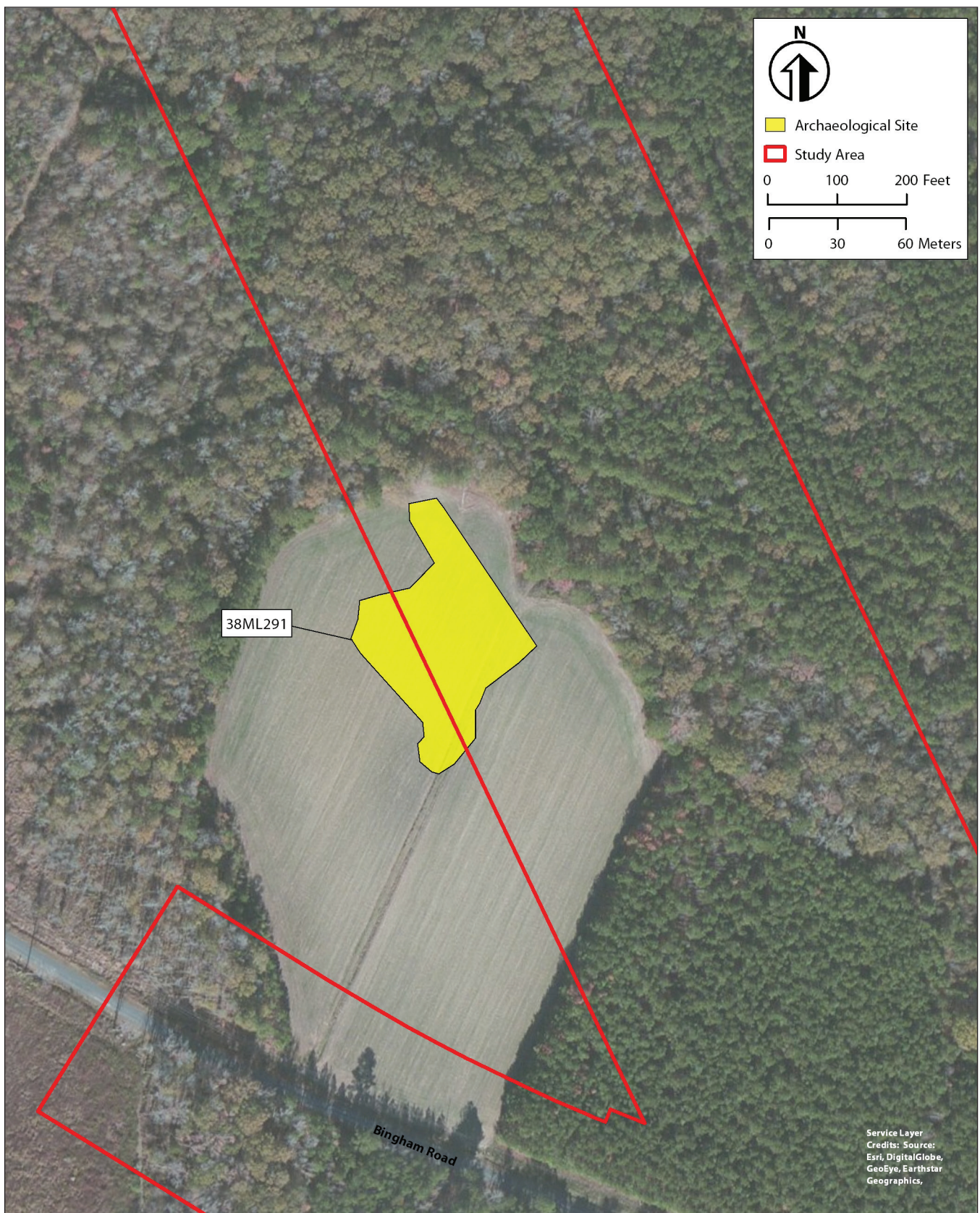


Figure 6. Location of Site 38ML291 on a 2014 aerial photograph.



Figure 7. View of Site 38ML291, facing northeast.

