

COMPREHENSIVE AGREEMENT

Regarding Inadvertent Discovery and Intentional Excavation of Native American Human Remains and Cultural Items Over Which the Caddo Nation May Have Priority of Custody Within Lands Owned and Controlled by the U.S. Army at Fort Polk, Louisiana

Whereas, Fort Polk has need to engage in ongoing activities that may involve the inadvertent discovery or intentional excavation of human remains and cultural items over which the Caddo Nation may have priority of custody; and

Whereas, Fort Polk, in consultation with officials and traditional religious leaders representing the Caddo Nation, is responsible for the identification, protection, and disposition of human remains and cultural items on lands owned or controlled pursuant to the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001-3013; hereafter NAGPRA) and 43 C.F.R. 10; and

Whereas, appropriate treatment of Native American human remains and cultural items that may be affiliated with the Caddo Nation requires respect for the cultural traditions of tribal members; and

Whereas, the Caddo Nation represented by the signatories hereto now occupies tribal lands in Oklahoma and were aboriginal occupants of lands which are now included in the states of Arkansas, Louisiana, Oklahoma, and Texas and which are now included in the State of Louisiana and within the boundaries of the Fort Polk Military Reservation, do claim and assert the right of possession and control of human remains and associated funerary objects on lands owned and controlled by Fort Polk in accordance with Section 3 (a)(C)(1) of NAGPRA.

Whereas, Section 11 of NAGPRA permits and encourages specific agency-tribal agreements to ensure the appropriate treatment of Native American human remains and cultural items;

NOW, THEREFORE: Fort Polk and the Caddo Nation agree that the following procedures will be followed for notification and consultation and the treatment and disposition of all Native American human remains and cultural items, for which the Caddo Nation has priority of custody, that are inadvertently discovered or excavated on lands owned and controlled by Fort Polk.

For the purposes of this Comprehensive Agreement (CA), the following definitions shall apply:

1. *Human remains* means "the physical remains of a human body of a person of Native American ancestry. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets. For the purpose of determining cultural affiliation, human remains incorporated into a funerary

object, sacred object, or object of cultural patrimony, as defined below, must be considered as part of that item" [43 C.F.R. 10.2 (d)(1)].

2. *Cultural items* means, collectively, human remains, funerary objects, sacred objects, and objects of cultural patrimony [25 U.S.C. 3001].
3. *Funerary objects* means "items that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects must be identified by a preponderance of evidence as having been removed from a specific burial site of an individual affiliated with a particular Indian tribe or Native Hawaiian organization or as being related to specific individuals or families or to known human remains" [43 C.F.R. 10.2(d)(2)].
4. *Associated funerary objects* means "those funerary objects for which the human remains with which they were placed intentionally are also in the possession or control of a museum or Federal agency. Associated funerary objects also means those funerary objects that were made exclusively for burial purposes or to contain human remains" [43 C.F.R. 10.2 (d)(2)(i)].
5. *Sacred objects* means "items that are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents. While many items, from ancient pottery sherds to arrowheads, might be imbued with sacredness in the eyes of an individual, these regulations are specifically limited to objects that were devoted to a traditional Native American religious ceremony or ritual and which have religious significance or function in the continued observance or renewal of such ceremony" [43 C.F.R. 10.2(d)(3)].
6. *Objects of cultural patrimony* means "items having ongoing historical, traditional, or cultural importance central to the Indian tribe or Native Hawaiian organization itself, rather than property owned by an individual tribal or organization member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual tribal or organization member. Such objects must have been considered inalienable by the culturally affiliated Indian tribe or Native Hawaiian organization at the time the object was separated from the group" [43 C.F.R. 10.2(d)(4)].
7. *Intentional excavation* means "the planned archeological removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3(c) of" NAGPRA [43 C.F.R. 10.2(g)(3)].
8. *Inadvertent discovery* means "the unanticipated encounter or detection of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3(d) of" NAGPRA [43 C.F.R. 10.2(g)(4)].

9. Non-destructive analysis shall consist of direct physical measurement of the material, preceded, if necessary, by cleaning with non-corrosive solutions which do not damage or alter the materials or objects.

10. For the purposes of this agreement, planned activity is defined as activities associated with a) Fort Polk's program to maintain, rehabilitate, construct, and repair buildings, structures, roads, grounds, bridges, and associated landscaping within the boundaries of Fort Polk; b) training, including, but not limited to, excavation, demolition, and maneuver of heavy equipment, in order to meet mission objectives; and c) intentional excavation required for compliance with Section 106 and 110 of the National Historic Preservation Act, as amended [16 U.S.C. 470-470w] or permitted under the Archeological Resources Protection Act [16 U.S.C. 470aa-470mm].

