

# Native Americans seek to declare Alamo grounds old cemetery

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A local Native American group is bringing a new battle to the Alamo, filing a legal notice declaring the grounds to be an abandoned or unknown cemetery.

The San Antonio Express-News reports that could delay the \$450 million project to restore and enhance the sacred Texas shrine.

And the American Indians in Texas at the Spanish Colonial Missions plans to go even further: The group has launched a fundraising campaign to file a federal lawsuit alleging discriminatory practices in the way city, state and nonprofit officials are guiding the project.

"We feel like we've exhausted all of our efforts," said Ramón Vásquez, executive director of the group.

He said new guidelines on the handling of [human remains](#) unearthed during the planned restoration work were developed without consulting his organization, whose members are descendants of indigenous people who lived—and likely were buried—in this area well before the Battle of the Alamo.

"We would have never agreed to these protocols," Vásquez said, including a prohibition against DNA testing and excluding lineal descendants from having a say in how human remains are treated.

The new guidelines authorize the Alamo to get a court order to remove

human remains if found and, if necessary, rebury them elsewhere in "an appropriate location," in consultation with property owners, the Texas Historical Commission and an archaeological advisory committee.

But there's no guarantee that process would include input from the American Indians in Texas or the San Antonio Missions Cemetery Association, two affiliates of the Tapilam Coahuiltecan Nation, which counts 1,000 members nationwide with ties to 10 indigenous nations in Texas.

City and state officials say the Texas General Land Office and nonprofit Alamo Trust Inc. crafted the guidelines with input from other Native American groups.

"The GLO and Alamo Trust worked on a human remains protocol that seeks to respect the cultural significance of the site and to acknowledge the legal requirements associated with the treatment of human remains when, and if, they are discovered on the site," Deputy City Attorney Edward F. Guzman said in an email.

Whether the Alamo sits on a [cemetery](#) worthy of legal protection is a major point of contention as plans for the restoration continue to move forward. The local tribal groups believe it does; city and state officials disagree.

The issue can be confusing because the word "cemetery" has several different definitions in state law.

In May, the Texas Historical Commission approved a Historic Texas Cemetery designation for a large portion of the Alamo grounds and the plaza that is mostly symbolic. The designation boundary was a compromise between competing proposals from the Land Office and the San Antonio Missions Cemetery Association.

The state agency wanted only the Alamo church designated; the cemetery association sought designation of a much larger area, well beyond Alamo Plaza. In the end, the commission opted for an area that was bigger than the state wanted but smaller than the association requested.

Regardless of size, the historic cemetery designation doesn't have any significant impact on the Alamo project.

But with the legal notice, the local Native American groups are claiming the area is an abandoned or unknown cemetery as defined in the Texas Health and Safety Code. If that stands, it would trigger a series of exacting regulations regarding the handling of human remains that is more in line with what the local Native American groups believe should be done.

Guzman said the notice, filed with the Bexar County Clerk's Office, could delay the whole project and hinder efforts to preserve the Alamo's mission-era structures.

"The greatest concern is that [archaeological work](#) that is necessary to preserve the Alamo church and Long Barrack may not be approved or implemented in a timely manner, because the construction of 'improvements' on the 'cemetery' property might be restricted by law," Guzman said.

The state's Health and Safety Code that governs cemeteries includes prioritized lists of people to contact with the "right to control" disposition or provide consent to remove remains. When there are no surviving immediate relatives, the law gives some authority to individuals "in the next degree of kinship" and to "the cemetery organization operating the cemetery."

City and state officials and at least one business owner are disputing the Native Americans' claim that the Alamo is sitting on a real cemetery.

They argue that the notice was not filed by the legal deadline—the code requires that an abandoned cemetery be recorded in county property records within 10 days of discovery. But documentation of burials in the area has existed for centuries, dating to the 1700s.

Those opposing the legal notice also note it didn't contain an accurate legal description of the property where the groups say the cemetery is located and that the notice doesn't include "sufficient evidence" that there's a cemetery there at all.

