

TEXAS HISTORICAL COMMISSION

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November 1, 2012

Jan DeVault and Jeff Dunn
San Jacinto Battleground Conservancy
811 Rusk, Suite 720
Houston, Texas 77002

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966 and the Antiquities Code of Texas, Programmatic Agreement for repairs to the Battleship Texas, Houston, Harris County, Texas (Navy)*

Dear Ms. DeVault and Mr. Dunn,

Thank you Mr. Dunn, for your email correspondence of October 22 and Ms. DeVault for your letter of October 31 regarding the above-referenced project. Based on this information, we understand that you have concerns regarding the final draft of the Battleship Texas Programmatic Agreement (PA) recently distributed by the Navy. This letter is from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission (THC).

Our agency has not yet signed the PA for repairs to the Battleship Texas, but we have reviewed its terms and we have attached a copy of our letter and comments to the US Navy. As you can see we did not concur with all of your comments and suggested changes, but we assure you both that we share your concerns about the long term preservation of both the Battleship and the Battlegrounds.

We wish to respond to your concerns as a consulting party and also lay out our understanding of what the agreement will accomplish. The participation of consulting parties is an essential part of the Section 106 process and we recognize that your goal is to protect and preserve the nationally significant San Jacinto Battlefield in your capacity as a consulting party.

Section 106 of the National Historic Preservation Act allows a federal agency to negotiate a programmatic agreement to govern the implementation of a particular program or the resolution of adverse effects from certain complex project situations, per the regulations at 36 CFR 800.14. The PA put forth by the Navy is intended to establish alternate procedures for Section 106 consultation for repairs to the Battleship Texas. Texas Parks and Wildlife Department (TPWD) and its consultants have established the work necessary to repair the Battleship, which will largely take place within the hull of the vessel and to the monopoles. We do not find this repair work has the potential to affect the Battlefield and, if done in keeping with the *Secretary of the Interior's Standards for Historic Vessel Preservation Projects* as stipulated by the PA, will not adversely affect the Battleship. However, given the vessel's deteriorated condition, TPWD cannot know the full scope of repairs before work begins. Revisions to the scope of work will have to happen quickly when work is underway. The PA has been written in a way that we believe allows TPWD to undertake this work, while granting reasonable leeway so that they do not have to stop work and reinitiate consultation every time the plans change.

Construction work of this nature will require temporary on-shore staging. Given this fact, the best approach involves establishing a staging area adjacent to the Battleship that would not impact archeologically sensitive sites within the Battlefield, and we are asking for fulltime archeological monitoring of all subsurface construction activities. The PA allows for shore-side ground disturbance of three feet or less confined to a specific area, and based on our understanding of previous disturbances the THC cautiously agrees with this approach. However, we do not agree that underwater archeological investigations are warranted due to the extremely disturbed nature of the



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deposits in question and danger for divers working in a construction zone in complete black water. These dangers far exceed the remote possibility that any significant artifacts could ever be found.

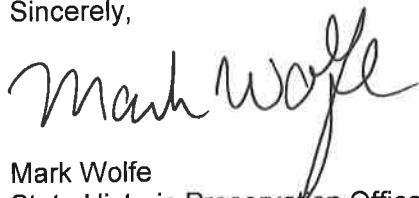
We also strongly disagree that the PA will exempt the Battlefield from any Section 106 review when activities are needed for the life of the ship. Any work beyond the parameters outlined above would not be covered by the PA and would require the standard Section 106 consultation process. This PA is intended solely for repairs to the Battleship, and it does not grant the Navy or TPWD free rein to undertake activities potentially harmful to the Battlefield without consultation.

The Area of Potential Effects agreed upon earlier in the consultation process was broad in nature based on our understanding that the Battleship would be dry-berthed, possibly in her current location. Such an undertaking could potentially have direct and indirect effects to both NHLs, including the physical impact of the dry berthing on the Battleship, construction impacts to the Battlefield associated with converting an area into a dry-berth, and visual effects on the Battlefield associated with potentially changing the height and visibility of the Battleship. Now that the undertaking has been reduced in scale to repair work, the area that will actually be affected by the undertaking is considerably lessened, and the effects are taken into account through the PA.

As the state agency for historic preservation, our goal is to work with the Navy, TPWD, and the consulting parties to preserve and protect our state's historic resources. Both sites are also designated State Archeological Landmarks, and state law will require that our office issue permits for all work proposed. We are well aware that our records are subject to Open Records requests and will, of course, happily comply with any such request to produce records.

