



REPLY TO  
ATTENTION OF

Office of Counsel

DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, NORTHWESTERN DIVISION  
PO BOX 2870  
PORTLAND OR 97208-2870

MAR 16 2009

Dr. Doug Owsley  
Curator and Division Head, Physical Anthropology  
Department of Anthropology  
Smithsonian Institution, National Museum of Natural History  
PO Box 37012; NHB 345, MRC 112  
Washington, DC 20013-7012

Dear Dr. Owsley:

This letter serves as a response to your letter to Mr. Chris Pulliam, dated November 10, 2008, proposing a histomorphometric analysis of a rib fragment from the Kennewick collection. The purpose of the proposed study is to “refine the age determination of Kennewick Man.” The rationale behind this is that there are some variations in age at death estimates between different scientists. Based on the information you have provided, the advice of my staff, Burke personnel, and the government’s conservators, I must deny the request for access at this time. The Corps has a responsibility to “protect and preserve the condition, research potential, . . .and uniqueness of the collection.” 36 C.F.R. § 79.10. The Corps “shall not allow uses that would alter, damage or destroy an object in a collection unless [it] determines that such use is necessary for scientific studies or public interpretation, and the potential gain in scientific or interpretative information outweighs the potential loss of the object.” At this point, it has not been adequately demonstrated that this study is necessary.

The histomorphometric analysis, to be performed by Dr. Sam Stout, was not part of the plaintiffs’ original study plan. This study was originally proposed by the plaintiffs in January 2006, but was denied at that time because “the destructive nature of this study outweighs the age information that may be produced.” Further, the denial indicated that results from the plaintiffs’ studies may be conclusive as to age. The denial response then stated that “[i]f the researchers feel it is necessary to further refine the age determination after these studies are complete, then the government may review a proposal.”

However, the government has still not yet seen the estimates from the plaintiffs’ investigation team at this time. It may be that after we have the plaintiffs’ report with results from your extensive studies, including further estimates of Kennewick Man’s age at death, that further investigation may be warranted. This might be accomplished through your proposed method or another, less-destructive method such as Transition Analysis. However, until the Corps is provided all the available data and analyses, I am unable to allow this study.

If you have any questions, please do not hesitate to contact Mr. Chris Pulliam of the Corps’ Mandatory Center of Expertise in St. Louis and the Chief Curator of the collection at

(314) 331-8481. Both Ms. Gail Celmer and Ms. Jennifer Richman of my staff are also always available for any inquiries regarding the Kennewick collection. They can be reached at (503) 808-3850 and (503) 808-3763, respectively. After we have received and reviewed your report, I would be happy to reconsider your request if you still feel that the study is essential.

Sincerely,

A handwritten signature in black ink, appearing to read "William E. Rapp". The signature is fluid and cursive, with the first name "William" being the most prominent part.

William E. Rapp, P.E.  
Brigadier General, US Army  
Division Commander

Enclosure

Copies Furnished:

Dr. Michael Trimble and Mr. Chris Pulliam  
U.S. Army Corps of Engineers (ATTN: CEMVS-EC-Z)  
1222 Spruce Street  
St. Louis, MO 63103-2833

Mr. Alan Schneider  
Law Offices of Alan Schneider  
PO Box 25529  
Portland, OR 97298



DEPARTMENT OF THE ARMY  
ST. LOUIS DISTRICT CORPS OF ENGINEERS  
1222 SPRUCE STREET  
ST. LOUIS, MISSOURI 63103-2833

REPLY TO  
ATTENTION OF:

CEMVS-EC-Z

27 February 2009

MEMORANDUM FOR Commander, U. S. Army Corps of Engineers, Northwestern Division  
(CECC-NWD), P.O. Box 2870, Portland, OR 97208-2870

SUBJECT: Kennewick Plaintiffs (Dr. Douglas Owsley's) Proposal, Dated 10 November 2008, for  
Determination of Age at Death of the Kennewick Remains using Histological Analysis of a Sample of  
Rib

1. The current research requested by Dr. Douglas Owsley is destructive in nature, proposing to embed a 1–2 centimeter fragment of rib in plastic resin, and then to make thin sections of 1–2 millimeters in thickness by sawing and grinding the slices. The preferable location of the sample to be thin sectioned is the center one-third of a rib. Several rib fragments have been identified by Dr. Owsley as candidates for this analysis.
2. Dr. Owsley proposes to conduct the histological analysis with Dr. Sam Stout, a renowned expert in the field. Dr. Stout has conducted a previous similar study that found the most accurate method of age estimation using histological analysis was to use both a rib and a clavicle. Dr. Stout's findings state that if both elements are available, this is the preferred and most accurate method for age estimation. The current proposal only requests use of a single rib fragment, leading to the question of whether the current proposal will narrow the age estimation sufficiently to warrant the destruction of the rib fragment, and whether a future proposal will be forthcoming asking to conduct a histological analysis of one of the clavicles to obtain the desired results.
3. There may be other, non-destructive, age analyses available that can help narrow the estimation of age at death of the Kennewick remains. One promising avenue is called Transition Analysis, which is being studied by Dr. Jane Buikstra, a pre-eminent physical anthropologist. Early findings indicate that it may be as accurate as histological analysis, but it has the advantage of being a non-destructive method for age estimation. This analysis was not discussed in the current request from Dr. Owsley.
4. To date, the Corps has yet to receive the results of the Plaintiffs completed original studies, and without these results, we cannot determine if there is a need to mitigate the age at death issue by sacrificing a portion of the remains through the proposed destructive analysis.
5. The histological analysis was not included in the original study plan submitted by the Plaintiffs. Therefore, it appears this study was not considered a critical component of their research. Should their final report of findings/book present definitive evidence that there is a significant disagreement regarding age at death, then the Corps would be willing, at that time, to evaluate a proposal for destructive analysis of a rib fragment. The proposal should be resubmitted using the Kennewick Research Proposal Guidelines.
6. Lastly, Section 79.10(a) of the federal archaeological curation regulation, 36 CFR Part 79 (Curation of Federally-Owned and Administered Archeological Collections), states that "The Federal Agency Official

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shall not allow uses that would alter, damage or destroy an object in a collection unless the Federal Agency Official determines that such use is necessary for scientific studies or public interpretation, and the potential gain in scientific or interpretive information outweighs the potential loss of the object. When possible, such use should be limited to unprovenienced, nonunique, nonfragile objects, or to a sample of objects drawn from a larger collection of similar objects."

7. Based on the points above, the U.S. Army Corps of Engineers Mandatory Center of Expertise for the Curation and Management of Archaeological Collections does not support the Plaintiffs request (Enclosure 1) to use a sample of rib to perform destructive histological analysis to determine age at death of the Kennewick remains at this time.

8. Our point of contact for this action is Chris Pulliam (314.331.8481).

FOR THE COMMANDER:



Encl

MICHAEL K. TRIMBLE, Ph.D.  
Director, Mandatory Center of Expertise  
for the Curation and Management  
of Archaeological Collections