

# 5

## Native Americans

Two-hundred and fifteen Department of Defense (DoD) installations have cultural or historical affiliations with Native American tribes as of fiscal year (FY) 2009. Certain DoD operational and training activities, including weapons testing, practice bombing, and field maneuvers have impacted American Indian lands and Alaska Native Claims Settlement Act (ANCSA)-conveyed properties. DoD created the American Indian and Alaska Native Policy (the Policy) on October 20, 1998. Under the Policy, the Department pledges to:

- Meet its trust responsibilities
- Build stable and enduring relationships with tribes through government-to-government contact
- Integrate the principle and practice of meaningful consultation with tribes at the installation-level
- Protect natural and cultural resources

## Native American Programs at a Glance

### Program Accomplishments:

- Assessed **716 of 918** total reported potential impacts to determine whether the impacts are attributable to past DoD activities and are on tribal lands
- Mitigated impacts at **over 100 sites** in FY2009
- Completed cleanup of **nearly 50 sites** to date, with one cleanup completed in FY2009
- Trained **over 1,000** DoD personnel in skills needed to initiate effective consultation with tribal governments

## Applicable Requirements

The following requirements govern DoD relationships with federally-recognized tribes and Native Hawaiian Organizations:

- **DoD Instruction (DoDI) 4710.02 "DoD Interactions with Federally-Recognized Tribes"** implements DoD policy, assigns responsibility, and provides procedures for DoD interactions with tribes.
- **DoDI 4715.16 "Cultural Resources Management"** reiterates DoD policy with regard to federally-recognized tribes and incorporates Native American metrics.
- **The Native American Graves Protection and Repatriation Act (NAGPRA)** provides guidance on the appropriate treatment and disposition of excavated American Indian and Native Hawaiian human remains and cultural items.
- **The American Indian Religious Freedom Act (AIRFA)** covers the access and use of religious sites.
- **The National Historic Preservation Act (NHPA)** addresses the preservation and protection of historic properties of religious and cultural significance.
- **The National Environmental Policy Act (NEPA)** requires DoD to evaluate the potential effects any proposed action has on natural and cultural resources.

## Management Practices

Twenty-two treaties recognize tribal members' right to hunt, fish, gather, and otherwise continue longstanding use of lands now occupied by DoD installations. The Indian Removal Act of 1830 relocated 20 tribes from the Southeast region to Oklahoma. These tribes still have traditional lands in the areas of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee. Many other tribes not removed in the 1830s remain in the South and East, and federal law requires military installations to consult with potentially affected tribes when their activities may affect tribal lands or resources.

Environmental impacts resulting from DoD activities on tribal lands could include hazardous materials, ordnance, old equipment, unsafe buildings, and debris. Such impacts can adversely affect the environmental, economic, social, and cultural welfare of tribes. DoD has an ongoing commitment to address these impacts, maintain careful stewardship of affected tribes' cultural resources, and support the government-to-government consultation process through a variety of programs.

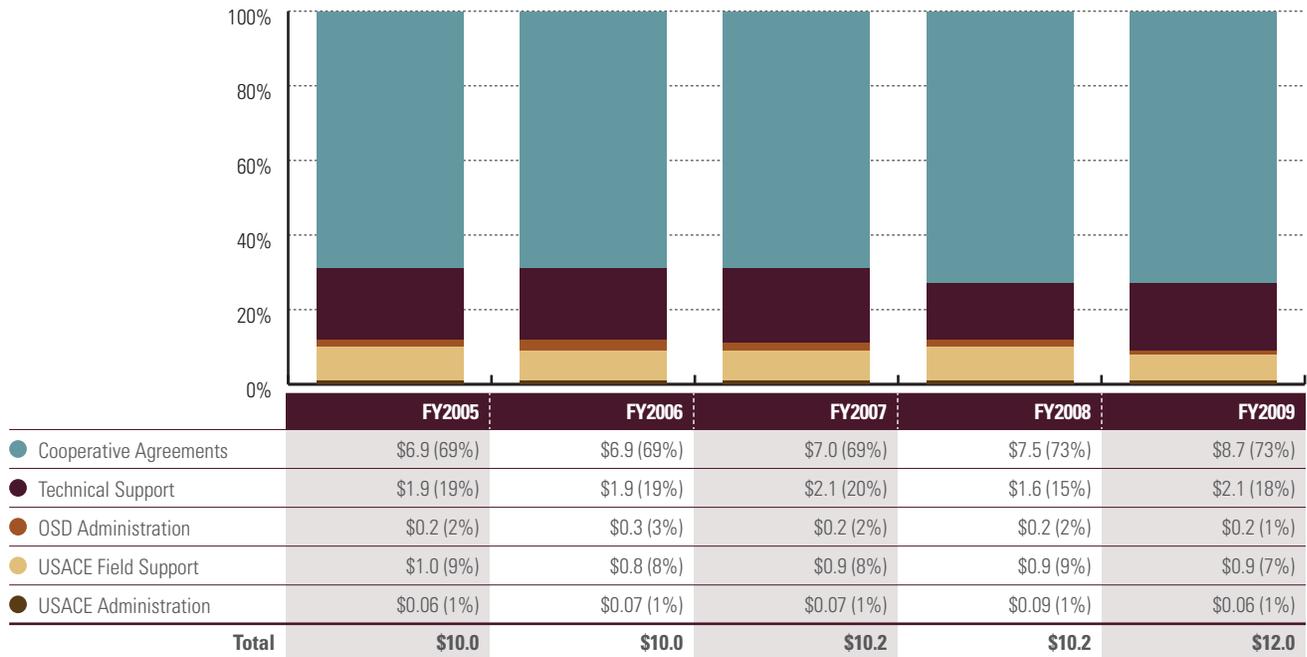
## Native American Lands Environmental Mitigation Program

