

# THE TRIBAL NATIONS EXCHANGE

## INFORMATION SHARING ON

### U.S. ARMY CORPS OF ENGINEERS

### ACTIVITIES IN INDIAN COUNTRY

#### **Federal Magistrate Rules on Disposition of Kennewick Man**

On August 30, 2002, Federal Magistrate John Jelderks issued his long-awaited Opinion and Order in the matter of *Bonnichsen et al. v. U.S.* To see the Associated Press story on the ruling and the text of Judge Jelderks' Opinion visit:

<http://www.kennewick-man.com/news/083102.html>

#### **Congress Considering Large Number of Bills Affecting Native Americans**

As this session of the 107<sup>th</sup> Congress nears its end, both houses are working to consider a variety of bills that will affect Native Americans. A complete list of measures under consideration follows:



bill[1].indian.doc

*Submitted by Mary Lee Johns, Omaha District*

#### **National Park Service Issues Draft Rules, Schedules Public Meetings, On the Establishment of Tribal Historic Preservation Programs**

The National Park Service (NPS) has issued proposed revisions to the Code of Federal Regulations (CFR), specifically, 36 CFR Part 61, establishing rules by which Tribal Historic Preservation Programs will be established and operated.

Thirty one Indian tribes have already received NPS approval to operate preservation programs. These programs have been created and assessed in the absence of standardized rules and with the development of 36 CFR Parts 61.8 and 61.9, NPS is affirming "the need for rules that establish a formal assumption process for Tribes and that respond more specifically to those values and needs of Tribes that are distinct from those of the States."

36 CFR Part 61.8 describes the process by which a Tribe can gain approval from NPS to assume State Historic Preservation Officer (SHPO) duties on tribal lands. Part 61.9 is designed to answer questions related to providing financial aid to Tribes that have assumed SHPO functions.

Public meetings on the proposed regulations will be held in such diverse locations as Albuquerque, NM; Seattle, WA; Lac du Flambeau, WI and Fort Yates, ND. The complete list and text of the draft rule can be found in the 12 August 2002 edition of the *Federal Register*.

#### **Director of Civil Works Approves Standing Team for Native American and Tribal Affairs**

The Director of Civil Works, Major General Robert Griffin, has taken an important step toward integrating Native American and Tribal Affairs into the Project Management Business Process with the chartering of a Native American and Tribal Affairs Team (NATAT).

The NATAT will address policy development and program implementation guidance pertaining to matters that affect, influence or include American Indian and Alaska Native Nations. It will advise and support the Director of Civil Works, other HQUSACE senior leaders and Corps Commands when USACE activities have the potential or demonstrated capacity to affect resources and lifeways of native peoples.

A Draft Management Plan, containing a detailed charter and membership roster, was submitted to the Director in mid-September and is included below.



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NTPLAN.doc

#### **Quote of the Issue**

*"For several seasons now, I have rooted against the so-called Redskins, having found it difficult to 'love the team but hate the name' . . . And much to my delight the team has generally played like the 'deadskins', which is what their name really means."*

Courtland Malloy in a September 16, 2002 column in the *Washington Post*. Malloy favors a name change for the Washington Redskins professional football team, noting that historically the term "redskin" refers to Indian scalps taken by White settlers for bounty.

On September 16<sup>th</sup>'s Monday Night Football, the Redskins lost to the Philadelphia Eagles 37 - 7.

THE TRIBAL NATIONS EXCHANGE  
SEPTEMBER - OCTOBER 2002

**USACE Assists National NAGPRA Program In Developing Questionnaire**

On July 18, 2002, Dr. Robert Stearns, National Native American Graves Protection and Repatriation Act (NAGPRA) Program Manager, convened a meeting in Albuquerque, NM, to develop a questionnaire to be used for reporting agency NAGPRA activities to the Department of the Interior's NAGPRA Review Committee. A questionnaire is considered a useful tool for providing information previously requested by, and provided to, the Review Committee at its regular meetings. Dr. Stearns stressed that responses to the questionnaire would be strictly voluntary and it would be the task of the National Program team to prepare and submit the report to the Review Committee. Representatives from USACE's Fort Worth, St. Louis, and Vicksburg Districts were among those in attendance. Representatives from other agencies and interested parties were also in attendance at the meeting.

A draft questionnaire was developed, and several representatives were requested to participate in a pilot program by completing the draft questionnaire and submitting it to the National NAGPRA Program team. The Program team will assemble the responses, and in turn, prepare a summary report that will be provided to the NAGPRA Review Committee for discussion at its next November 8 - 10, 2002, meeting in Seattle, WA. Representatives of agencies participating in the questionnaire are invited to attend the Review Committee meeting to observe and/or participate in discussions regarding the utility of the questionnaire.

***Submitted by Jim Wojtala, Vicksburg District.***

**Corps issues permit for Mohegan Aquaculture project in Long Island Sound**

**CONCORD, Mass.** — The U.S. Army Corps of Engineers has made a determination to issue a Section 10 permit to Mohegan Aquaculture LLC to establish an aquaculture operation in Long Island Sound, Conn.

Mohegan Aquaculture LLC plans installation of longlines, bottom cages and floats in nearshore waters for establishment of a commercial shellfish aquaculture operation at six sites within waters of Long Island Sound. The Corps' New England District, Deputy District Engineer Maj. Brian Green signed the permit late on Aug. 22, 2002.

"After careful review by the Army Corps of Engineers and other state and federal agencies, we have determined that this activity is permissible under our jurisdiction of Section 10 of the Rivers and Harbors Act," said Deputy District Engineer Maj.

Brian Green, New England District. "Through review by Corps engineers and biologists in consultation with other Federal, State and local agency representatives, we have concluded that the proposed project will not unreasonably interfere with navigation and will have minimal impact on the marine environment."

"We have sought public comments and listened to public and agency concerns as part of the permit review process," said Christine Godfrey, the Corps' New England District Regulatory Division Chief. "We held a public hearing on June 25, 2001, in Groton, Conn., on the Mohegan Aquaculture proposal to fully understand local concerns and issues."

Some issues of concern that were brought up are outside the Corps authority and must be addressed to the appropriate state or federal agency, she said.

"The final proposal was much reduced in scale from the original application request," said Project Manager Cori Rose, New England District Regulatory Division.

Additionally, there are 29 special conditions attached to the permit that the permittee must adhere to that were developed in response to concerns from the public and the various state and federal agencies. Such conditions prohibit the placement of gear within 25 feet of submerged aquatic vegetation, and require that the gear be maintained a minimum of 10 feet below the water surface to avoid conflict with boaters.

Several sites were eliminated completely to protect the environmental resources or recreational uses. A monitoring program will be implemented to ensure that there are no adverse effects. The permit results in a viable project for the applicant, while minimizing impacts on the environment and the recreational uses of Long Island Sound.

The Mohegan Aquaculture permit, Environmental Assessment and statement of findings, and other information are available online at: <http://www.nae.usace.army.mil/>.

***Provided by Tim Dugan, New England District***