



A WRITTEN PLAN OF ACTION BY THE U.S. ARMY,  
SISSETON-WAHPETON OYATE, AND SPIRIT LAKE  
TRIBE FOR THE DISPOSITION OF THE REMAINS  
OF AMOS LAFROMBOISE AND EDWARD UPRIGHT



**September 11, 2023**

**Recitals**

WHEREAS, the U.S. Army is responsible for the operation and control over the Carlisle Barracks Main Post Cemetery (Carlisle Cemetery).

WHEREAS, Amos LaFromboise and Edward Upright are buried in Carlisle Cemetery at plot sites A 19 and D 8, respectively.

WHEREAS, Amos LaFromboise is culturally affiliated with Sisseton-Wahpeton Oyate and Edward Upright is culturally affiliated with Spirit Lake Tribe.

WHEREAS, today, Amos and Edward have numerous family members at both Sisseton-Wahpeton Oyate and Spirit Lake Tribe.

WHEREAS, Sisseton-Wahpeton Oyate and Spirit Lake Tribe (collectively "Tribes") maintain that they are entitled to request repatriation of the remains of Amos and Edward, respectively, pursuant to the Native American Graves Protection and Repatriation Act (NAGPRA).

WHEREAS, the U.S. Army maintains that NAGPRA does not apply to such an extent that the Tribes are entitled to request repatriation of the remains of Amos and Edward.

WHEREAS, the Parties seek to avoid conflict regarding their positions on NAGPRA and to reach a compromise so that the remains of Amos and Edward can be delivered to their tribal homes in a culturally appropriate and expeditious manner.

WHEREAS, this Written Plan of Action (Plan) reflects such a compromise, resulting from arms-length, government-to-government negotiations.

NOW, THEREFORE, the U.S. Army, Sisseton-Wahpeton Oyate, and Spirit Lake Tribe agree to the following terms for the disposition of the remains of Amos LaFromboise and Edward Upright from Carlisle Post Barracks Cemetery.

## Provisions

### I. Parties

- a. U.S. Army ("Army") is an agency of the Department of Defense responsible for the management of the Carlisle Barracks Post Cemetery.
- b. Sisseton Wahpeton Oyate is a federally-recognized Indian tribe that is culturally affiliated with Amos LaFromboise.
- c. Spirit Lake Tribe is a federally-recognized Indian tribe that is culturally affiliated with Edward Upright.

### II. Final custody

- a. Sisseton-Wahpeton Oyate shall, following the terms of this Plan, take final custody of the remains of Amos LaFromboise.
- b. Spirit Lake Tribe shall, following the terms of this Plan, take final custody of the remains of Edward Upright.

### III. Plan for treatment, care, handling, and disposition of the remains of Amos LaFromboise and Edward Upright

- a. Weeks leading up to Disinterment
  - i. The Tribes and the Army will formalize this written Plan to memorialize the complete terms for disposition of the remains of Amos LaFromboise and Edward Upright. Representatives from each of the parties shall sign the Plan. The Plan may be applied retroactively to encompass actions required by the Plan taken prior to finalization and signing of the Plan.
  - ii. The Tribes and the Army will meet periodically to discuss the progress of planning and status of the travel arrangements to Carlisle, the disinterment, and the return from Carlisle. The Army will schedule these meetings with the Tribes' attorneys at the Native American Rights Fund.
  - iii. The Army will provide updates regarding the travel arrangements to Carlisle, the disinterment, and the return from Carlisle, as appropriate, to the Tribes' attorneys.
  - iv. The Army and the Tribes' attorneys will arrange one or more meetings between the Army's archeological and forensic analysis teams, the Tribes' forensic anthropologist, the Kit Fox Society, and the Buffalo Heart Women. The purpose of these meetings shall be for these parties to deliberate about handling of Amos's and Edward's remains, and specifically regarding disinterment, excavation, transport to the forensic analysis lab, and analysis of the remains.

These parties shall engage in meaningful dialogue to come to a consensus about the best way to handle the remains at each of the aforementioned stages to preserve the integrity of the remains, prioritizing the Tribes' traditional ceremonial and cultural practices. Wherever possible, the Army will defer to the Tribes' forensic anthropologist, the Kit Fox Society, and the Buffalo Heart Women, as expressed by a representative from each Tribe's respective Tribal Historic Preservation Office ("THPO").