In order to address tribal concerns in DoD environmental programs, Congress has appropriated annual funding to mitigate environmental impacts on Indian Lands and ANCSA-conveyed properties since 1993. In 1996, DoD developed the Native American Lands Environmental Mitigation Program (NALEMP) to work closely with tribes to mitigate environmental impacts with maximum tribal participation. DoD oversees efforts to gather information concerning potential environmental impacts, assess each impact for eligibility in the program, prioritize impacts for mitigation, and consult with the affected tribes.

In FY2009, Congress appropriated \$12 million for NALEMP, of which over 90 percent was provided directly to tribes for mitigation costs and to provide partner tribes technical support for mitigation activities (Figure 5-1). Specifically, NALEMP funds are used to:

- Manage cooperative agreements to partner with tribes to mitigate environmental impacts
- Conduct site assessments to validate reported DoD impacts to Indian lands. NALEMP has identified over 250 sites that are eligible for NALEMP or under review through nearly 700 assessments. In FY2009, NALEMP assessed over 30 sites related to over three dozen reported impacts. In FY2010, NALEMP will assess another 28 sites for program eligibility.

**Figure 5-1** NALEMP Funding (millions of dollars)\*



\* Subtotals may not equal totals due to rounding

- Maintain and upgrade the Native American Management System for Environmental Impacts (NAMSEI)
- Sponsor cultural communication courses to help DoD personnel consult effectively with tribes
- Address Native American policy issues

