

# THE TRIBAL NATIONS EXCHANGE

## INFORMATION SHARING ON

### U.S. ARMY CORPS OF ENGINEERS

### ACTIVITIES IN INDIAN COUNTRY

#### ***New Pacific Ocean Division Commander Visits Alaska Natives***

*Editor's Note: The following account is by Johnny Duplantis, USACE Alaska Native Liaison. In sending the story, Johnny recounted that the Corps team was returning home from a remote Alaskan Village on September 11, 2001, and their plane was the only one cleared to fly over our Alaskan skies. This is the lead story because it shows that the tragedy of last month touched all of us, from here in Washington to the most remote places in our land, and because it shows the best of what we can do in Indian Country.*

The Alaska District recently hosted BG Johnson's first District Inspection during his new assignment as the Pacific Ocean Division Commander. The Alaska District had set forth a rigorous schedule of site visits and briefings during the General's stay. The itinerary was organized so that the General would have a good overall picture of all the District programs, and of challenges that face the District staff when performing their duties in the Last Frontier. The General was welcomed to Alaska with picture perfect weather during most of his stay here and was able to accomplish a rare feat while in Alaska, he was able to actually able to make it to ALL intended destinations in the state. Being a 10-year Alaska resident veteran, I can't ever remember seeing the weather in Kodiak so clear.

While the General was not expecting to do any firsts of a POD Commander, the District planned several visits to rural communities and while doing so the District began following existing Department of Defense Policy for working with Alaska Natives. Part of this Policy requires that we work with Federally Recognized Tribal Governments on a "Government-to-Government Basis" and in honoring this special relationship we are required to treat such Tribal governments with mutual respect as we would any other governmental organization. This mutual respect can be accomplished in many different ways and in this instance the District decided that every Village that the General visits, where there is an existing Federally Recognized Tribal Government, then the General pay a courtesy visit to the Tribal Leader, similar to our traditional "Office Calls" in the Military. Unknowingly, the District had the General set up for something that had not been attempted with any of the previous POD Commanders before him. Official government-to-government meetings with Alaska Native Tribal Leaders had never been placed on any other POD Commanders' itinerary for an Alaskan Inspection.

Of the visits with several Alaska Native Villages, the one that occurred with the Native Village of Barrow is one of the most memorable and actually ended up being a full-blown Government-to-Government "Consultation" meeting, with the Tribal President and Council Members. Issues were laid on the table and solutions were discussed. The Tribal President discussed concerns over several Corps issues that were being worked out and one Tribal Council Member complimented the Corps on doing the best of any Federal Agency in honoring the Government-to-Government relationship with Tribes. This Council Member went on to say other Federal Agencies in Alaska would do well if they followed the Corps of Engineers' lead on working with Tribes.

It should be noted that several of the District's Senior Leaders, including, the DE (Colonel Perrenot), Chief of PPMD (James Dalton) and Chief of EN (Olton Swanson), had accompanied the General on these site visits. This was also the first time that the District's new Chiefs of PPMD and EN had been out to rural Alaska and became a good learning experience for them too. There was a lot of work accomplished during these 4 days together and even though we didn't get to see a Polar Bear in Barrow (except for the picture on the sign) or take a crack at a local delicacy called Muktuk (the General really wanted to try this one), we were still able to show a new Division Commander some the challenges that face us everyday in the Last Frontier.

This trip will also forever remain etched my memory. Not because we were able make all our destinations and show the new Division Commander many things that make Alaska great, but because it seemed that we were scheduled to return to Anchorage on September 11 from Nome. Of course this day will undoubtedly go down as one of the most tragic in American History. Our last 4 days of triumph seemed meaningless at that point and of course our lives will never be the same because of what happened on that day

#### ***Federal District Court Rules on Advisory Council Regulations***

The United States District Court for the District of Columbia has issued a ruling in the case of National Mining Association (NMA) and the Cellular Telecommunications & Internet Association (CTIA), plaintiffs, v. Cathryn Slater et al., defendants.