- v. Stronghands is the funeral home transportation contract winner. Stronghands will follow the Kit Fox Society to Sisseton-Wahpeton Oyate with the requisite paperwork and permits needed to transport the remains.
  - vi. The Army will confirm with the Tribes, prior to the Tribes' arrival at Carlisle, that the pine box required to transport the remains wrapped in buffalo robes will be available for the Tribes at the time the remains are transferred to the Tribes. The Army will pay for the cost of the two pine boxes. At the Tribes' election, the Army will provide two buffalo robes in which to wrap Amos's and Edward's remains. The Army will pay for the cost of the two buffalo robes. The buffalo robes will be stored onsite at Carlisle until the Tribes' arrival.
  - vii. The Tribes will provide two 4 ft x 4 ft cuts of red cloth in which to wrap Amos's and Edward's remains.
  - viii. The Tribes consent to provide information included in the following forms: 1) Questionnaire for Disinterment Support; 2) Carlisle Barracks Installation Access Control Application; 3) Tribes' Acknowledgement of Media Policy and Consent of Media Attendance at Carlisle Barracks Dignified Disinterment Event. The completed forms are attached to this Plan.
- b. Travel to Carlisle
- i. The Tribes will each rent up to four 15-passenger vans to transport Tribal members of the Tribes' choosing to Carlisle. The Army will submit for reimbursement of the Tribes for the mileage, gas, and rental costs of the passenger vans by no later than 10 working days following the submission of all receipts.
  - ii. The Tribes will begin their travel to Carlisle on September 14, 2023. The Tribes' travel to Carlisle will take approximately two days.

- iii. The Tribes will spend one night in a hotel during the travel to Carlisle. The Army will submit for reimbursement of the Tribes for the cost of all eight rooms no later than 10 working days following the submission of all receipts.
- c. Arrival at Carlisle and Sweat Lodge Ceremony
- i. The Tribes will arrive at the Fairfield Inn & Suites (Fairfield) at 1528 Commerce Avenue, Carlisle, PA 17015 on September 15-16, 2023. The Army shall reserve 25 rooms for Sisseton-Wahpeton Oyate and eight rooms for Spirit Lake Tribe. The Army shall submit for reimbursement of each Tribe for the cost of four rooms no later than 10 working days following the submission of all receipts. Any rooms beyond this amount shall be at the expense of the Tribes.
  - ii. Those from the Tribes arriving on September 15, 2023 will be there for the purpose of building and preparing the sweat lodge. The Army will meet these individuals at the Fairfield—and at any other hotel nearby at which the individuals may be staying—and will proceed to escort them to the site where the Tribes shall perform their sweat lodge ceremonies. The Army will provide all instructions necessary to ensure carrying out of the sweat lodge in accordance with any applicable regulations. The Tribes will begin the construction of the sweat lodge during the day on September 18 and will perform the sweat lodge during the evening on September 18.
    - 1. The Tribes will bring willows, rocks, and any other supplies necessary for construction of the sweat lodge.
    - 2. The Army will provide the Tribe with fire pits, fire-burning wood, and six eight-foot by ten-foot canvas tarps.
  - iii. The Army will meet the Tribes at the Fairfield—and at any other hotel nearby at which the individuals may be staying—on September 16, 2023. The Tribes and the Army will discuss the schedule for the next several days to confirm the details pertinent to executing the remaining terms of the Plan.
- d. Disinterment and Beginning of Archeological Forensic Analysis
- i. The Army will meet the Tribes at the Fairfield—and at any other hotel nearby at which the individuals may be staying—on September 17, 2023, and transport the Tribes to the Carlisle Cemetery by around 8:00 a.m., Eastern Time.
  - ii. The Tribes and the Army will discuss the Plan tasks and items for the day.

- iii. The Tribes will conduct their opening traditional ceremonies.
- iv. The Tribes will break ground on the graves designated for Amos and Edward.
- v. The Kit Fox Society will stand guard around the perimeter of the graves while the Army archeological team conducts the excavations. Others from Tribes shall be allowed to observe from a safe distance. Anyone from the Tribes may also stay in a tent that shall be provided for the Tribes.
- vi. The Army shall excavate the headstones and take them away to be destroyed. The Army may, taking care and all necessary precautions, use a piece of small, heavy equipment to remove the headstones.
- vii. The Army's archeological forensic analysis team will collect any items on top of the grave and preserve the items for the Tribes to take with them, should they elect to do so. The Army's archeological forensic analysis team will excavate the gravesites of Amos and Edward, beginning by removing the sod.
- viii. Once the Army reaches the top of the boxes and any visible remains, the Army will pause the excavation and allow the Tribes to view the boxes or pieces of the boxes and any visible remains and allow the Tribes time to pray or conduct any necessary ceremonies.
- ix. The Army archeological forensic analysis team will remove the boxes or box pieces from the ground. Once the boxes are removed from the ground, media without photography or videography may be present, within the Tribes' discretion, as expressed by each Tribe's THPO. Each piece of the respective boxes will be placed in a designated area to ensure the box pieces are preserved for the Tribes. The archeological forensic analysis team will also place the soil unearthed from each gravesite in a designated place to ensure the unearthed soil is preserved for the Tribes. The archeological forensic analysis team will place all recoverable remains on wooden trays covered in red cloth as they are removed from the gravesites. Once all the remains are placed on the trays, the archeological forensic analysis team will pass the trays to the Buffalo Heart Women. The Buffalo Heart Women will transport the trays with the remains to the archeological forensic analysis tent. The Kit Fox Society will escort the Buffalo Heart Women to the forensic analysis tent. Tribal elders shall be present to advise and bring attention to any matters of importance to handling the remains in a culturally appropriate manner.

