



**DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
201 NORTH THIRD AVENUE
WALLA WALLA, WASHINGTON 99362-1876**

Reply To
Attention Of:

Planning Division

Donald L. Klima, Director
Office of Planning and Review
Advisory Council on Historic Preservation
12136 West Bayaud Avenue, #330
Lakewood, Colorado 80226

Dear Mr. Klima:

Thank you for your letter of March 9, 1998, responding to our proposed bank protection project at 45BN495. We very much appreciate your fast response to our submittal. As a follow-up to your submitted comments as well as conversations held with Mr. Allen Stanfill of your office, we are providing the following information regarding our proposed actions.

By way of background information on the situation in which we currently find ourselves, a very brief summary of early events is provided. On July 28, 1996 (Sunday), human remains were inadvertently found in Columbia Park, Benton County, Washington by two college students. The remains were located offshore in the water at a depth of around 18 inches. The students notified the police who sealed off the area and collected the remains. The Benton County Coroner's Office brought in an archaeological consultant to assist with the case. We found out about the discovery on July 29, 1996, and were verbally assured by the consultant that the remains were not Native American but instead those of perhaps an early EuroAmerican settler. In the days immediately following the discovery, we also were told that some of the remains were going to be taken to Ellensburg, Washington to be examined by a forensic anthropologist and that a small piece of bone would be sent to a lab for radiocarbon dating. On about August 26, 1996, we were informed that the radiocarbon date came back at over 9000 years BP. The coroner's office immediately made a public announcement of the results despite our request for them not to do so. Upon learning of the results, Indian tribes in the area immediately declared the discovery site a burial ground and claimed the remains under the Native American Graves Protection and Repatriation Act (NAGPRA). They insisted that no further analysis be done on the remains and that no physical disturbance (e.g., testing) be done at the site. The Corps took physical custody of the remains on September 5, 1996. (Prior to this, they had been with the coroner or his consultant since the time of discovery.) Under the provisions of NAGPRA, we proceeded with steps to return custody of the remains to a

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coalition of area Indian Tribes. However, before this occurred, we were challenged in court by a group of scientists claiming the right to study the remains. The case continues to receive both national and international attention. We are still in litigation at this time.

I am submitting the following comments in response to your specific questions on our project. Presently, we have used only available information to try and establish site boundaries. Because of the highly sensitive nature surrounding this case together with tribal demands to conduct no investigations at the discovery site, we do not believe it feasible at this time to use standard subsurface evaluative techniques to provide better information. As a result, our only effort to establish the site boundaries for 45BN495 has been from the shoreline side. This was done based on the noted density of cultural material along the shoreline both upstream and downstream of the actual area where the remains were found. The current situation we face is the fact that there is a 9000 year old set of human remains recovered along the shoreline but with no idea if any additional *in situ* and significant archaeological resources exist on the adjacent terrace. Because no subsurface testing has been done on the terrace, we have not been able to define site characteristics or site boundaries, including depth. However, due to the existence of the Columbia Park road to the south of the site and the disturbance caused by its construction, we don't anticipate that the maximum southern boundary of 45BN495 would extend beyond the old highway. Presently, we do not anticipate any subsurface investigations being undertaken in the near future due to existing circumstances.

Likewise, we do not anticipate subjecting the human remains to additional destructive investigation at this time. Because the issue is still under litigation, there are no plans for further testing/analysis unless claimant Tribes and plaintiffs jointly agree. Very likely, no decision on this matter will be made pending the outcome of the litigation. The possibility of mediation was discussed with Indian tribes and plaintiffs. However, no decision has been reached on whether they will proceed with it starting in June as proposed. Some consideration has been given to possible non-destructive analysis being done but when, or even if, this will happen remains unknown.

Lastly, in response to your comment on adhering to the discovery procedures required under 36 CFR Section 800.11, please note that the situation we currently face is one that was beyond our control. By the time we were able to assume custody of the remains and move forward, events were already overtaking us. We did not have the opportunity to exercise control at the start and initiate necessary steps.