Site 38ML296 was recorded by Baluha and Bailey (2013:73) as a scatter of Late Woodland ceramic and lithic artifacts located to the south of Foxhaven Lane, in an area that had been clearcut for timber sometime within the previous two years. Baluha and Bailey (2013:73) noted that the area had been disturbed by silvicultural activities. The site measures 360 feet north/south by 295 feet east/west. Due to recent flooding in the area, the current investigators were unable to access unpaved Foxhaven Lane. However, according to a recent aerial photograph (Figure 8), it appears that the area is now wooded in planted pines.

Service Layer
Credits: Source:
Esri, DigitalGlobe,
GeoEye, Earthstar
Geographics,



Figure 8. Location of Site 38ML296 on a 2014 aerial photograph.

Site 38ML297 was recorded by Baluha and Bailey (2013:72) as a scatter of Middle Archaic lithic artifacts located in the southwest corner of an agricultural field west of Firetower Road. The site measures 65 feet north/south by 150 feet east/west. The site area is currently a planted agricultural field and there have been no obvious alterations to the site (Figure 9). Figure 10 presents a current view of the area of Site 38ML297.

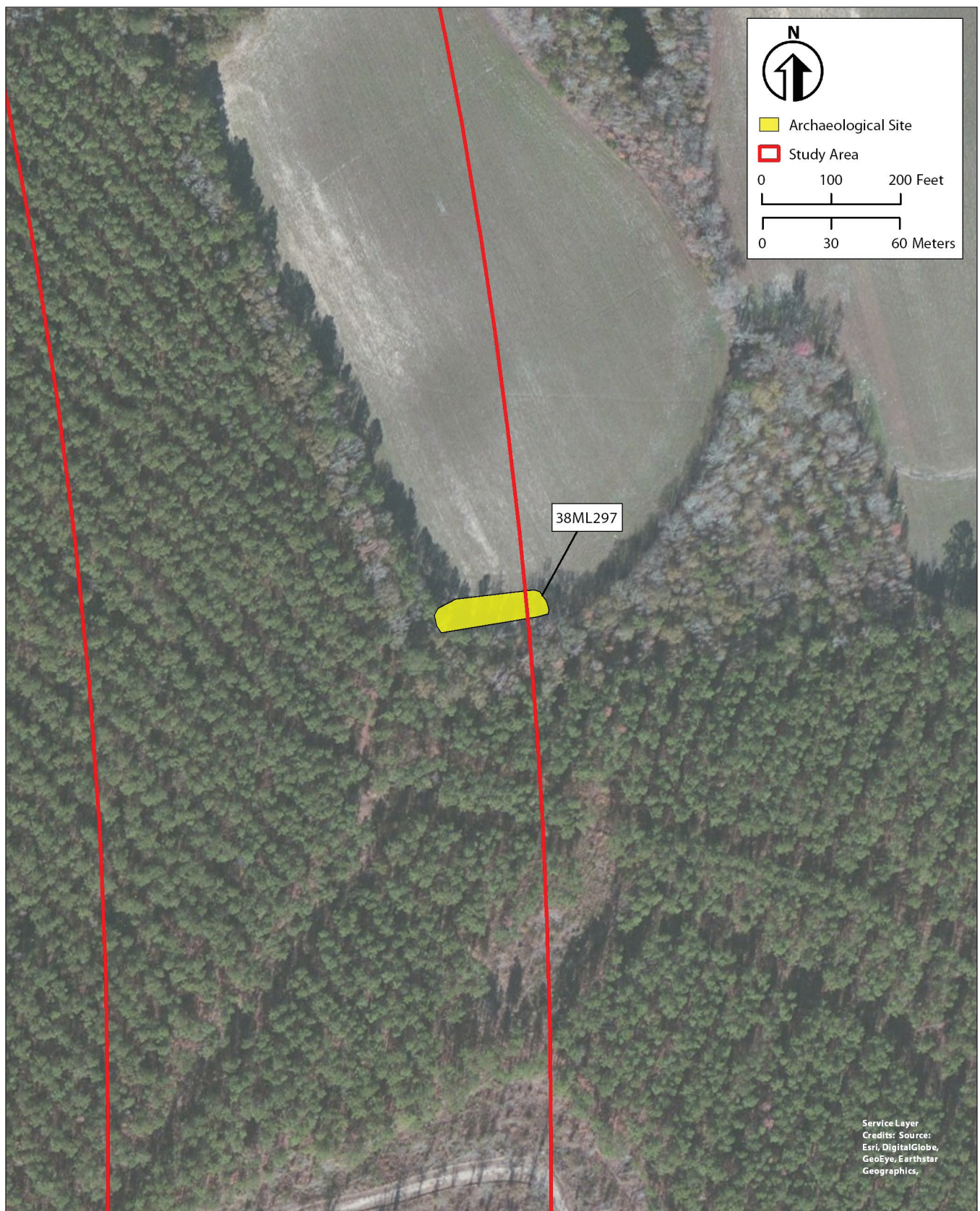


Figure 9. Location of Site 38ML297 on a 2014 aerial photograph.



Figure 10. View of Site 38ML297, facing west.

Site 38ML309 was recorded by Baluha and Bailey (2013:63) as a scatter of Early Archaic, Middle Archaic, and Woodland lithic and ceramic artifacts located on the southern edge of an agricultural field overlooking Hagins Prong Creek. The majority of the site lies within the agricultural field; the southwest portion of the site is located in a wooded area on a bluff edge overlooking the creek. The site measures 445 feet north/south by 295 feet east/west. The site area is currently a weedy fallow field and wooded area and there have been no obvious alterations to the site (Figure 11). Figure 12 presents a current view of the area of Site 38ML309.

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Esri, DigitalGlobe,
GeoEye, Earthstar
Geographics,

