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May 11, 2011

CHANCELLOR FOX

Dear Marye Anne:

I am writing with respect to the UC San Diego campus proposal for the disposition of the culturally unaffiliated CA-SDI-4669 remains to the La Posta band of Digueño Mission Indians of the La Posta Indian Reservation, California.

As you are aware, the UC systemwide Advisory Group on Cultural Affiliation and Repatriation of Human Remains and Cultural Items has discussed UCSD's proposed disposition of the culturally unaffiliated CA-SDI-4669 remains. I enclose the summary report of the Advisory Group for your information.

I carefully considered the Advisory Group's concerns and recommendations. I note that a number of the members felt that there is significant uncertainty about whether the remains meet NAGPRA's definition of "Native American," particularly given the age of the remains (8,977 to 9,603 years, B.P.). If the remains are not Native American, they would not be covered by NAGPRA, and the campus could make a determination about retention or disposition of the remains outside of the NAGPRA process.

The remains were listed, however, on the UC San Diego NAGPRA inventory submitted to federal officials and tribes in 2008, and my staff informs me that the campus did make a determination that the remains are "Native American." In light of the previous inventory submission, and in the absence of a definitive recommendation from the Advisory Group on the matter of whether the remains are Native American, it is my intention to defer to the campus's determination, and to authorize the campus to proceed under the NAGPRA process. Doing so would ensure that there is public and tribal notice of the deaccession, and would obviate the need to withdraw or amend the previously submitted inventory.

Please let me know if you wish to discuss the possibility of proceeding outside of NAGPRA, which, in light of the Advisory Group's discussion of the matter, would only be possible if the campus wishes to revisit its previous determination that the

remains are Native American. If the campus chooses to proceed under NAGPRA, I authorize UCSD to make a disposition of the culturally unidentifiable CA-SDI-4669 remains and any associated funerary objects upon the following directions and recommendations:

1. In light of concerns raised by the Advisory Group, based on the fact that the 2008 UCSD *Notice of Inventory Completion Evidence of Determination Sheet* reported that the original excavator, Professor Gail Kennedy, wrote that, "No cultural materials were found in association with either burial," UCSD must undertake a campus process including expert analysis to re-analyze whether materials (e.g., shells, charcoal) listed on the draft inventory as funerary objects are such, and if not, to revise its Draft Notice accordingly.
2. In order to acknowledge the reality that there is some uncertainty, and deep division of opinion within the Advisory Group, with regard to the status of the remains as Native American under NAGPRA, the campus is advised to revise its Notice of Inventory Completion to include an acknowledgement that given the age of the remains, there is some division among experts on the matter of whether they meet the legal definition of Native American.
3. In order to address the Advisory Group's recommendation for broader consultation, UCSD should consult more broadly than it already has regarding the disposition of the culturally unaffiliated CA-SDI-4669 remains. Specifically, UCSD should consult with other tribes in the region that may have aboriginally occupied the land from which the remains were removed, for example, the Advisory Group suggested consulting the Chumash and Takik-speakers.
4. Following this broader consultation, if there are additional tribes determined to be aboriginal to the lands from which the remains were excavated, UCSD should revise its Notice of Inventory Completion accordingly. The campus is authorized to submit a Notice (revised as needed to address the points raised mentioned) to tribes and federal officials as specified by NAGPRA, and, in the event there are no competing claims to the remains and any associated funerary objects, the campus is authorized to make a disposition of these items to the La Posta band of Digueño Mission Indians in accordance with NAGPRA, 30 days after publication in the Federal Register.

If you have questions regarding this matter, please feel free to get in touch with Director Jeff Hall in the Office for Research & Graduate Studies, or with Senior Counsel Ellen Auriti in the Office of General Counsel. Director Hall can be reached

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by email at jeff.hall@ucop.edu and Senior Counsel Auriti can be reached by email at ellen.auriti@ucop.edu.

With best wishes, I am,

Sincerely yours,



Mark G. Yudof
President

Enclosure

cc: Provost Pitts
Vice President Beckwith
General Counsel Robinson
Director Hall
Senior Counsel Auriti

