THE TRIBAL NATIONS EXCHANGE

INFORMATION SHARING ON U.S. ARMY CORPS OF ENGINEERS ACTIVITIES IN INDIAN COUNTRY

In the Federal Register

In January 2001, the Bureau of Indian Affairs issued an important Final Rule on the procedures to be used by Indian tribes and individuals to acquire title to land into trust. Implementation of this rule has been delayed several times since its publication in the FEDERAL REGISTER. The most recent suspension of rule implementation was published on August 13, 2001. The Adobe PDF files below contain the January

25 CFR Part 151

25 CFR Part 151 Delay

2001 Final Rule and the recent implementation delay notice.

American Indians / Native Alaskans in Government

Here are some interesting statistics prepared by the Society of American Indian Government Employees:

The following employment statistics for American Indians/Alaska Natives in the Executive Branch of the US government are from the US Office of Personnel Management and reflect employment figures as of Sept 30, 1999.

The number in parentheses shows the percent of all employees in that Department who are AI/AN.

Dept of Agriculture 2,704 (2.5)
Dept of Commerce 310 (0.7)
Dept of Defense 6,659 (1.0)
Dept of the Army 2,550 (1.1)
Dept of the Navy 1,411 (0.8)
Dept of the Air Force 1,830 (1.1)
Dept of Education 47 (1.0)
Dept of Energy 215 (1.4)
Dept of Health and Human Services 9,910 (16.4)
Dept of Housing and Urban Dev 112 (1.1)
Dept of the Interior 11,220 (15.4)
Dept of Justice 950 (0.8)
Dept of Labor 111 (0.7)
Dept of State 67 (0.4)
Dept of Transportation 967 (1.5)
Dept of the Treasury 1,143 (0.8)
Dept of Veterans Affairs 1,803 (0.8)
All other Exec Branch agencies 1,377 (0.8)

Total for Executive Branch 36,218 (2.3)

BOOK NOOK
by Rich Taylor (CEMP-R)

I recently read an entertaining book by John Hockenberry called "A River Out of Eden".

I just had to read it after glancing at the inside cover that described one of the protagonists as a Corps fish hatchery biologist. I won't give away the storyline or provide a typical Amazon.com review, which you can access at their website. Instead, I recommend it to you based on its connectivity to the myriad of relationships we maintain.

This fictional, entertaining book weaves a storyline between the Corps, tribes, Hanford Nuclear site, white supremacists, salmon salvation efforts, dams, and just about any other prime time news event you can imagine. Check it out!

Tulsa District Works With Native American Governments

Tulsa District's (TD) Inter-governmental Support Team was established about four years ago. Since then, TD has forged 26 Inter-agency Agreements with 26 of the 39 federally recognized tribes within TD's area of responsibility. These agreements are in the form of a Memorandum of Agreement and set up procedures for generating Support Agreements between TD and the Tribes. The majority of the support agreements with Indian governments are for technical assistance with projects funded by HUD grants from the Southern Plains Office of Native American Programs (SPONAP). SPONAP asked the Corps to assist in executing HUD funded Indian construction projects.

TD provides inherently governmental services to the tribes on a reimbursable basis. Services include locating and negotiating with AE firms; review of contractor plans and specs; scopes of work; quality assurance and inspection. Projects include child

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development centers, fire stations, drug rehab facilities, multi-purpose buildings, water and sewage treatment plants, truck stops and plazas, wellness centers and master plans. These projects have contributed more than $25 million to the local economy. More importantly, the projects have helped meet many of the Indian communities critical infrastructure needs and have helped move the tribes toward self-sufficiency.

John Sparlin, Tulsa District
Program Manager, Native American Tribes
PPMD

Rock Island District and Sac and Fox of the Mississippi River in Iowa Participate in a Planning Study to Protect the Meskwaki Pow Wow Grounds

The Rock Island District (Corps) has partnered with the Sac and Fox Tribe to evaluate an emergency stream bank stabilization project. The project is located along the left descending bank of the Iowa River. This stabilization effort is authorized under Section 14 of the 1946 Flood Control Act, as amended by the Water Resources Development Act of 1986 (Section 14).

The Sac and Fox Tribe trace their origins to the northern Great Lakes area in Canada, but by 1760 they occupied portions of the upper Midwest. Tribal members prefer to be called the Meskwaki but because of treaties, their official name is the Sak and Fox Tribe of the Mississippi in Iowa. Approximately 1,100 Sac and Fox live on the Meskwaki or Tama settlement in Iowa.