They also contend that the cemetery association has no legal authority over any part of the Alamo; state law gives the Land Office "exclusive jurisdiction" over all of the Alamo complex. It also applies to the Alamo Plaza through a lease with the city, Guzman said.

The legal notice also declared that the Hipolito F. Garcia Federal Building, the Emily Morgan Hotel and the block around the hotel are on an abandoned cemetery.

Dr. Nora L. Walker, who owns a building just east of the hotel at 719 E. Houston St., also filed a letter of opposition.

"We believe that the notice is faulty due to its filing outside the mandated time frame and other technical errors, and should have no real effect on the land," Guzman said. "However, this notice could function in a similar manner to a cloud on title. It would place limitations on property owners' decisions regarding surrounding businesses, and probably affect property values."

Vásquez said it's important for the city, state and Alamo Trust to conduct

a complete study of the area, including archaeological "test pits" and archival research, to determine the confines of the cemetery he knows is there.

"Then you'd have a true footprint," he said.

Few things can create confusion or start a heated controversy as quickly as the discovery of a human bone fragment, a skull or even a lone child's tooth at the historic mission and battleground.

A partial skull unearthed in 1979 by archaeologists at the state-owned Alamo set off a widely publicized tug-of-war.

The Daughters of the Republic of Texas kept the skull in controlled storage. But officials of the Catholic church and the Inter-Tribal Council of American Indians wanted it reburied in a religious ceremony.

The Daughters, under strict instructions from the historical commission to keep the skull, finally got clearance several years ago to hand it over to the University of Texas at San Antonio's Center for Archaeological Research.

Restoring and enhancing the Alamo on a large scale is certain to involve a lot of digging in potentially sensitive areas. The public-private project to build an Alamo museum at the site includes a lowering of the grade in Alamo Plaza by at least 18 inches, delineating the mission-fort's historic footprint.

Even without lowering the plaza, it's possible—some say inevitable—that archaeologists and construction crews will unearth human bones or fragments during the project.

More than 1,000 people, including indigenous inhabitants of the Mission

San Antonio de Valero, as well as Spaniards, Canary Islanders, Mexican soldiers and possibly Tejano Alamo defenders from 1836, are believed to have been buried at the storied battleground.

Today's plaza is about 2 feet above the historic surface. But much of the soil below has been dug up and stirred about since the 1870s, for installation of water, electrical, phone and gas lines and storm drains, as well as the 1930s Cenotaph. Any discoveries of human remains may not have been publicized. Human bones could have been covered over or moved aside.

That adds uncertainty about what lies 18-24 inches below the flagstone, concrete and asphalt. No archaeological investigations have been done throughout most of the plaza.

The local Native American groups aren't the only ones who have criticized the 17-page protocol developed by the state and Alamo Trust for handling human remains.

Archaeologist James "Jake" Ivey, who led the team that uncovered the skull in 1979 and perhaps knows more about the Alamo's subterranean assets than anyone still living, is worried that prohibition of DNA testing, presented in the protocol as "destructive analysis," eliminates opportunities to learn more about the famous site.

The document states "visual analysis" will be the only means to determine cultural affiliation.

"I agree with the need for appropriate and respectful treatment of Native American remains, and I think it's a good idea to have tribal representatives involved in the overview of the archaeological process at the Alamo," Ivey said.

"However, the rules and regs presented in this document will be almost crippling to any archaeological investigation when—not if—human remains are found."

Ivey said the DNA-testing prohibition will feed a false history, leaving remains of Spanish friars and soldiers collectively identified as local indigenous people.

Despite the traditional story of the 1836 battle that nearly all of the Alamo defenders were burned on funeral pyres, Ivey believes some of the Tejano defenders may have been buried along with fallen Mexican soldiers.

"The most restrictive element of the protocol is the basic assumption throughout that all remains are Native American until proven otherwise," he said.

Alston Thoms, a professor of anthropology and archaeology at Texas A&M University and an adviser to Tap Pilam, also has warned that the Alamo project could face "a major issue" if it does not conduct a "complete archaeological study to define the limits of the cemetery."

