

MAR 13 2006

Planning, Programs and Project Management Division
Planning Branch, Environmental Analysis Section

Dr. Robert Maslowski
Council for West Virginia Archaeology
P.O. Box 1596
Huntington, West Virginia 25716-1596

Dear Dr. Maslowski:

Thank you for your letter of February 14, 2006, regarding archeological site 46MD61 on which a new school building will be constructed in War, McDowell County, West Virginia. On September 23, 2005, you wrote to me regarding this matter and Mike Worley, Chief of the Planning Branch, replied to you by letter on October 28, 2005.

As you may know, NEPA requires a federal agency to make informed decisions on the environmental consequences of major federal actions. An informed decision was reached after considering the environmental effects along with the mission, alternatives, cost, schedule, and other factors such as the lack of integrity at archeological site 46MD61. The Corps considered the proposed action and rendered a Finding of No Significant Impacts (FONSI). The appropriate reporting document, when there are no significant impacts, is an Environmental Assessment (EA). As requested, a copy of the final EA with the executed FONSI is enclosed.

Section 106 of the National Historic Preservation Act (NHPA) requires a federal agency to take into consideration the effects of its actions on historic properties. The Corps carefully followed the process called for in the implementing regulations for Section 106 to identify and evaluate properties that might qualify as historic properties. After an archeological survey identified 46MD61, the Corps required testing of the site to obtain information for evaluation. The testing report was prepared by Cultural Resource Analysts, Inc (CRAI) for the McDowell County School Board. The report was reviewed by Mr. Jackson who found that the authors demonstrated that historic and prehistoric deposits were mixed but that the authors could not demonstrate that there were intact prehistoric deposits at the site. The 10 test units at 46MD61 were dispersed over the site and they revealed that the site had been plowed and disturbed by historic features, mixing the historic and prehistoric materials and leaving no prehistoric deposits intact. Copies of CRAI's report and Mr. Jackson's analysis have been provided to you. Mr. Jackson's determination that the site lacked integrity was made on the information presented in the CRAI reports. The report describes sediments, artifact distributions, historic disturbances, and truncated features demonstrating that the site lacked integrity.

We acknowledge that you disagree with the findings of Mr. Jackson in his evaluation of the CRAI report. Your letter of September 23, 2005, caused him to go back to the CRAI evaluation report to ascertain what additional archeological work might be appropriate. Mr. Jackson had initially agreed with the CRAI report's recommendation of National Register eligibility based on a cursory review. Further analysis revealed errors in the authors' conclusions and recommendations. That is, the descriptions of sediments and distributions of artifacts clearly demonstrate that the site suffered historic disturbance that mixed prehistoric and historic materials and removed any prehistoric occupation surfaces that may have existed. Also, no descriptions of sediments, artifacts and features demonstrate that intact prehistoric deposits exist at the site.

The Jenkins House site, offered for comparison in your letter, presents an excellent contrast where intact historic deposits incorporate earlier prehistoric materials disturbed by the historic occupation but the site also contains intact prehistoric deposits below the mixing of Woodland and historic materials in the intact historic deposits. The Corps concurs that this important site is eligible for inclusion in the National Register because there are intact historic deposits and intact prehistoric deposits that do have the potential to yield information important in history and prehistory.

For 46MD61, the report prepared by CRAI documents that no prehistoric occupation surface or intact prehistoric features can be expected due to historic disturbance. Additional archeological excavations were determined, in consultation with the State Historic Preservation Officer, to be unlikely to meet the purposes set forth in NHPA or NEPA. Tribal consultations included representatives of the Shawnee and Cherokee tribes by telephone and email: Ms. Clara P. Holt, Cherokee Indians of North Carolina; Dr. Richard Allen, Cherokee Nation, Oklahoma; Mr. Archie Mouse, United Keetoowah Band of Cherokee Indians in Oklahoma; Ms. Rebecca Hawkins, Shawnee Tribe, Oklahoma; Ms. Jennifer Makaseah, Absentee Shawnee Tribe of Indians of Oklahoma; and Mr. Charles Enyart, Eastern Shawnee Tribe of Oklahoma.

The Council was not invited to participate in development of a Memorandum of Agreement (MOA) based on your letter of September 23, 2005, which clearly indicated that you wanted to be an interested party for an MOA "cover[ing] archeological mitigation." The Corps determined that mitigation would not be appropriate given the disturbed nature of the site. However, the Corps stands committed to involving the Council on this and future projects to the extent you find desirable.

On a final note, as Mr. Jackson explained in his analysis, the site will be protected by placement of fill before the new school building is constructed. The topsoil (organic layer) will be stripped to a depth of approximately 15 centimeters (6 inches) before fill is placed. The uppermost 15 centimeters of sediments that will be removed is well above the base of the plow disturbed sediments that are generally 28 – 33 centimeters deep.

Whatever disturbed portion of site 46MD61 remains below the uppermost 15 centimeters below surface will be protected by the fill that will be placed before the new school building is constructed. Therefore, the artifacts likely available in site 46MD61 will be protected by fill should interest in such artifacts, without context, prove to be of importance in the future.

I look forward to working closely with the Council in the future. Any questions regarding this letter or other matters of interest to the Council may be directed to Mr. Jackson or me at your convenience. I thank you for your interest in this project and for the Council's tradition of advocacy on behalf of the cultural heritage of the State of West Virginia.

Sincerely,

JACKSON	PD-R
DODGION	PD-R
BORDA	PD
ADAMS	PM
WORLEY	PD

Peter K. Dodgion
Chief, Environmental Analysis Section

Enclosure

Copies Furnished:

Ms. Susan Pierce
Deputy State Historic Preservation Officer
Division of Culture and History
1900 Kanawha Boulevard, E.
Charleston, West Virginia 25305-0300

Mr. Don L. Klima
Director, Office of Federal Agency Programs
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, NW, Suite 809
Washington, DC 20004