



SOCIETY FOR AMERICAN ARCHAEOLOGY

November 17, 2021

Colonel Eric M. Noe
Commander, Little Rock District
Southwestern Division
U.S. Army Corps of Engineers (USACE)
P.O. Box 867
Little Rock, AR 72203-0867
VIA: ceswl-pa@usace.army.mil

RE: SWL-2019-00295-1

Dear Colonel Noe:

It is our understanding the Little Rock Port Authority recently approved the sale of 290 acres to Trex Inc. in Pulaski County for the construction of a manufacturing plant, and that the sale involved USACE environmental and cultural resources reviews. The cultural resources aspect of this situation is unclear, particularly if the review that was carried out was done so according to the standards required under 33 CFR 325 (Appendix C) as well as Arkansas law. We also understand that there is a question as to whether consultation with Native American tribes and the Arkansas State Historic Preservation Office (SHPO) was done in a timely and comprehensive fashion. To ensure that reviews are done in keeping with the legal statutes that protect irreplaceable heritage, I write to formally request the Society for American Archaeology (SAA) become a consulting party under 33 CFR 325 Appendix C.8.

The SAA is an international organization that, since its founding in 1934, has been dedicated to research about and interpretation and protection of the archaeological heritage of the Americas. With nearly 7,000 members, the SAA represents professional and avocational archaeologists, archaeology students in colleges and universities, and archaeologists working at tribal agencies, museums, government agencies, and the private sector. The SAA has members throughout the United States, as well as in many nations around the world.

According to various sources, the property in question has extensive historically significant features, including an African American cemetery and at least four Native American ritual mounds, at least one of which was known to contain human remains. A Phase 1 survey was apparently conducted in July 2021 and involved excavation of two of the mounds. The plan for the property is to demolish two of the mounds, with no possibility of preservation in place. At least one tribe claiming affiliation and the SHPO were not informed of any of this activity until

well after the archaeological investigations were finished and their conclusions settled upon by the USACE.

We would like to gain a better understanding of the situation, in particular regarding the following questions:

- What is the permit area of the project?
- Was the survey work carried out in July 2021 done according to the regulations contained in Appendix C, and if so, where is the rest of the documentation?
- If the survey work was not done in accordance with Appendix C, why was it not done so?
- Why did the USACE not seek a state burial excavation permit to carry out the survey, even though at least one of the mounds in question was associated with human remains?
- Why were affected Native American tribes and the SHPO not consulted in a timely fashion, and given such little information, in apparent violation of federal law and executive orders?

The SAA understands and appreciates that the planned facility will bring hundreds of new jobs and economic activity to the inland port of Little Rock and does not wish to see this growth delayed. We also recognize that not every historic site or resource can or even should be preserved. Nevertheless, it is also vital that federal agencies carry out effective tribal consultation and comply with historic preservation laws and regulations. Saving the physical remnants of our shared cultural past and building a prosperous economy are not mutually exclusive goals. To the contrary—they can in fact be quite complementary of one another.

Our opposition is to the USACE's use of Appendix C to comply with the National Historic Preservation Act remains—the SAA believes that the USACE should use Section 106 instead. Nevertheless, in order to achieve the objectives described above, the SAA requests consultations under the Appendix C process with the Little Rock district engineer on the SWL-2019-00295-1 project. As a nonprofit archaeological society dedicated to the identification and preservation of cultural and scientific resources, the SAA has sufficient legal interest for this request.

We look forward to your response.

Sincerely,



Deborah L. Nichols, PhD, RPA
President

Cc: Reid Nelson, acting Executive Director, ACHP
Stacy Hurst, Arkansas State Historic Preservation Officer
Greg Phillips, Arkansas Historic Preservation Program
Valerie Grussing, National Association of Tribal Historic Preservation Officers