### Native American Management System for Environmental Impacts

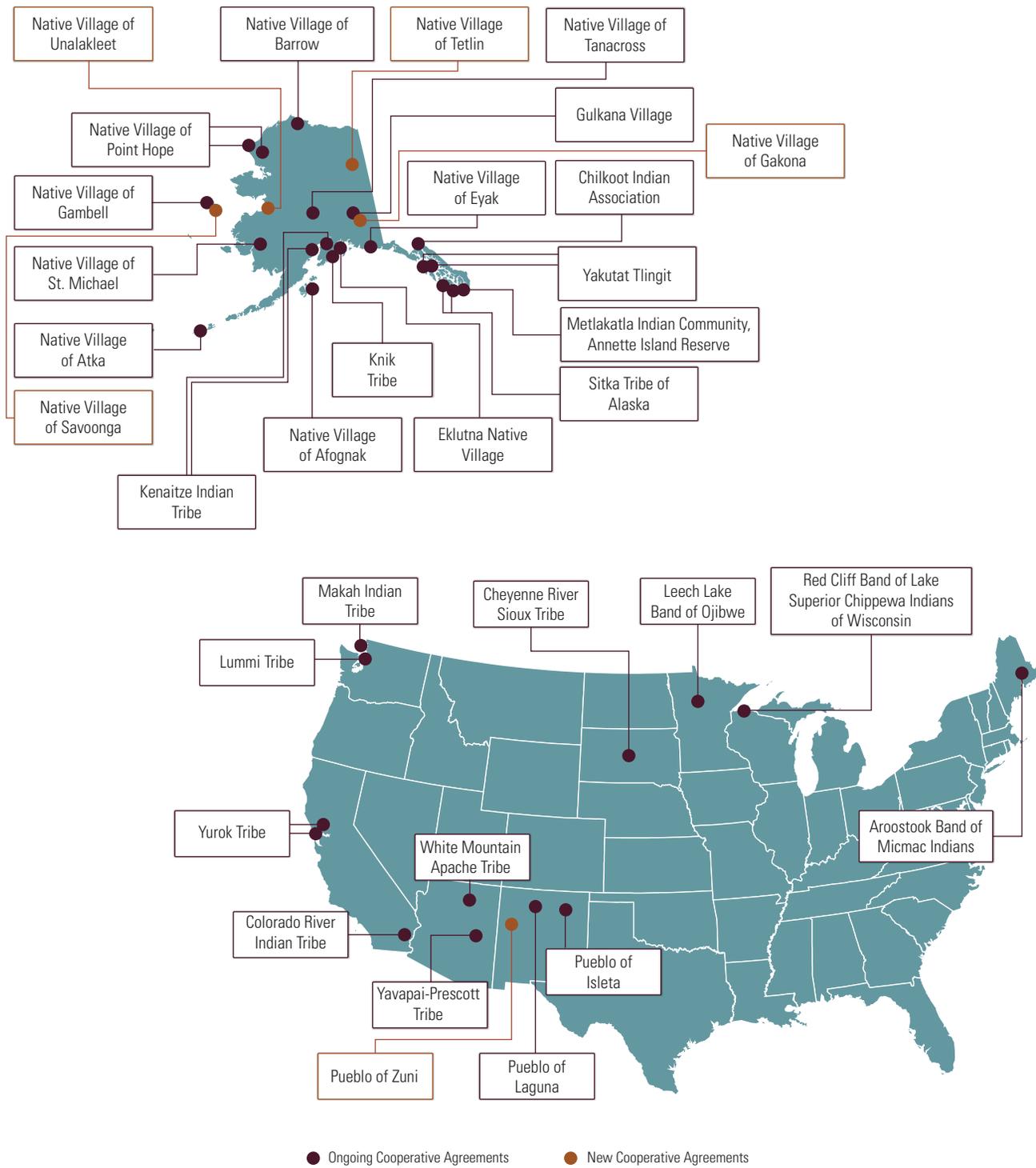
NAMSEI is an online system that allows tribal representatives, DoD, and the public to access, report, and share information on DoD-related issues of concern. It also tracks and maintains information on potential impacts to tribal lands and resources resulting from DoD activities. NAMSEI provides a historical record of site assessment results, presents a forum to report new suspected impacts, and receives online comments about assessments and project status updates. Additionally, the system supports program planning and funding decisions related to NALEMP. By the end of FY2009, DoD identified and tracked progress on more than 900 potential impacts reported in NAMSEI, with 21 new potential impacts reported in FY2009. To date, DoD has completed cleanup at 50 sites, with one site cleanup completed in FY2009.

### Cooperative Agreements

Under NALEMP, DoD enters into cooperative agreements with tribal governments to address environmental problems attributable to past DoD activities. These agreements incorporate “traditional ecological knowledge” into the design for cleanup, directly involve the tribe in project decision-making, develop tribal capacity regarding environmental services, and allow DoD to assist tribes in acquiring technical remediation skills.

DoD entered into 23 cooperative agreements in FY2009 (Figure 5-2). These included five new cooperative agreements to mitigate impacts on the Native Villages of Gakona, Savoonga, Tetlin, Unalakleet, and the Pueblo of Zuni. Eighteen follow-on agreements continued mitigation projects with previously funded tribes. In FY2009, DoD mitigated impacts at over 100 sites under a total of 43 open cooperative agreements. Since the inception of NALEMP, DoD has executed 177 new or continuing cooperative agreements to partner with nearly 50 tribal governments at a total funding level of over \$69 million. Cooperative agreements are the preferred method to undertake environmental mitigation projects on tribal lands because these agreements maximize the use of federal and tribal resources.

Figure 5-2 Cooperative Agreements with American Indian and Alaska Native Tribes Open in FY2009



## Legacy Resource Management Program

Chapter 3 introduces the Legacy Resource Management Program and provides natural resources examples. In addition, the following is an example of a FY2009 Native American project:

- **DoD's Native Hawaiian Consultation Protocol** is under development to clearly define its consultation responsibilities to Native Hawaiian Organizations. As DoD increases its military training activities in Hawaii, it must continue to comply with applicable environmental and cultural resource protection laws. Consultation plays a key role in compliance with NHPA, NEPA, NAGPRA, AIRFA, and the Religious Freedom Restoration Act. When completed, the policy statement will improve the overall working relationship between DoD and Native Hawaiian Organizations, and will assist DoD in meeting its legal consultation obligations.

## DoD American Indian Cultural Communication Training Course

DoD created its first cultural communications course in 1999 to provide installation commanders and their staff information and skills to initiate effective consultation.

