



DEPARTMENT OF THE ARMY
 GALVESTON DISTRICT, CORPS OF ENGINEERS
 P.O. BOX 1229
 GALVESTON, TEXAS 77553-1229

REPLY TO
 ATTENTION OF

November 15, 2002

Executive Office

Mr. F. Lawrence Oaks
 State Historic Preservation Officer
 Texas Historical Commission
 P.O. Box 12276
 Austin, Texas 78711-2276

EX-102
 #PAGES 5 DATE 11/25/02 FAX# 307-766-2473
 TO Bob Kelly
 FROM Tom Brussell
 CO: SAA
 PH: 281-8200 FAX: 202-781-0281

EX-102

Dear Mr. Oaks:

Reference is made to your letter of October 18, 2002, which reiterates your request that the State Historic Preservation Officer (SHPO) be invited to all meetings of VT98 (Buckeye Knoll Site) consulting parties. As stated in our letter to you dated March 22, 2002, federal regulations do not require participation of all consulting parties at all meetings. The SHPO has no special status that requires his participation in all consulting party meetings. The implementing regulations for the National Historic Preservation Act (36CFR800) do not stipulate that the SHPO's be considered "the primary consulting party for any Section 106 regulation." Neither do the regulations require that all consulting parties be invited to attend all consultation meetings for a Section 106 action.

The purpose of the consultation meetings I have sponsored is to obtain information upon which to base my decision on this complex and important issue. I have provided you and your office several opportunities to express your views and consult with me both publicly and privately, and I understand your position on this issue. In the other consultation meetings that have been held, I heard a variety of diverse opinions and technical perspectives in a cooperative atmosphere conducive to the free and respectful exchange of divergent viewpoints, which was my intent.

In my previous letter on this matter, I indicated that the results of these meetings would be shared with you. Since your letter of March 21, 2002, Galveston District has sponsored one tribal coordination meeting, one private meeting with representatives from the Tap Pilam Coahuiltecan Nation, and two meetings with the archeological consulting parties. Contrary to your assertion, the Advisory Council on Historic Preservation did not attend any of these meetings.

The tribal coordination meeting was held on May 9, 2002, in Galveston, Texas. The following tribes were invited to the meeting: the Alabama-Coushatta Tribe of Texas, the Alabama-Quassarte Tribal Town, the Chickasaw Nation, the Coushatta Indian Tribe of Oklahoma, the Caddo Indian Tribe of Oklahoma, the Choctaw Nation of Oklahoma, the Comanche Indian Tribe, the Kiowa Tribe of Oklahoma, the Mescalero Apache Tribe, the Poarch

Band of the Creek, the Tonkawa Tribe of Oklahoma, and the Wichita and Affiliated Tribes. Due to the unique legal relationship prescribed by 36 CFR 800.2(c)(2)(ii)(B) and (C) and the U.S. Constitution, no other consulting parties were invited to this government-to-government meeting. Representatives from the Alabama-Coushatta, the Comanche, and the Kiowa attended the meeting and discussions focused on the draft proposal for the remains and materials removed from the Buckeye Knoll Site. This proposal was coordinated with your office by letter dated August 1, 2002. At this meeting, the tribes voiced their disapproval of analysis and urged reburial of all human remains and archeological materials near the site of origin as soon as possible. While the Mescalero Apache Tribe did not attend the meeting, they provided written comments on the draft proposal (attached) which challenge the justification for any destructive analyses.

I met with representatives from the Tap Pilam Coahuiltecan Nation on March 8, 2002. Representatives of this organization, which represents descendents of missionized Coahuiltecan Indians in the San Antonio area, expressed concerns with conducting analyses of the human remains from VT98.

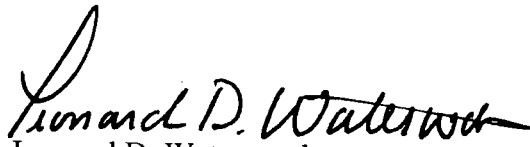
The District sponsored a meeting of the archeological consulting parties consisting of the Texas Archeological Society (TAS), the Society for American Archeology (SAA) and the Council of Texas Archeologists (CTA) on March 28, 2002 in Corpus Christi, Texas. During this meeting and subsequent correspondence, these organizations urged analysis of materials recovered from the site and provided specific technical recommendations on directions for research and the extent and types of analysis. Representatives from these groups also met with me privately on September 23, 2002, to provide their views to me directly concerning the importance of full analysis of this site. All of these organizations provided written comments on Galveston District's Draft Proposal, which are attached.

In June 2002, the ACHP requested participation in the VT98 consultation pursuant to Stipulation II.F.2 of the Programmatic Agreement covering the project. I acknowledged this request and provided background records of consultation activities to date. In addition, I requested comments from the ACHP on the District's Draft Proposal. A copy of the Council's response to my request for comments is attached.

I reiterate my intention to continue consultation with you as required by regulation and to keep you informed of the outcome of all our consultation efforts regarding VT98. I have structured the VT98 consultation efforts to allow all parties a free and unfettered venue to express their opinions and concerns to me personally. Further consultation with your office will

be initiated in the near future concerning the technical treatment plan. No decision will be made until all parties are heard and the coordination process required by Federal law and regulation is completed.

Sincerely,


Leonard D. Waterworth
Colonel, Corps of Engineers
District Engineer

Attachments

Copy Furnished with out Attachments:

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