Article I: Identification of Inadvertent Discovery

A. Fort Polk will determine, first, to the degree possible, if inadvertently discovered human remains are associated with a recent death (within the last 50 years). If not, and if the remains are of Native American ancestry, then Fort Polk will follow the course of action described in NAGPRA Standard Operating Procedure (SOP) #1 appended to this document.

B. All inadvertently discovered human remains determined to be Native American and not associated with a recent death will be documented in accordance with NAGPRA SOP #1, "Procedure", appended to this document. All human remains shall be analyzed *in situ* by means of non-destructive analysis unless they are determined to be non-Native American or associated with a recent death. A qualified professional physical anthropologist or archeologist shall conduct such analysis. Other methods of analysis or photography of Native American human remains not associated with a recent death shall be conducted only upon consultation with the Caddo Nation.

C. Identification of Native American human remains shall proceed as described in NAGPRA SOP #1, "Procedure".

D. If the remains are not associated with a recent death and are suspected of being Native American, and priority of custody cannot be determined, Fort Polk shall notify the NAGPRA point of contact at the Caddo Nation to consult about the priority of custody of the remains and to develop an action plan regarding their treatment and disposition. Fort Polk shall provide the Caddo Nation NAGPRA point of contact with a list of tribes with potential rights of custody that will also be contacted in regard to such a case.

E. All inadvertently discovered cultural items other than human remains determined to be Native American and not associated with a recent death will be documented in accordance with NAGPRA SOP #1, "Procedures", appended to this document. All cultural items other than human remains shall be analyzed *in situ* by means of non-destructive analysis unless they are determined to be non-Native American or associated

with a recent death. A qualified professional archeologist shall conduct such analysis. Photography is acceptable for documentation of the material.

F. All documentation subject to the provisions of Archeological Resources Protection Act (ARPA) (16 U.S.C. 470hh) shall not be released to the public by Fort Polk or the Caddo Nation. Documentation which is not subject to the provisions of ARPA (16 U.S.C. 470hh) shall not be released by Fort Polk to any media, agency, organization, or individual without consultation with and concurrence of the Caddo Nation. Federally recognized tribes which may have a claim of custody to these cultural items may receive this documentation upon request.

G. If human remains are inadvertently discovered during analysis of materials recovered during an undertaking constituting a planned activity, as defined above, Fort Polk will follow the course of action described in NAGPRA Standard Operating Procedure (SOP) #1 appended to this document.

Article II: Notification of Inadvertent Discovery

A. Fort Polk shall notify the Caddo Nation of any inadvertent discovery of Native American human remains on installation lands, following the procedures described in NAGPRA SOP #1, "Procedure".

B. Fort Polk shall notify the Caddo Nation prior to any removal of human remains that are determined to be Native American and not associated with a recent death and follow the procedures specified in NAGPRA SOP #2 appended to this document.

Article III: Excavations, Treatment, and Disposition of Human Remains or Cultural Items

A. All employees and contractors at Fort Polk shall treat all human remains and cultural items with respect and dignity in such a way as to avoid any unnecessary disturbance, separation, or physical modification. Fort Polk, within the limits established by Federal laws and regulations, shall accommodate Caddo tribal customs and traditions when handling Native American human remains and cultural items over which the Caddo Nation may have claim of priority of custody.

B. Whenever prudent and feasible, employees and contractors of Fort Polk shall ensure that human remains and cultural items over which the Caddo Nation may have claim of priority of custody will be left *in situ*. Further protection, stabilization, and/or restoration of each site will be discussed in consultation with the Caddo Nation on a case by case basis.

C. In a case where it is not prudent and feasible to leave human remains or cultural items *in situ* (e.g. erodible context or where further activities in the area might damage the material), excavation and removal of human remains and cultural items shall be undertaken by Fort Polk in accordance with the requirements of all pertinent Federal laws

and regulations, including the Archeological Resources Protection Act (ARPA), the National Historic Preservation Act (NHPA), and current professional standards for archeological data recovery (c.f. Federal Register, September 9, 1983; Archeology and Historic Preservation, Secretary of the Interior's Standards and Guidelines, Vol. 48:190, pp. 44716-44742).

D. Excavation and/or removal of Native American human remains or cultural items that cannot be left *in situ* shall be undertaken as soon as possible by qualified professional archeologists in the employ or contracted by Fort Polk following the initial contact and consultation between Fort Polk's NAGPRA point-of-contact and the appropriate Caddo Nation official in accordance with procedures described in NAGPRA SOP #2, appended to this document.

