



Preserving America's Heritage

May 28, 2009

Mr. Roger Knowlton
National Park Service
Midwest Region
601 Riverfront Dr.
Omaha, NE 68102-4226

*Ref: Land and Water Conservation Fund involvement in activities at Fort Fisher Park
Waco, McLennan County, Texas*

Dear Mr. Knowlton:

The National Park Service (NPS) recently requested that the Advisory Council on Historic Preservation (ACHP) review a draft Memorandum of Agreement (MOA) for the referenced undertaking. NPS has determined that this undertaking may have an adverse effect on a historic property eligible for listing in the National Register of Historic Places. The ACHP is actively participating in the Section 106 consultation process in accordance with 36 CFR §800.6(a)(1) of the ACHP's regulations, "Protection of Historic Properties." We appreciate the opportunity to review the draft MOA and to share with NPS and other consulting parties the ACHP's comments on the draft.

The MOA currently calls for the development of a mitigation plan within 90 days of execution of the agreement. Stipulation I, however, includes specific measures to be included in the mitigation plan. It appears that inclusion of these measures as stipulations in the MOA, with appropriate timeframes for completion and task assignments, would more efficiently address adverse effects on the First Street Cemetery and demonstrate NPS's commitment to ensuring that this resource is not subject to further damage without proper oversight and implementation of a mitigation plan. We recommend that NPS revise the measures in response to the May 14 comments provided by the Texas State Historic Preservation Officer (SHPO) and other consulting parties and incorporate them as individual stipulations in the MOA.

Given the nature of the undertaking, the MOA should include a discovery stipulation specifying a procedure should any previously unidentified archaeological sites or human remains be discovered in the course of project implementation. ACHP also recommends inclusion of a stipulation referencing the professional qualifications for agency staff and contractors responsible for implementing the terms of the MOA.

The preamble describes the Area of Potential Effects (APE) as the 16.782 acres of park land subject to conversion at the Lake Brazos Recreation Area/Fort Fisher Park. Please note that the MOA should

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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account for any adverse effects at both the “sending” and “receiving” parcels of the conversion. If the land to be substituted for these 16.782 acres under the terms of the Land and Water Conservation Fund grant is not yet identified, the MOA should include a process whereby any potential effects to historic properties could be assessed in the future once that parcel is identified by the City of Waco.

Finally, other consulting parties have raised concerns about how NPS has defined the boundary of the First Street Cemetery as a property eligible for the National Register of Historic Places. NPS should be sure to delineate what it proposes as the boundary of the historic property and provide information about whether the Texas SHPO has concurred with this determination in its comments on the draft MOA. The boundary is relevant to the consideration of mitigation measures such as the placement of fencing, the rededication of the cemetery, the relocation of roads, and any other stipulations that have a spatial relationship to the affected historic property.

We encourage NPS to expeditiously incorporate comments received into a revised draft to be circulated to all consulting parties. If you have questions, please contact Blythe Semmer at (202) 606-8552 or via e-mail at bsemmer@achp.gov.

Sincerely,

A handwritten signature in cursive script, reading "Charlene Dwin Vaughn". The signature is written in black ink and is positioned above the typed name and title.

Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing, and Assistance Section