The Section 14 Project Area is directly adjacent to the Iowa River, where continuing rapid bank erosion from the Iowa River (2 feet/year) is threatening to destroy the remaining historic Pow Wow Grounds, which are part of the original 80-acre settlement, purchased by the Sac and Fox Tribe in 1857. This area has great historic, cultural, and social significance and is used for Meskwaki ceremonies. Two large Pow Wow events are held annually at the site. The proposed placement of prefabricated concrete mattresses to reduce erosion will stabilize the embankment. All work will be done from the existing land access and require minimal ground disturbance to the existing Pow Wow Grounds

The Sac and Fox Project Area lands are held in Federal trust and coordination was required with Jonathan Buffalo, Historic Preservation Coordinator of the Sac and Fox Tribe and with Richard Berg of the Bureau of Indian Affairs, Midwest Regional Office, Snelling, Minnesota (BIA).
The Corps proposes a Phase I intensive archeological survey for undocumented historic properties within the Project Area. The Phase I investigations will encompass approximately 1,200 to 1,400 feet of bankline directly adjacent to the Pow Wow Gounds. Also, the Contractor shall complete a site form for the potentially eligible and traditional cultural property (and possible sacred site) identified as the Pow Wow Grounds and make a recommendation of NRHP eligibility of this site.

The Corps is required to identify and solicit consulting parties for comments and assess the effects from on any significant historic properties. As accorded by Federal regulations, the Corps invited consulting parties to comment on the proposed Section 14 emergency action. Once constructed the project will protect the Meskwaki Pow Wow Grounds for future ceremonies and ensure the continuance of traditional way of life important to the settlement.

Ron Deiss, Rock Island District
Archeologist

Former BIA Director on National Public Radio

Should Native Americans on reservations be exempt from State and Federal laws, including environmental policies? Can Indian peoples and tribal casinos declare themselves free of State and Federal taxes? How do we balance constitutional rights with treaty obligations?

These questions will form the basis of a debate between former Bureau of Indian Affairs (BIA) Director Kevin Gover and Tom Gede, Executive Director of the Conference of Western Attorneys General.

The debate, "Nations Within: The Conflict of Native American Sovereignty," is sponsored by the University of New Mexico School of Law and KUNM Radio. It will be held before a live audience in Albuquerque early this month and taped for broadcast on NPR's Justice Talking (www.justicetalking.com). Justice Talking is a weekly program on constitutional issues produced by the Annenburg Public Policy Center at the University of Pennsylvania. The "Nations Within" program will air on public radio stations nationally this Fall.

Establishing Reburial Areas at Projects: A Success Story

As early as 1999, the St. Louis District began discussions of the use of set-aside areas at our operational projects for the reburial of Native American remains. These discussions were prompted by several inadvertent discoveries of human remains and the potential repatriation of hundreds of remains held in our repositories. A need was further recognized during our annual tribal consultation meeting in which tribal members affirmed that a reburial area at each project would not only be culturally preferable but also practical given that many of the tribes do not have a land base on which to rebury remains. The District Engineer (DE) agreed to look into this, and, at the DE's request, the St. Louis District established a strategy to satisfy the tribes' request. This strategy included (1) preparing an information packet of potential reburial areas and sending it to the tribes, (2) consultation with tribes, (3) tours of potential reburial areas, (4) final consultation, (5) archaeological clearance of the reburial area, (6) designation of land classification change in the Master Plan, and (7) an agreement with tribes for area use. With the passing of the Water Resources Development Act (WRDA) of 2000 and the Corps' Initial Implementation Guidance for Section 208 of WRDA, Corps districts are now compelled to begin the process of identifying suitable lands at civil works projects for the reinterment of Native American remains that were originally or inadvertently discovered within project land and that have been rightfully claimed by a lineal descendant or Indian tribe.

Implementing the strategy outlined above, the St. Louis District initially spoke with each of the project operational managers, as each of them possessed unique and invaluable knowledge of properties for which they are responsible. We asked each of them to pick one or more viable options for reburial areas based on criteria such as flood susceptibility, ease of ground penetration for reburial, restrictions on public access, current land use, and ease of access. Desirable sites included those that were not high public use areas but still provided relatively easy access, above the flood pool level, devoid of future land improvement, and could provide adequate land area to accommodate our anticipated burial plot size (a maximum plot size of 5-by-10 feet per individual was used to estimate needed acreage).

Each project manager provided their recommended potential reburial areas following a standard format: (1) a map of the project and a close-up view of the potential reburial area, (2) the size of the reburial site, (3) the normal pool elevation and flood event risk of potential reburial areas, (4) a description of the site including topography, soil type, flora, fauna, distance to roads and public areas, and present land classification, (5) the advantages and disadvantages of the site, (6) the site priority for use as determined by manager, (7) the Corps ownership description of areas, and (8) a description of any agency managing the land other than the Corps. Each project recommendation made actively avoided know archaeological sites. Each project provided photographs and a videotape of the potential reburial areas. During this process, district contacts in real estate, construction-operations, office of counsel, and the cultural resources manager were consulted and advised.

