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Preserving America's Heritage

February 7, 2007

Kathie L. Olsen, Ph.D.
Deputy Director
National Science Foundation
4201 Wilson Boulevard
Arlington, VA 22230

Ref: *Very Energetic Radiation Imaging Telescope Array System (VERITAS) Project
Kitt Peak, Arizona*

Dear Dr. Olsen:

On December 26, 2006, the Advisory Council on Historic Preservation (ACHP) received your letter dated December 20, 2006, stating that the National Science Foundation (NSF) *hereby terminates Section 106 consultations with the Tohono O'odham Nation* on the referenced undertaking. In addition, we received the letter of January 5, 2007, from NSF's General Counsel, Mr. Lawrence Rudolph, replying to our letter of December 15, 2006, regarding the NSF's compliance with the regulations of the ACHP, "Protection of Historic Properties" (36 CFR Part 800), for the referenced project.

We understand that NSF has determined that there is a failure to agree on the terms of a memorandum of agreement for this undertaking. The regulations at §800.6(b)(1)(v) provide that in such situations where the ACHP has not been a party to consultation among the agency, the SHPO/THPO, and consulting parties, and such consultation has not been successful, the ACHP may choose either to join consultation or notify the agency and proceed to comment in accordance with §800.7(c). Based upon the record of consultation for the VERITAS project, it appears unlikely that the ACHP could resolve the impasse that resulted after nation-to-nation consultation between NSF and the Tohono O'odham Nation throughout 2006. Accordingly, the ACHP will comment on the undertaking in accordance with §800.7(c).

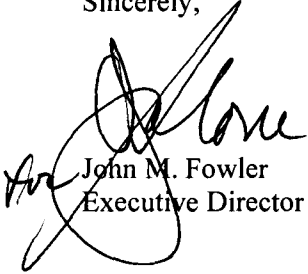
As discussed with and agreed to by Mr. Rudolph on February 5, 2007, we will provide our comments by February 27, 2007. We appreciate Mr. Rudolph's offer of assistance as we collect information for the ACHP's consideration. We will contact him directly with any such requests and to discuss with NSF how we will solicit public comments regarding this undertaking. In the meantime, should NSF wish to provide any additional views for the ACHP's consideration, we request that these be provided by February 15, 2007.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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If you have any questions, please contact Martha Catlin of our staff at (202) 606-8529 or via e-mail at mcatlin@achp.gov. Thank you for your cooperation.

Sincerely,



John M. Fowler
Executive Director