The case involved a challenge by the plaintiffs of the Advisory Council on Historic Preservation (ACHP) Final Rule implementing Section 106 of the National

# THE TRIBAL NATIONS EXCHANGE

## OCTOBER 2001

Historic Preservation Act. The lawsuit was first filed by NMA in February 2000 and challenged the regulations found at 36 CFR Part 800, dated June 18, 1999. As the court ruling notes, plaintiffs challenged "under a host of theories" including : the final rule is regulatory and not procedural in nature; the final rule expands section 106 to state and local activities; it requires agencies to determine the National Register eligibility of unidentified properties; and, the rule expands the role of Indian tribes beyond that intended by Congress.

In a detailed decision brief, printed at the website <http://www.dcd.uscourts.gov/00-288.pdf> the court found largely in favor of the defendants. The ruling strikes two provisions of the regulations found at 36 CFR Part 800.4(d)(2) and 800.5(c)(3). These provisions address Council activities associated with "no effect" and "no adverse effect" determinations. The decision brief discusses the need for the ACHP regulations to be procedural rather than substantive and found the remaining provisions to be valid.

### *Native American Tribal Database*

As part of its mission, the Corps', Mandatory Center of Expertise for the Curation and Management of Archaeological Collections (MCX-CMAC), St. Louis District, assisted the U.S. Army in a nationwide Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) compliance project. Part of the project included conducting ethnohistorical research and supplying tribal contacts for each Army installation. In so doing, MCX-CMAC realized the need for an accurate tribal point-of-contact database with which to supply this type of information. Accurate information is vital to initiate contact with tribal governments. Contact with tribal governments is necessary in order to fulfill the consultation requirements found in federal laws, regulations, and policies, such as (1) White House Memorandum on Government-to-Government Relations with Native American Tribal governments, April 1994, (2) Executive Order 13007, May 24, 1996, Indian Sacred Sites, (3) Executive Order 13175, November 6, 2000, Consultation and Coordination with Indian Tribal Governments, (4) National Historic Preservation Act of 1966, (5) National environmental Policy Act of 1969, (6) American Indian Religious Freedom Act of 1978, (7) Archaeological Resource Protection Act of 1979, and (8) Native American Graves Protection and Repatriation Act of 1990.

These federal laws, regulations, and policies require consultation on a government-to-government basis with federally recognized tribes. Federally recognized

tribes are self-governing sovereign nations that enact and enforce laws that govern their members and their land. Most Native American tribes in the continental United States are federally recognized. Alaskan Native villages are also federally recognized, but Native Hawaiian organizations do not have federal recognition, although, Hawaiian organizations are listed in NAGPRA and several other laws and have the same standing as federally recognized tribes and Alaskan villages when dealing with NAGPRA issues.

There are 351 federally recognized tribes in the lower 48 states, 229 federally recognized Alaskan villages, and several Native Hawaiian organizations that federal agencies must consult with. In order to design a useful tribal point-of-contact database it was necessary to check with the Bureau Indian Affairs (BIA) to obtain a list of all federally recognized tribes in the lower 48 states. Once this was completed, tribes were called to obtain current tribal information. Several non-federally recognized tribes are in the process of applying for federal recognition and Ms. Roberta L. Hayworth, St. Louis District Native American Coordinator, is in contact with the BIA on a regular basis to learn the status of these tribes. As a tribe gains federal recognition it is added to the list.

Ms. Hayworth also obtained a list of all federally recognized Alaskan villages, including the relevant information that was available. This was then sent to Mr. Johnny Duplantis, Native American Coordinator for Alaska, to review and make changes. This database is now in the process of being formatted and will be on line shortly. Additionally, Ms. Hayworth is in the process of collecting information for the Native Hawaiian database.

