



SOCIETY FOR AMERICAN ARCHAEOLOGY

April 2, 2002

Colonel Leonard D. Waterworth
District Engineer
U.S. Army Corps of Engineers
Galveston District
P.O. Box 1229
Galveston TX 77553

RE: 41VT98

Dear Colonel Waterworth:

I am writing to thank you and your staff for organizing the consulting party meeting in Corpus Christi last week. Both Dr. Lynne Sebastian, SAA's President-elect, and Dr. Alston Thoms, our government affairs network representative in Texas, report that the meeting went well and that they received a great deal of useful information. In this letter I would like to summarize our position on some of the issues raised in the meeting and our understanding of the next steps in the consultation process.

SAA has serious concerns about the manner in which the Section 106 process has been handled for this undertaking, especially about COE's compliance with the terms of the programmatic agreement. We see no advantage in raising these issues at the current time, however, because our most important concern is that the remainder of the consultation process be completed effectively and that human remains, grave goods, and non-mortuary materials from 41VT98 be treated in a way that is consistent with the regulations, the programmatic agreement, and Advisory Council on Historic Preservation guidance. VT98 is an archaeological discovery of extraordinary scientific importance; SAA's central goal as a consulting party is to ensure that the materials are analyzed according to the highest scientific standards and that the human remains are treated with respect and in a way that recognizes the concerns of possible descendant groups.

Although the consultation process seems to be moving forward well, now, we do have two suggestions. We encourage you to extend consulting party status to the Tap Pilam. Although they are not a federally recognized tribe, and therefore should not be consulted on a government to government basis, they do meet the standard for consulting parties set out in 36CFR part 800.2(c)(5). We also encourage you to foster more direct interaction among the consulting parties for this undertaking, including tribes, the State Historic Preservation Officer, and the archaeological organizations. The process of resolving adverse effects under Section 106 works best when it involves a true consultative exchange of ideas among all the parties, not just two-way exchanges between the federal agency and individual parties.

It is our understanding that the next step in consultations between COE and the three archaeological organizations now recognized as consulting parties will involve peer review of a plan of analysis for the materials recovered from VT98. As we understand it, Dr. Ricklis and Dr. Doran are preparing a brief summary plan that will address your questions to us about the archaeological significance of the site and the materials. This plan will lay out the important questions that the site can address, the data that would be needed to address those questions, and the analytical methods best suited for gathering those data. SAA, TAS, and CTA would then provide qualified reviewers to comment on this plan and the revised plan would provide you with expert opinions to be used in your final decision process.

We also understand that the revised plan will be the basis of subsequent consultations with the Native American tribes who ascribe religious or cultural significance to the site and with the Tap Pilam. A suggestion was made at the meeting last week that I would encourage you to consider very seriously. All of the tribes with whom you are consulting have worked in the past with professional archaeologists with whom they have built a relationship of trust. The Corps could assist the tribes materially in this consultation process by offering to pay an archaeologist of each tribes' choosing to review the analysis plan with the tribe, explain exactly what would be done and why, and answer technical questions. If this is at all possible, we think it would be a great help to the tribes in terms of their participation in these consultations. If any of the tribes does not have an existing relationship with an archaeologist, the SAA's Native American Relations Committee would be able to help them identify a consultant with substantial experience in working with tribes.

One final point that I would like to raise concerns cultural affiliation of the human remains from the site. As Dr. Sebastian noted in the meeting last week, it is SAA's position that cultural affiliation is the moral and legal basis for repatriation. If you consider repatriation in its broader sense as the process of giving people control over the treatment and disposition of the remains of their ancestors, you will be making repatriation decisions as a result of your consultations with tribes and other possible descendant communities. We urge you, therefore, to give careful consideration to the question of cultural affiliation of the remains from VT98 before you make decisions about analysis or disposition, especially because some of the analyses proposed for the remains may be critical to resolving the whole question of cultural affiliation.

Again, we appreciate the opportunity to be a consulting party for this undertaking, and we appreciate the time and effort that your staff put into last week's meeting. They were very forthcoming and very helpful, and we look forward to reviewing the analytical plan in the near future.

Sincerely,

/s/

Robert L. Kelly
President

cc: