



SOCIETY FOR AMERICAN ARCHAEOLOGY

October 1, 2002

Colonel Leonard D. Waterworth
District Commander
US Army Corps of Engineers
Galveston District
P.O. Box 1229
Galveston TX 77553

Re: Draft analysis plan for materials from 41VT98

Dear Col. Waterworth:

I would like to thank you for the opportunity to comment on the draft analysis plan for the materials from 41VT98 and for taking the time earlier this week to meet with Lynne Sebastian, the Society's president-elect, and the representatives of the other archaeological organizations that are consulting parties for this undertaking.

As Dr. Sebastian mentioned during the meeting, it is somewhat difficult for us to know how to comment on this analysis plan when we don't know what your recommendations will be concerning the ultimate disposition of the human remains and other materials. If, for example, you decide that the human remains are culturally related to one or more of the tribal consulting parties and recommend to Dupont that the human remains and grave goods be repatriated for reburial, then we would argue that all of the burials should be subjected to DNA, stable isotope, and AMS radiocarbon dating, not just the small sample proposed here.

If, on the other hand, you do not find that the remains are culturally related to any of the tribal claimants or if you decide that these remains are of such exceptional scientific research value that you recommend to Dupont that the materials be curated for future research, then we would not necessarily recommend that all individuals be subjected to these analyses at the current time. I will say, however, that whatever the ultimate disposition of these remains, we feel that the proposed samples for DNA, stable isotope, and AMS analyses are too small to allow meaningful inferences to be drawn.

Although your staff indicated in the meeting this week that they do not feel it is appropriate for the Corps of Engineers to make a determination about the cultural relationship of the tribal claimants to the human remains from VT98, we would argue quite the reverse. Although this is not a case to which the Native American Graves Protection and Repatriation Act applies, we think that the judge's decision in the Kennewick case is somewhat germane. In Kennewick the judge found that the Corps had erred in making a decision to repatriate remains without adequate efforts to determine whether those remains were culturally affiliated to the tribal claimants. In this case, the only applicable federal guidance is the Advisory Council on Historic Preservation's policy on human remains which gives priority to the concerns of descendants and culturally related groups. If you propose to limit analyses or to remove these materials from possible future study based on the wishes of the tribal claimants, we would argue that it is essential that you determine whether these claimants have any relationship of descent or cultural relationship with the human remains.

As Dr. Sebastian discussed in the March meeting with your staff and the other archaeological consulting parties and as she mentioned in the meeting earlier this week, there is a third alternative between repatriation and reburial and permanent curation. In a case in Nevada, the US Fish and Wildlife Service and the Fallon Paiute reached an agreement in 1987 to inter human remains in a permanent, below-ground crypt where they would be available for future study if the need arose. We have suggested that Dupont could look into the possibility of donating the Buckeye Knoll site to the Archaeological Conservancy for permanent preservation. The Corps could construct a below-ground crypt in the portion of the site that has already been excavated. After analysis of the human remains and grave goods has been completed, they could be placed in the crypt. The Archaeological Conservancy has a management plan for each site, and we believe they would be willing to involve any culturally related tribes in decisions about future research at the site and future analyses of the human remains.

If you are interested in learning more about the Nevada case, you should contact Anan Raymond, USFWS, 20555 Gerda Lane, Sherwood OR 97140-8306 (503 625-4377). If you would like to learn more about the Archaeological Conservancy and its programs, contact Jim Walker, Southwest Regional Manager, The Archaeological Conservancy, 5301 Central NE Suite 1218, Albuquerque NM 87108 (505 266-1540).

Finally, we received today a copy of the letter sent to you by the Advisory Council on Historic Preservation in which the Council finds the Treatment Plan "is poorly structured and lacks specificity." However, SAA understands that this was a non-technical summary document, prepared at the request of the COE, of the previous Data Recovery Plan. We think that the case has been made that a complete

and thorough analysis of these remains is warranted, including minimally destructive analyses. Radiocarbon and stable isotope evidence from the skeletal remains themselves provide direct evidence of age and diet, unlike evidence from material recovered from the surrounding matrix. In addition, evidence of change through time and intrapopulation differences in diet (e.g., between men and women) can only be obtained from direct analyses of the skeletal remains.

Again, we appreciate the opportunity to serve as consulting parties for this undertaking. If we can be of any assistance, please feel free to contact me or Dr. Sebastian at any time.

Sincerely,

/s/

Robert L. Kelly
President

cc: Advisory Council on Historic Preservation