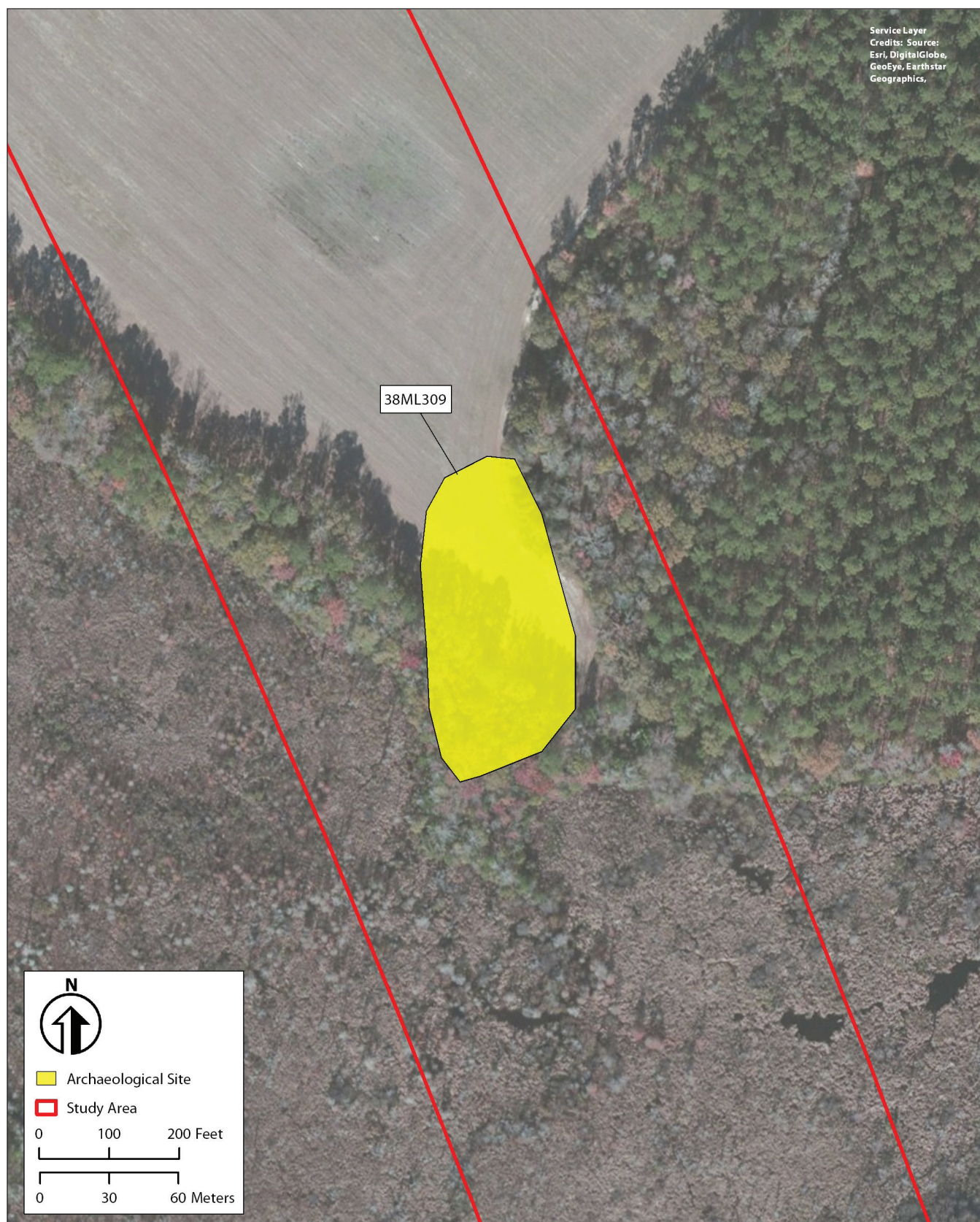


Figure 11. Location of Site 38ML309 on a 2014 aerial photograph.



Figure 12. View of Site 38ML309, facing southwest.

Site 38ML340 was recorded by Baluha and Bailey (2013:54) as a scatter of Late Paleoindian to Early Woodland ceramic and lithic artifacts, as well as a minor scatter of nineteenth century artifacts. The site, which measures 1,180 feet north/south by 610 feet east/west, was identified in an agricultural field on the northern rim of a Carolina bay. The site area is currently a planted agricultural field and there have been no obvious alterations to the site (Figure 13). Figure 14 presents a current view of the area of Site 38ML340.