E. If human remains are removed from the site of their discovery, Fort Polk will store them in a secure location in keeping with Federal curation standards as described in 36 C. F. R. 79 until their appropriate disposition is determined through consultation with the Caddo Nation. Fort Polk, within the limits established by Federal laws and regulations, and in consultation with the Caddo Nation, shall accommodate Caddo tribal customs and traditions when removing, analyzing, handling, and storing Native American human remains and cultural items over which the Caddo Nation may have claim of priority of custody.

Article IV: Planned Activities That May Result in the Excavation of Native American Human Remains or Cultural Items

A. If Fort Polk proposes to undertake a planned activity that has a high probability to result in the discovery of Native American human remains, the NAGPRA point of contact for the Caddo Nation shall be notified. Fort Polk will then consult with the Caddo Nation and other appropriate agencies to ensure that the work plan for such investigations meets all the requirements of Federal laws and regulations and also addresses the Caddo Nation's concerns regarding the discovery, treatment, and disposition of human remains. (Following procedures found in Article III above and NAGPRA SOPs #2 and #3).

B. High probability for the discovery of Native American cultural items will be determined by the Fort Polk Cultural Resource Manager based on whether the research design or scope of work submitted for the planned activity indicates that excavation is proposed in areas in which habitation sites or cemeteries are likely to occur.

Article V: Unclaimed Human Remains or Cultural Items or Those with Multiple Claims

A. If human remains and cultural items are unclaimed, Fort Polk will retain them until provisions for their disposition are clarified by NAGPRA Review Committee, which has been tasked in NAGPRA, Section 3(b) to promulgate regulations regarding unclaimed

remains. All such items will be stored and maintained in accordance with 36 C. F. R. 79 and any other agreements reached as a result of consultation.

Article VI: Consultation

- A. Per Articles I. F above, neither Fort Polk nor the Caddo Nation shall provide details of any burial disturbance to any media, agency, organization or individual, public or private, with the exception of other federally recognized tribes that may have a claim of custody. If it is determined, however, that another party needs to be informed of the disturbance, information may be released if both consulting parties agree.
- B. The Caddo Nation will provide Fort Polk with a list of contacts which will include the names of the current Executive Council Chairperson, the NAGPRA representative, and an alternate who can deal with NAGPRA issues if the current NAGPRA representative is unavailable. Any discovery of human remains or cultural items at Fort Polk will be reported to the Directorate of Environment and Safety, Conservation Division, Cultural Resources Manager.
- C. The Caddo Nation may contact the Fort Polk Cultural Resources Office at any time to request information on cultural resources management activities at Fort Polk.
- D. Fort Polk will schedule an annual meeting with the appropriate tribal representatives of the Caddo Nation to discuss cultural resources and NAGPRA related issues.
- E. Dispute resolution will be conducted according to procedures described in 43 CFR 10.17 and in the NAGPRA SOP #3, appended to this document.

Article VII: Terms of Agreement

- A. From the date of the last signature, this CA shall remain in effect for a term of five years and may be amended only with the written consent of all parties hereto at the time of such amendment. Fort Polk and the Caddo Nation will meet one year prior to the expiration of this agreement to address renewal and/or amendment of this agreement for another five years.
- B. Any signatory party may terminate their participation in the CA upon 30 days written notice to the other signatories, provided that the parties will consult prior to termination to seek agreement on amendments or other actions that would avoid termination.
- C. In accordance with NAGPRA, Section 3(e), nothing in this CA shall prevent the governing body of the Caddo Nation from relinquishing control over any Native American human remains, or title to or control over any funerary object, or sacred object.

Anti-Deficiency Act Statement

- A. All commitments made under this CA are subject to the availability of funds.

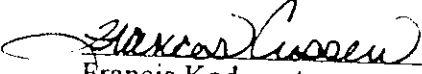
Nothing in this agreement will be construed as limiting or affecting the legal authorities of the U.S. Army or the Caddo Nation or as binding upon the parties to perform beyond their respective authorities or to require any of the parties to assume or expend funds in excess of available appropriations. If funds are not available, the Army will consult to amend or terminate this agreement.

Signature

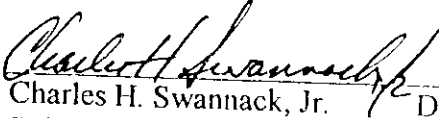
This agreement shall become binding upon its execution by the authorized representative of each party. Each party warrants that it has the requisite authority to execute, deliver, and consummate the transactions contemplated by this agreement.

Caddo Nation

Fort Polk


Francis Kodaseet
Caddo Tribal Council
Executive Representative

11/3/00
Date


Charles H. Swannack, Jr.
Brigadier General, U. S. Army
Installation Commander

24 Nov 2000
Date