- x. The Army's anthropology team will begin the analysis of the remains. The Tribes' anthropology team shall be present to observe the Army's anthropology team, perform a visual analysis of the remains, share expert commentary and engage in meaningful discussion, consistent with professional best practices and blind analysis. Should the Tribes' anthropology team observe anything they believe will result in a fundamentally flawed analysis and/or erroneous findings, they will be allowed to raise their objections; the Army's anthropology team shall record any such objections in their analysis notes. The Army's forensic anthropology team will include Mark Andrew Smith, Ph.D., RPA; Allysha P. Winburn, Ph.D., RPA, D-ABFA; and Rosie Bongiovanni Tullos, Ph.D. RPA. Dr. Winburn will be the primary forensic analyst, with Dr. Tullos as her peer-reviewing assistant. Dr. Winburn and Dr. Tullos shall maintain physical custody of the remains during the analyses. The Tribes' team will include Cheryl A. Johnston, Ph.D., D-ABFA. The Tribes may have up to two other representatives present in the forensic analysis tent. The Kit Fox society may stand guard outside the tent to protect the remains. The teams shall endeavor to complete their work each day of analysis by 7:00 p.m., Eastern Time. If analysis goes past 7:00 p.m., Eastern Time, the Kit Fox Society shall be permitted to remain outside of the tent to stand guard, so long as the Army is able to obtain necessary staff.
- xi. No destructive techniques will be used during the inspection of remains. The inspection of the remains will be limited to estimating the sex, date of death, and age of the child at their time of death. The inspection shall begin with a cleaning of the remains, using baby tooth brushes and water. The remains shall then be air-dried on top of the red cloth that was used to transfer the remains to the tent, with a protective muslin cloth between the cloth and the remains, in order to avoid staining the remains. Once the remains have dried, the Army's archeological forensic analysis team shall proceed with the analyses. The analyses shall be non-intrusive, being completely based on the archeological analysis teams' visual observations and measurements of the remains. If the teams needs any further analysis to make final determinations on the remains, such analysis shall be limited to dental radiographs. The Army will consult with each Tribe's THPO before performing dental radiographs. The

- archeological analysis teams shall wear latex gloves to handle the remains and perform the analysis, unless the Tribes direct them not to wear latex gloves.
- xii. The analysis of the remains is estimated to be completed by September 19, 2023.
  - xiii. The archeological forensic analysis teams will consult with representatives designated by the Tribes at least twice each day of the analysis regarding the status of the analysis of the remains. One of these consultations will include an end-of-the day consultation that will provide an update to the Tribes regarding the next day's analysis activities and findings thus far.
  - xiv. After the analysis is complete, the Army will permit the Tribes' spiritual leaders to be alone with the remains and perform any requisite ceremonies.
  - xv. The Kit Fox Society will be permitted to stand guard over the remains at a distance as close as reasonably possible throughout the duration of the excavation and analysis and overnight.
- e. Completion of Archeological Forensic Analysis and Initial Custody of Remains by the Tribes
- i. The Army will meet the Tribes on September 18, 2023 at the Fairfield—and at any other hotel nearby at which the individuals may be staying—and transport the Tribes to the Carlisle Cemetery.
  - ii. The Army and the Tribes will meet to discuss the Plan tasks and items for the day.
  - iii. The Tribes will conduct prayer and ceremonies before any analysis for the day begins.
  - iv. If the analysis of the remains has not yet been completed, the Army's analysis team will proceed to do so. The remains will be found either a) consistent, or b) inconsistent, with Amos and Edward, respectively; in the event the remains can be determined neither consistent nor inconsistent with Amos and Edward, they shall be found indeterminate. The Tribes' analysis team will be given access to the notes and data collected by the Army's analysis team and will be allowed to give the Army's analysis team its own conclusion based on said notes and data and its own observations from over the course of the analyses.
  - v. If the remains are found by both the Army's analysis team and the Tribes' analysis team to be inconsistent with Edward or Amos or if the remains are found indeterminate, the Army will allow the Tribes to pause and consult their

spiritual leaders and perform any requisite ceremonies. After allowing the Tribes the opportunity to perform any requisite ceremonies or other protocols, the Army will consult with the Tribes regarding disposition of the remains. The remains will be reburied after this is complete.

- vi. If the remains are found consistent with Amos or Edward by both the Army's and the Tribes' analysis team, the Army allow the Tribes to pause and consult their spiritual leaders and perform any requisite ceremonies. After this is complete, the analysis teams will complete any final steps of their work and prepare to transfer physical and legal custody of the remains to the Tribes.
  - vii. If the remains are determined consistent with Amos and Edward, the Buffalo Heart Women will wrap the remains in red cloth and buffalo robes and the Tribes' will perform any requisite ceremonies.
  - viii. A final report will be completed by Dr. Winburn based on the analysis and findings. The report will be based on the standardized forms that Dr. Winburn will fill out during her analysis, Dr. Winburn's notes and observations, and any photographs taken of the remains. Any disagreements raised by the Tribes' anthropology team shall be included in the final report. The Army will provide the Tribes with a copy of the final report upon request.
- f. Formal Transfer Ceremony and Custody of Remains by Tribes
- i. If the remains are determined consistent with Amos and Edward, per Section VII., on September 19, 2023:
    - 1. The Army will formally transfer the remains of Amos and Edward to the Tribes during the formal transfer ceremony. The Tribes will perform any requisite ceremonial practices.
    - 2. The Buffalo Heart Women will wrap the respective remains in red cloth and buffalo robes if this has not yet been completed.
    - 3. The Tribes will conduct closing ceremonies and take final physical and legal custody of the remains.
    - 4. Sisseton-Wahpeton Oyate's THPO representative, Dianne Desrosiers, acting on behalf of Sisseton-Wahpeton Oyate, shall take custody of the remains of Amos LaFromboise.
    - 5. Spirit Lake Tribe's THPO representative, KJ Graywater, acting on behalf of Spirit Lake Tribe, shall take custody of the remains of Edward Upright.



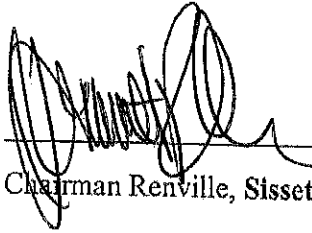
6. After each Tribe's THPO representative signs for custody of the remains, physical and legal custody of each set of remains will be deemed to have been transferred to the respective Tribe.
7. The Kit Fox Society will take possession of the remains to transport them from the Carlisle Cemetery to their final burial sites.
8. The team from Stronghands will follow the Kit Fox Society with the requisite paperwork and permits needed to transport the remains.
9. Amos and Edward will be buried next to each other at the Sisseton-Wahpeton Oyate Tribal repatriation grounds.

### **Disclaimers**

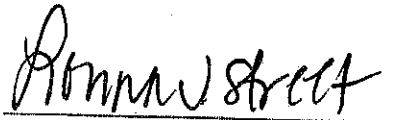
NAGPRA: By agreeing to this Plan, neither Sisseton-Wahpeton Oyate nor Spirit Lake Tribe waive any of their rights under NAGPRA. The Tribes' agreement to this Plan is not to be construed as an agreement with or acquiescence to the Army's position that NAGPRA does not apply, such as to entitle the Tribes to request repatriation of the remains of Amos LaFromboise and Edward Upright, nor is this Plan to be construed as an agreement with or acquiescence to the Army's interpretations of any of NAGPRA's provisions.

Army Regulations: By agreeing to this Plan, neither Sisseton-Wahpeton Oyate nor Spirit Lake Tribe concede to the applicability of Army Regulations—nor to any other policies and practices followed by the Army in disposing of remains at Carlisle—to the disposition of the remains of Amos LaFromboise and Edward Upright. Any provisions in this Plan which reflect Army Regulations or Army policies and practices are to be regarded as terms to which the Tribes have consented pursuant to this Plan. Any documents attached to this Plan which are used in the normal course of carrying out Army Regulations or policies and practices are to be regarded as voluntarily completed by the Tribes pursuant to this Plan.

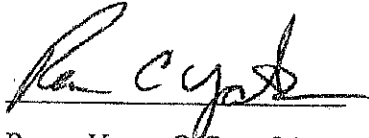
SIGNED:

 9-12-23

Chairman Renville, Sisseton Wahpeton Oyate, Tribal Chairman

 9/12/23

Chairwoman Street, Spirit Lake Tribe, Chairperson

 11 Sep 2023

Renea Yates, Office of Army Cemeteries, Director