



September 1, 2020

Dr. Mario Garza  
Indigenous Cultures Institute  
P.O. Box 1414  
San Marcos, Texas 78667

Dear Dr. Garza,

Thanks for writing Interim President Hartzell regarding the denial of the request of the Miakan-Garza Band for the University of Texas at Austin's Texas Archeological Research Laboratory (TARL) to repatriate three sets of pre-historic indigenous remains to the Miakan-Garza Band. I am responding on behalf of the university.

We appreciate the gravity of the matter and the seriousness with which you take your concerns. First, we respectfully disagree with your characterization of how the remains have been treated by TARL. The University and TARL take seriously our responsibilities, and the human remains housed at TARL are treated with the utmost respect. They are maintained to the highest professional standards. The remains are segregated from all other items at TARL in a special climate-controlled room to maintain optimal temperature and humidity levels. Access to the secured room and the remains is restricted to the osteological staff at TARL, all of whom are required at all times to wear protective gloves and masks. The remains themselves are kept in highly specialized archeological storage boxes specifically designed to accommodate human remains. Within each box, the remains are further separated and packaged to avoid any cross-contamination or destruction. These boxes are not displayed to the public or even the osteological staff except when there is a legitimate reason.

Second, TARL has acted responsibly toward the human remains it houses and has repatriated remains to Native American tribes in the past when requested. For example, TARL repatriated remains to the Comanche Nation, a federally recognized tribe, in 2007. To the best of our knowledge, TARL has never denied a request before this one. The law requires that certain standards be met, and, in this case, the facts simply cannot justify the requested repatriation. The law does not allow repatriation simply because a group is willing to rebury the remains. This is especially so when there are objections to such a repatriation by federally recognized tribes, as discussed below.

Third, your reliance on Texas State University's treatment of different remains held by Texas State University as precedent is misplaced. The University of Texas at Austin has a legal obligation to make an independent determination as to whether repatriating these specific remains as you requested is appropriate and cannot simply accept that Texas State University determined there was a shared group identity between the remains held by them and the Miakan-Garza Band as determinative. Likewise, we note that the Department of the Interior accepted Texas State's determination with regard to the Texas State held remains and did not make an independent or generalized finding that would apply to remains held by TARL.

Fourth, we note that when notice required by the Native American Graves Protection and Repatriation Act regarding your request was made to federally recognized tribes, TARL received two objections to the requested repatriation. Both the Caddo Nation and the Alabama-Coushatta Tribe of Texas objected to

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repatriating the remains to the Miakan-Garza Band. Specifically, the Caddo said in relevant part that their ancestral territory in part encompassed central Texas and that they thus had “a significant interest in human remains, associated and unassociated ... found within these areas” and further stated that they will not agree to the request of the Miakan-Garza Band “at this time or in the future.” Likewise, the Alabama-Coushatta Tribe of Texas expressly objected to your repatriation request. While not dispositive, these responses to the legally required consultation with the federally recognized tribes are informative and must be considered.

Finally, the legally necessary association of the remains to the Miakan-Garza Band has not been established. The remains are culturally unidentifiable and nothing ties them to Miakan-Garza Band other than your assertion that any remains in central Texas are your ancestors. We note, however, that your website identifies the Miakan-Garza Band as “one of the over two-hundred bands that resided in Texas and northeastern Mexico when the Spaniards first arrived.” There is nothing that establishes the necessary connection between the remains and the Miakan-Garza Band that is necessary for TARL to provide the remains to the Miakan-Garza Band, particularly over the objections of other tribes.

While I understand this is not the result that you would like, we believe it is the correct one and one that was made in good faith, and the university will not overturn the professional judgment of TARL.

Sincerely,



Carlos Martinez  
Chief of Staff

cc: Ann Stevens, Dean, College of Liberal Arts  
Brian Roberts, Director, Texas Archeological Research Laboratory