

Kirts, Linda R NWW

From: Ransom, Rebecca B NWD
Sent: Tuesday, March 31, 1998 4:33 PM
To: Kirts, Linda R NWW
Subject: FW: Order From The Chief - Suspend Kenewick Man Site Protection - Forwarded

-----Original Message-----

From: Mogren, Eric T COL NWD
Sent: Tuesday, March 31, 1998 2:41 PM
To: Ransom, Rebecca B NWD; 'Lynda Walker (Home)'
Subject: FW: Order From The Chief - Suspend Kenewick Man Site Protection -Forwarded

Becky / Lynda: FYI.

-----Original Message-----

From: Bryson, Brian HQ01
Sent: Tuesday, March 31, 1998 1:57 PM
To: Charlton, Mark C NWW; Curtis, Donald R LTC NWW; Griffin, Robert H BG NWD; Meier, Duane Dutch NWW; Mogren, Eric T COL NWD; Mulvey, William L COL HQ02; Rubenstein, Paul D HQ01
Cc: Broaddus, John HQ01; Caver, Fred HQ01; Luisa, Pete HQ01
Subject: FW: Order From The Chief - Suspend Kenewick Man Site Protection - Forwarded

Using the attached e-mail as a starting point, I want to pass on further guidance I got from MG Fuhrman.

1. This part I have already covered in phone calls with Mark Charlton and BG Griffin:
 - a. See if there is any flexibility to get the fish window for in water work extended beyond 15 Apr 98. (Mark said he would see if it's possible).
 - b. Try to get a hearing with the judge to have him declare that the site protection is reasonable and necessary, so that we can say that we have complied with the pending legislation. BG Griffin said he would have his counsel look into getting this done at the regional level. I understand that Mr. Edelman is working with DOJ in DC to the same end as well.
2. New info based on my discussion at 1600 hrs with MG Fuhrman, after his meeting with the Chief this afternoon:
 - a. Re emphasized the need to get something from the judge as described above.
 - b. Try to craft a draft press release that would demonstrate that the Corps was in fact trying to comply with the wording of the pending legislation, in that we are attempting to get the court's agreement with our actions; and that we are in fact trying to preserve the site for further scientific investigation, and

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protect it from adverse impacts of high water this spring. MG Fuhrman sees this as being cover for Hastings and Gorton, so that if we are able to get the work going again soon, we can show that we reacted to the language. I ask that district PAO work with NWD and HQ PAO to draft such a press release.

c. Paul Rubenstein should be ready to provide an affidavit to Mr. Edelman that says all the good reasons why the site needs to be protected, and all the coordination that has gone into the process.



ENCLOSURE

Brian

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Kirts, Linda R NWW

From: Ransom, Rebecca B NWD
Sent: Tuesday, March 31, 1998 4:33 PM
To: Kirts, Linda R NWW
Subject: FW: Kennewick Man Site Protection

Importance: High

Linda-

I am forwarding 3 messages to you – this one, one from Brian Bryson and one from Gen. Griffin. Please note the instruction to get some ruling from the court. John and Gayle will be here to coordinate with you, Russ, DOJ, etc. I am really not certain what we can structure for the court until the legislation is enacted. Maybe Susan Bond can tell us the status.

Becky

-----Original Message-----

From: Mogren, Eric T COL NWD
Sent: Tuesday, March 31, 1998 1:07 PM
To: Ballard, Joe N LTG HQ01
Cc: Griffin, Robert H BG NWD; Fuhrman, Russell HQ01; Ransom, Rebecca B NWD; Curtis, Donald R LTC NWW; Bryson, Brian HQ01
Subject: Kennewick Man Site Protection
Importance: High

Sir:

LTC Curtis backbriefed me on your conversation with him this morning. Actions taken to date:

- LTC Curtis has notified the contractor to stop work.
- Counsel will work with DOJ to see if we can get a determination from the court that the action is "reasonable and necessary" as required in the House and Senate language, before the bill is actually signed into law. Counsel advises, however, that the probability of a judge making that determination is very low until a law is actually passed. Counsel will work to do whatever prior work is necessary to get that determination as quickly as possible once the bill is passed.
- PAO at district, division, and HQ levels are coordinating their efforts.
- We are also exploring the possibility of getting an exception to the 15 April work window.
- Actions have been coordinated with Brian Bryson (in DCW), with e-mail notification to MG Fuhrman and BG Griffin. I also briefed BG Griffin via telephone.

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V/R;
COL Mogren

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