Thank you for your participation in this federal and state review process, and for your efforts to preserve the irreplaceable heritage of Texas. We look forward to further consultation with all parties and hope to maintain a partnership that will foster effective historic preservation. **If you have any questions concerning our review or if we can be of further assistance, please contact Kelly Little at 512/463-7687 or Mark Denton at 512/463-5711.**

Sincerely,



Mark Wolfe
State Historic Preservation Officer

MW/kl

cc: Captain C. R. Pietras, Program Manager, Navy Inactive Ships Program
Tuwana Cummings, U.S. Naval Sea Systems Command
Michael Strutt, Director, Cultural Resources Program, Texas Parks and Wildlife Department
Neil Thomas, Project Manager, Infrastructure Division, Texas Parks and Wildlife Department
Christine Whitacre, Program Manager, Heritage Partnerships Program, National Park Service
James S. Poles, Environmental Project Manager, U.S. Naval Sea Systems Command, *via email*
Janet Wagner, Chair, Harris County Historical Commission, *via email*
Bruce Bramlett, Executive Director, Battleship TEXAS Foundation, *via email*
Chad Burke, CEO, Economic Alliance, Houston Port Region, *via email*
Jeff Nilsson, Executive Director, Historic Naval Ships Association, *via email*
Garry McMahan, Program Manager, Port of Houston Authority, *via email*
Casey Borowski, Director, San Jacinto Historical District, *via email*
Larry Spasic, President, San Jacinto Museum of History Association, *via email*



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Ronald Brown, President, Sons of the Republic of Texas, San Jacinto Chapter, *via email*
Tammie Nielsen, District Director, State Representative Ken Legler, *via email*
John R. Ward, consulting party, *via email*
Admiral Will Fisher, Texas Navy Association, *via email*
Nancy T. Burch, Daughters of the Republic of Texas, San Jacinto Chapter, *via email*
Tony Gregory, Chairman, Battleship TEXAS Foundation, *via email*
Cecil Jones, Board of Directors, San Jacinto Battleground Conservancy, *via email*
Amanda Peters, Chief of Staff, State Representative Wayne Smith, *via email*
Andy Smith, Texas Parks and Wildlife Department, *via email*
Russell Kuykendall, Texas Parks and Wildlife Department, *via email*
Scott Tribes, Texas Parks and Wildlife Department, *via email*
Justin Rhodes, Texas Parks and Wildlife Department, *via email*
Patty Matthews, AECOM, *via email*
Leslie Pompa, Crouch Environmental Services, Inc., *via email*



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November 1, 2012

Captain C. R. Pietras
Program Manager, Navy Inactive Ships Program, PMS 333
Department of the Navy
Naval Sea Systems Command
1333 Isaac Hull Avenue
Washington Navy Yard DC 20376-2701

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966 and the Antiquities Code of Texas, Proposed Battleship Texas Programmatic Agreement, Houston, Harris County, Texas (US Navy)*

Dear Captain Pietras:

The Texas Historical Commission (THC) has received the Navy's signed copy of the proposed Battleship Texas Programmatic Agreement (PA), and it is our understanding that the Advisory Council on Historic Preservation (ACHP) has asked for some minor alterations in this document, therefore we will take this opportunity to also suggest a few changes. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission, which is also the agency responsible for administering the Antiquities Code of Texas.

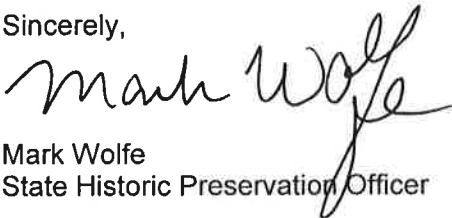
The review staff, led by Elizabeth Brummett, Kelly Little, and Mark Denton, has not only completed the review of the PA, they have reviewed two sets of comments sent to the THC by the San Jacinto Battleground Conservancy (Conservancy), and those documents are attached. While the THC does not concur with many of the Conservancy's comments and suggested changes to the PA, you will note that we have integrated a few of their concerns into our suggested changes.

Below are our suggested changes to the PA:

- 1) The PA should state that no structures constructed in association with battleship's repairs will be permanent.
- 2) TPWD will provide for archeological monitoring of all terrestrial subsurface excavations regardless of depth.
- 3) An archeological emergency discovery cause that provides for Section 106 consultation and mitigative archeological investigations, if deemed appropriate, should be added to the PA.

Thank you for your cooperation in this federal and state review process, and for your efforts to preserve the irreplaceable heritage of Texas. We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. **If you have any questions concerning our review or if we can be of further assistance, please contact Kelly Little at 512/463-7687 or Mark Denton at 512/463-5711.**

Sincerely,



Mark Wolfe
State Historic Preservation Officer

MW/mhd



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