"I would propose that every human remain found is sampled for DNA," with results compared to genetic data from descendants living today, Thoms said at a recent demonstration at the Alamo.

In the past, DNA testing and other techniques used in anthropology have helped in the understanding of the Alamo's mission era.

In 1935, human remains were found near the roots of trees being removed for construction of the federal building in Alamo Plaza. It was thought they were the remains of 37 Mexican soldiers who died in the 1836 battle.

But then-Archbishop Arthur Drossarts believed the remains were actually Catholic burials of indigenous people of the mission, much older than the 1836 battle. He prevailed and had the remains interred in San Fernando Cemetery No. 2.

When the remains were exhumed nearly 60 years later, researchers supported Drossarts' theory, determining through visual analysis that they were male, female and child American Indians. The number of individuals was estimated at seven or more identified through bones, and eight or more through teeth.

But if it hadn't been for Drossarts' insistence, the world might have gone on thinking—wrongly—that the remains were those of Mexican soldiers.

And yet the Land Office and Alamo Trust say DNA testing crosses an ethical line. It is a process that some cultures consider disrespectful and could have religious implications. It also is "unlikely to provide any more certainty about the deceased's existence other than their ethnicity," the Land Office said in a statement.

"You're actually destroying the sacred burial," said Alamo CEO Douglass W. McDonald, who reports to the Alamo Trust. "We have sought in these policies to follow ethical standards that are higher than what the law requires."

The new guidelines for handling remains are far more detailed than the one-page protocol the Daughters had when they were custodians of the Alamo. That document stated that any unearthed remains would be studied in place, whenever possible, then "reinterred and the work routed around the area."

But unlike the new protocol, the DRT's guidelines recognized the American Indians in Texas as one of three cultural groups to be



consulted when human remains were found.

The new guidelines require an appointed "tribal monitor" be present during excavations of human remains. A public announcement will not be made, except through release of a statement by the Land Office "if necessary."

The protocol provides that "appropriate parties" will be invited to attend and possibly lead or participate in reburial ceremonies. The local Native American groups aren't considered "appropriate parties" under the guidelines.

The protocol is vividly detailed. Archaeologists handling remains must wear unbleached cotton gloves and wrap remains in an unbleached muslin cloth for storage in the Alamo collections vault, illuminated by a soft light and maintained at 68 degrees, with relative humidity between 50% and 60%.

Any photographs taken of exposed burial sites will be converted to hand-drawn depictions, then destroyed. Gloves and storage boxes used to handle remains will be burned.

Alamo Trust, which oversees daily operations at the site and execution of the protocol, has said the plan is a "living document" that will be revised "as unique situations are encountered."

In citing their objections to the guidelines, Vásquez said they fall short of other projects that included lineal groups and tried to identify descendants when deciding the fate of human remains.

He noted the Fort Bend Independent School District recently announced that remains of 95 people discovered at an abandoned late-1800s cemetery at a construction site last year would undergo DNA testing for

historical documentation before they are reburied. Most of those individuals are believed to be African American and part of the state's notorious convict-leasing system.

In San Antonio, Christus Santa Rosa Health System worked with Vásquez after the remains of more than 70 people buried in an 1800s Catholic cemetery were uncovered at its downtown children's hospital during work on a prayer garden.

Most of the remains were reinterred where they were found with a Native American and Catholic ceremony, and the project was redesigned to avoid disturbing the graves.

The city also "put to rest" a planned overhaul of Milam Park, which is next to the hospital and sits on San Antonio's old Protestant cemetery, Vásquez said.

While the controversy over the cemetery designation threatens to become a political football, the local Native Americans and others believe that all remains are sacred, no matter how small, and deserve to be treated with respect.

During 2016 archaeological digs for the Alamo project, a single child's tooth was found on the west side of the plaza. It was given a ceremonial burial by Tap Pilam.

In Coahuiltecan culture, every fragment of human remains is considered sacred, GTI Environmental stated in an Alamo archaeology report for Vásquez's group:

"All inanimate and animate objects have a life force with a life span, then dies, and is buried where life ceased to exist, even something as small as a tooth."

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