The database was launched and the basic layout of the web page was created as part of the overall MCX-CMAC web site using Adobe Illustrator and Photoshop for the graphics. The database was then integrated into the web page. The web page utilizes Microsoft Active Server Page (ASP) and ActiveX Data Objects (ADO) technology to connect to the NAGPRA database. Server-side scripting is used to generate the pages dynamic content, and all output is delivered in standard, platform and browser independent HTML. The data is accessed in a read-only mode and allows the user / client to dynamically build a query to select only the tribes of interest by selecting the Official Tribe Name, the state in which the tribe is located, or both. These selections are provided through simple-to-use drop-down lists. Once the search criteria are defined and submitted back to the server, the page is regenerated with only the tribal

# THE TRIBAL NATIONS EXCHANGE

## OCTOBER 2001

information that matches the query. The user/client is also given the ability to provide comments or request updates to the database information by filling out and submitting a simple form at the bottom of the page. This information is sent directly to the data owner, currently Ms. Hayworth, via an SMTP internet mail message. This e-mail message is generated and delivered by the web server itself, not the user/client machine. This eliminates the need for the user to have a mail client installed locally; however, a valid return e-mail address is required in order to process and generate the comment message.

The database is updated when information changes due to tribal elections. The database can be accessed using the latest versions of Netscape and Internet Explorer through the district web page at <http://www.mvs.usace.army.mil/>.

***Submitted by Rhonda Lueck and Roberta Hayworth, St. Louis District***

### **News from Omaha District**

We have recently started including monitors from Native American groups on projects associated with section 10/404 permits in our district. The inclusion of Tribal monitors during earthmoving activities has resulted, in a greater trust between the Corps and Native American groups. Recently, a burial was found during excavation for National Register site testing when a Tribal monitor was on-site. The monitor was able to gather the skeletal material found on the surface in a respectful manner. We are now coordinating with the SHPO for removal of the remainder of the burial (which will be disturbed by the associated construction of a reservoir). The on-site presence of the monitor allowed us to deal with a potentially sensitive matter in a timely and culturally acceptable manner to Native Americans.

We have been working with Tribes in the Missouri River basin on bank stabilization. We worked with the Cheyenne River Sioux Tribe on bank stabilization at a site called Molstad Village. Tribal Para-professional archeologists worked with Corps archeologists to excavate portions of Molstad village that would be unavoidably disturbed by bank stabilization; it provided a training opportunity for the Tribal archeologists. Following the excavation, Corps employees and Tribal members completed an innovative form of bank stabilization using vegetation. A copy of a paper discussing the work at Molstad Village is available from Ed Brodnicki, 402-221-4888.

***Submitted by Ed Brodnicki, Omaha District***

### **CorpsNet & Native American Coordinators— A Winning Combination!**

Native American Coordinators from NWD and SPD, are poised to use a new and easy to use communication tool called CorpsNet. What is CorpsNet? It is a Microsoft Outlook enhancement that has been added to the Corps e-mail system to facilitate teamwork as we build and maintain relationships with Tribal Nations. NWD and SPD volunteered to participate in a test case of CorpsNet during the first half of FY02, to provide lessons learned and enhancements to system developer Dr. Dave Johnson of ERDC.

CorpsNet is a simple, easy to use tool. It is a public folder on Outlook which allows rapid retrieval of Corps POCs for networking and coordination. It also allows effective sharing of information and coordination critical to building successful relationships. To learn more about CorpsNet contact Dave Johnson @ 217.373.7205

***Submitted by Rich Taylor, HQUSACE Office of Strategic Affairs***

### **Tribal Reburial and Dedication Ceremonies at Fort Worth District Dam and Lake**

At sunrise on 6 September 2001, members of the Caddo Nation of Oklahoma gathered at an area near Jim Chapman Lake / Cooper Dam to dedicate a reburial area for the remains of Caddoan ancestors. The ceremony included the naming of the place as "Kun, Hah, Yuu, Nah" or "going home." Attending the ceremony was the Caddo Nation Chairperson, the Honorable LaRue Parker, the Fort Worth District Commander, Colonel Gordon M. Wells, several Caddo Nation tribal members, and personnel from the Fort Worth District and project offices. The dedication included traditional ceremonial practices by tribal elders, songs, and some very moving statements by tribal members on the importance of this reburial area to the Caddo Nation.

This reburial area, largely the efforts of Ms. Patience Patterson of the Fort Worth District, is part of a effort to understand Caddo Nation concerns with resources of significance in the former homeland of the Caddo, as well as to improve relations between the Fort Worth District and the Caddo Nation regarding the management and preservation of these resources.

***Submitted by Stephen Austin, Fort Worth District***