A notebook containing the gathered information and background for each project was assembled and mailed to tribes prior to our scheduled consultation meeting. Additionally, the videotape was mailed to each tribe so they could view the potential reburial areas should they be unable to attend the meeting. At the consultation meeting, each operational project presented data on the reburial areas under consideration, answered questions from tribal members, and solicited comments. Furthermore, since each project rotated hosting the consultation meeting, a tour of the potential reburial areas was arranged during each meeting. It was made clear by the district as to our limitations in protecting and managing the reburial site. Discussions and tours of the reburial areas continued over the next several years toward a goal of determining two possible reburial sites at each project.

Three recent inadvertent discoveries at Mark Twain Lake, Missouri, prompted the decision to initially designate a reburial area at Mark Twain. The proposed 6-acre, fee-title held site was a former agricultural grassland surrounded by an oak/hickory forest. The topography is gentle to moderately sloping, and the site is accessible by a gated gravel access road. It is classified as ML-7, Multiple Resource Area, in the project's Master Plan. The entire resource area is available for low-density recreational activities such as hunting, fishing, hiking, and nature study. Advantages to this site as a reburial area include a gated all-weather roadway near the site, an existing, adjacent, culturally significant site, above flood-pool elevation, a relatively secluded environment, and an area management of wildlife and diverse flora. Disadvantages included heavy use during hunting seasons.

Before completing the designation of the reburial area, the St. Louis District had to comply with the requirements of the National Historic Preservation Act, Section 106. In selecting each potential reburial area, the project consulted maps of known

archaeological sites and selected locations which avoided known sites. Ideally, these potential reburial areas would have been surveyed previously but in many instances this was not the case. Therefore, Phase I archaeological surveys of these locations was necessary. In this classic chicken-or-egg dilemma, the District decided it would be better to get preliminary approval for a location from the tribes before proceeding with the archaeological surveys. For this reason, the archaeological testing was not completed until near the end of the designation process.

The proposed reburial site at Mark Twain Lake was located near one of the many Woodland mound groups at the lake. This mound group is the best preserved at the lake and is listed on the National Register of Historic Places. Paradoxically, once the immediate mound vicinity was listed on the Register in 1969 (when documentation requirements were less stringent than today), little additional archaeological work was conducted. The Register boundary and a subsequent site form boundary did not include the area selected for reburial.

In May 2001, the proposed reburial area was disked and surveyed by lake and district staff. Unexpectedly, a lithic scatter covered the entire 6-acre field and extended well beyond the site boundaries of the National Register Historic Site as previously defined. As a result, in July 2001, district cultural resource personnel, along with lake project personnel, conducted archaeological testing on a ¾-acre portion of the proposed reburial area at Mark Twain Lake. The portion of the field where the lithic scatter was minimal was selected for more intense surveying, including backhoe trenching and screened shovel tests. This area was outside the defined Register boundary. Investigations were coordinated with the Deputy State Historic Preservation Officer (DSHPO) in advance and the DSHPO agreed to keep the location confidential. When the archaeological material in the tested area was found to be confined to the plow zone, the District determined that no significant properties would be affected and the SHPO concurred. A buffer of 50 feet at the closest point and 100 feet elsewhere will be maintained between the archaeological site and the reburial area.

Since the archaeological testing showed that no significant cultural resources would be impacted by any reburial activity, this area at Mark Twain Lake is currently being designated as a reburial area. Consequently, its land classification will be changed to an Environmental Sensitive Area in the project's Master Plan. Environmental Sensitive Areas are areas where scientific, ecological, cultural, or aesthetic features have been identified, and the identification of these areas on the map is supported by a narrative explaining the rationale for the classification. These areas, normally within one of the other classification categories, must be considered by management to ensure the sensitive areas are not adversely impacted. Normally, limited or no development of public use is contemplated on land in this classification. No agricultural or grazing uses are permitted on this land. It is intended that all Environmental Sensitive Areas zoned for NAGPRA purposes will not reveal the purpose for which the zoning and strict protection of the area was designated. The Master Plan description of a NAGPRA–related Environmental Sensitive Area was written as follows.

> This 6-acre area is zoned as Environmental Sensitive due to the environmental significance and sensitivity of the area. All public use or Corps/agency activities that may disturb or remove the soils, forest or other vegetative cover of this area are prohibited.

All maps of the reburials will be maintained by cultural resource, construction-operations, and lake personnel. A summary of the archaeological investigations was provided to the tribes. Tribes were also kept informed throughout the process through quarterly reports. The St. Louis District's next step is to draft an agreement with tribes that outlines restrictions of the established reburial area. Such restrictions include that no extraordinary maintenance will take place and no external markers will be used. Long-term coordination with tribes will be vital for the continued success of reburial areas.

Rhonda Lueck and Suzanne Harris, St. Louis District