



*Nez Perce*

TRIBAL EXECUTIVE COMMITTEE

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September 30, 1997

Donald R. Curtis, Jr.  
Lieutenant Colonel, Corps of Engineers  
District Engineer  
Department of the Army  
Walla Walla District, Corps of Engineers  
201 North Third Avenue  
Walla Walla, WA 99362-1876

*Re: Dr. Huckleberry's Request for an ARPA permit*

Dear Colonel Curtis:

The Nez Perce Tribe appreciates the opportunity, pursuant to the consultation provisions of the Archaeological Resources Protection Act (16 U.S.C. 470), to review Dr. Huckleberry's request for an ARPA permit to test sediments at the Columbia Park site where the ancient remains were inadvertently discovered.

The Nez Perce Tribe believes that it may be appropriate to conduct appropriate sediment testing at this location. Indeed, this testing can tell us much about the accuracy of the information that Dr. Chatters initially collected at the site as well as other information pertinent to the human remains discovered at the site. However, we strongly urge you to deny this particular request under your authority under the Archaeological Resources Protection Act because it presents a conflict of interest and because it seeks to engage in an overzealous archeological excavation at a known human burial site.

1. **Dr. Huckleberry's ARPA Permit Application Constitutes a Conflict of Interest**

Dr. Huckleberry's request for an ARPA permit specifies that he will be assisted by four other scientists. Three of these scientists, Dr. Robson Bonnicksen, Dr. C. Vance Haynes, and Dr. Thomas Stafford, are plaintiffs in the case Bonnicksen, et al. v. Corps of Engineers and the other scientist, Dr. James Chatters, was initially issued an ARPA permit regarding these remains and is intimately

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involved with this case. It is currently unclear whether Dr. Chatters complied with the terms and conditions of the initial ARPA permit.

The plaintiff scientists have taken the position in the Bonnichsen litigation that they should be allowed to study the ancient human remains inadvertently discovered at Columbia Park. The plaintiffs filed a motion in this case allowing them access to study the ancient human remains discovered at Columbia Park. The court promptly denied the plaintiffs' motion, recognizing that the Corps of Engineers was responsible for determining what testing is necessary and who should conduct tests on these human remains.

Dr. Huckleberry's ARPA permit application requests the Corps of Engineers to allow the same scientists who are plaintiffs in the lawsuit to conduct the site sediment analysis. This constitutes a direct conflict of interest which the Nez Perce Tribe believes is inappropriate. Specifically, the plaintiffs have an interest in developing and conducting the sediment analysis in a manner which furthers their litigation position.

2. The exceedingly broad scope of Dr. Huckleberry's ARPA permit is inappropriate

The Nez Perce Tribe's initial review of this Dr. Huckleberry's ARPA permit application, which proposes excavating several 50 to 100 foot long backhoe trenches in a known human burial site, indicates that the scope of this work is exceedingly broad. Unlike the inadvertent discovery of the ancient remains to the forefront, this proposal seeks to purposefully excavate a broad area of Columbia Park where human remains are known to be buried. The Nez Perce Tribe believes that such a request must be assessed for its consistency with the Native American Graves Protection and Repatriation Act as well as other federal and state laws concerning human burial grounds. The Nez Perce Tribe would be supportive of a much more narrowly limited soil sampling analysis.

Recommendation of the Nez Perce Tribe

The Nez Perce Tribe recommends that the Corps of Engineers deny Dr. Huckleberry's ARPA permit. The Nez Perce Tribe recommends that the Corps develop an appropriate scope of work for conducting a soil sediment analysis at the site which would be conducted by a neutral third party and which employs sound archaeological techniques.

Sincerely yours,

  
for Samuel N. Penney, Chairman

cc: Confederated Tribes of the Umatilla Indian Reservation  
Confederated Tribes and Bands of the Yakama Indian Nation  
Wanapum Band  
Confederated Tribes of the Colville Indian Reservation  
Tim Simmons, U.S. Dept. of Justice

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