The American Indian Cultural Communication Course is tailored to focus on Indian cultures and military history in the region where it is held. In addition to the Tribal Liaison, course instructors include other high-level Office of the Secretary of Defense officials, expert Native American consultants, and military experts in consultation. Dialog with leaders of local tribes helps participants learn more about cultural practices and unique tribal interests that may interact with the military mission. The course includes sessions on:

- History of Indian laws and the legal basis for the DoD American Indian and Alaska Native Policy
- Federal laws and policies impacting DoD's relationships with tribal governments
- Explanation of DoDI 4710.02 "DoD Interactions with Federally-Recognized Tribes"
- Introduction to tribal concepts and culture
- Intercultural communication practices
- Practical guidance and steps for consulting with tribal governments

Since its launch in 1999, the course has trained over 1,000 military and civilian personnel, consistently securing high marks for providing practical, ready-to-use information and skills. In FY2009, approximately 150 participants from all DoD Components attended training sessions held in Silverdale, Washington; Savannah, Georgia; and

Great Falls, Montana. Course locations planned for FY2010 include Omaha, Nebraska in December 2009, and Anchorage, Alaska in March 2010.

## DoD Native Hawaiian Cultural Communication Course

To complement the Native Hawaiian Consultation Protocol, DoD developed a Native Hawaiian Cultural Communication Course. The course includes information on:

- Hawaiian history
- Introduction to Hawaiian concepts and cultures
- Resources of special importance to Hawaiians
- Federal laws, regulations, and policies that impact DoD's consultation relationship with Native Hawaiian Organizations
- The DoD Policy Statement for Consultation with Native Hawaiian Organizations
- Practical guidance and steps for consulting with Native Hawaiian Organizations

On April 21-23, 2009, DoD held its first ever Native Hawaiian Cultural Communication Course at Marine Corps Base Hawaii. The course included a half-day cultural event and presentations by Native Hawaiian specialists in history, culture, intercultural communication, and consultation. Over 35 senior military and civilian personnel participated in the Executive Session on the first day, and over 50 action officer-level military and civilian personnel participated in the two-day course that followed. The next course is scheduled for February 2-3, 2010 in Oahu, Hawaii.

## Outreach to Tribes

The extensive DoD outreach campaign to tribes includes annual presentations and exhibits at nearly a dozen national and regional conferences of tribal leaders and tribal environmental officials. In FY2009, newly elected tribal officials and tribal environmental managers had the opportunity to learn about the Policy and various DoD programs of interest to tribal governments.

Outreach to tribes also includes use of online resources. DoD's Environment, Safety, and Occupational Health Network Information Exchange (DENIX) is the online source of information about DoD's environmental programs, activities, and initiatives. Updated information on DoD's Native American activities and initiatives will be included in the Native American Issues pages of DENIX, scheduled to be relaunched in early FY2010 ([www.denix.osd.mil/portal/page/portal/NA](http://www.denix.osd.mil/portal/page/portal/NA)).

## Evaluation Criteria

In FY2009, DoD adopted new performance metrics to annually evaluate the progress of DoD Components in implementing DoD’s American Indian and Alaskan Native Policy. The new metrics cover the following topics:

- Cultural Resources
- Natural Resources
- NAGPRA Collections

## Performance Summary

At this time, the consultation and NAGPRA metrics are too new to provide trend analysis. Figure 5-3 shows the FY2009 data; however, DoD anticipates that a minimum of three years of data collection will be necessary to begin to accurately identify trends, forecast future performance, and recommend related courses of action.

Appendix B, Section 5 contains Native American performance data by DoD Component.

**Figure 5-3** DoD Native American Metrics

Native American Metrics	FY2009
<b>Cultural Resources</b>	
Number of installations that have a cultural or historical affiliation with tribes	215
Number of installations that consult with tribes during Integrated Cultural Resource Management Plan (ICRMP) development	167
Number of installations that include a written consultation process in completed or revised ICRMPs	156
Number of installations that use an alternative process, separate from ICRMPs, for consultation with tribes	100
<b>Natural Resources</b>	
Number of installations where tribal rights to natural resources may be affected	54
Number of installations that consult with tribes during Integrated Natural Resource Management Plan (INRMP) development	93
Number of installations that include a written consultation process in completed or revised INRMPs	54
Number of installations that use an alternative process, separate from INRMPs, for consultation with tribes	80
<b>Collections subject to NAGPRA*</b>	
Number of installations or other entities where collections have not been evaluated for NAGPRA “cultural items”	20
Number of installations or other entities that currently have NAGPRA “cultural items” in their collection	50
Number of installations or other entities that have acquired human remains and/or funerary objects in FY2009	9

\* Includes military museum data