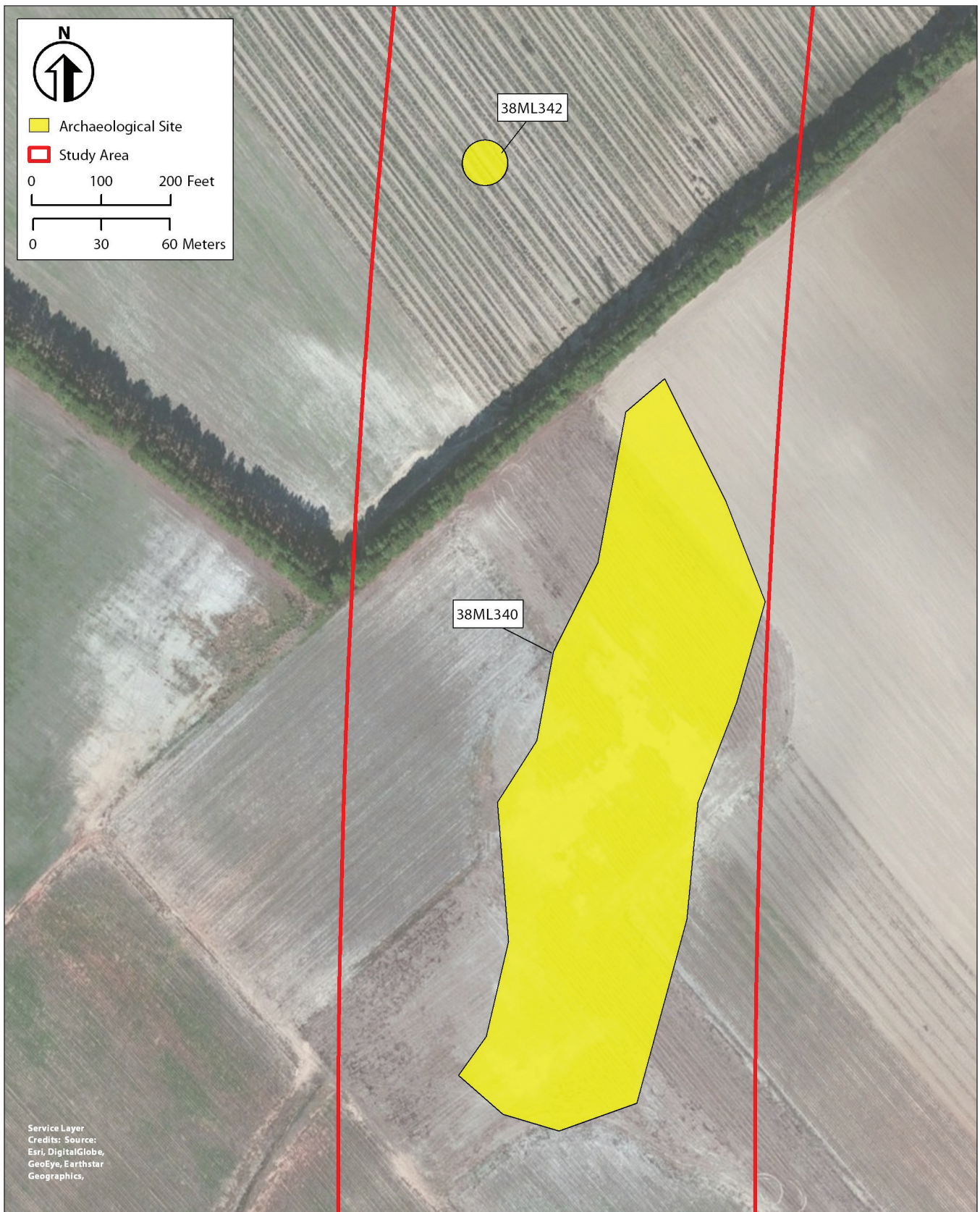


Figure 13. Location of Sites 38ML340 and 38ML342 on a 2014 aerial photograph.



Figure 14. View of Site 38ML340, facing north.

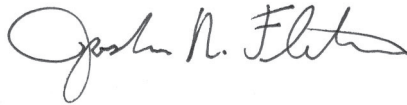
Site 38ML342 was recorded by Baluha and Bailey (2013:51) as a small scatter of nondiagnostic Pre-Contact lithic artifacts located in a fallow field south of Academy Road. The site measures 25 feet in diameter and is located on a sandy ridge between two Carolina bays. The site area is currently a planted agricultural field and there have been no obvious alterations to the site (see Figure 13). Figure 15 presents a current view of the area of Site 38ML342.



Figure 15. View of Site 38ML342, facing southeast.

In summary, Resource 031 0011 and Sites 38DN165, 38ML291, 38ML296, 38ML297, 38ML309, 38ML342, and 38ML340 appear to be intact and in similar environs as when they were identified during Brockington and Associates' original cultural resource investigations of the I-73 Northern Corridor (Bailey et al. 2007; Baluha and Bailey 2013). If you have any questions or need information at any time, please feel free to contact me at 843-881-3128. Thank you for the opportunity to continue to assist you with this project.

Sincerely,

A handwritten signature in black ink, reading "Josh N. Fletcher". The signature is fluid and cursive, with the first name "Josh" and last name "Fletcher" clearly legible.

Josh Fletcher
Senior Archaeologist

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References Cited

Bailey, Ralph Jr., Edward Salo, Jason Ellerbee, Inna Burns, and Kristina Lanphear

2007 *Intensive Architectural Survey of the Three Proposed Alternates, I-73 Northern Corridor, Dillon and Marlboro Counties, South Carolina*. Prepared for the South Carolina Department of Transportation, Columbia, The LPA Group, Inc., Columbia, and Wilbur Smith Associates, Columbia. Prepared by Brockington and Associates, Inc., Charleston.

Baluha, David S. and Ralph Bailey, Jr.

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