

RECORD VERSION

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BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

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**CONTAMINATED LAND CONVEYANCES: THE ALASKA NATIVE CLAIMS
SETTLEMENT ACT, THE DETRIMENTAL IMPACTS OF CONTAMINATION ON
NATIVE COMMUNITIES, AND THE NEXT STEPS FOR ENVIRONMENTAL JUSTICE**

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**NOT FOR PUBLICATION UNTIL RELEASED BY THE
SENATE COMMITTEE ON INDIAN AFFAIRS**

Vice Chairman Murkowski and distinguished Members of the Committee, we appreciate the opportunity to appear before you today to address the U.S. Army Corps of Engineers' activities on behalf of the Department of Defense (DoD) in cleaning up Alaska Native Claims Settlement Act (ANCSA) Contaminated Lands.

Overview

The Army Corps of Engineers supports DoD's commitment to protect the environment; ensure military readiness; protect the health of military and civilian personnel and their families; ensure operations do not affect the health or environment of surrounding communities; and preserve resources for future generations. Throughout the Nation's history, DoD has used land across the United States to train Soldiers, Airmen, Sailors and Marines. When this land was no longer needed for DoD activities, the Department cleaned up the land using the best practices available at that time and returned it to private or public uses. Today, DoD is continuing the environmental restoration (or cleanup) of its current and former lands.

The Army Corps of Engineers executes two programs on behalf of the DoD to address DoD contamination on Alaska Native lands.

First, as part of the Defense Environmental Restoration Program, DoD through the Army delegated execution responsibility to the Army Corps of Engineers for the Formerly Used Defense Sites (FUDS) Program. FUDS are properties that were formerly owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense prior to October 1986. The goal of the FUDS Program is to conduct necessary cleanup of contamination on former DoD lands resulting from past DoD activities to ensure protection of human health and the environment.

Second, the Army Corps of Engineers executes the Native American Lands Environmental Mitigation Program (NALEMP) on behalf of the Deputy Assistant

Secretary of Defense for Environment & Energy Resilience. The purpose of NALEMP is to mitigate environmental effects of past DoD activities on Indian lands and on other locations where the DoD, an Indian tribe, and the current land owner agree that such mitigation is appropriate.

FUDS Program

The Army Corps of Engineers and DoD are dedicated to protecting human health and the environment by investigating and, if required, cleaning up contamination and munitions hazards that may remain on these properties. Environmental cleanup at FUDS sites is conducted in accordance with the Comprehensive Environmental Response, Compensation and Liability Act and includes identifying eligible properties, investigating releases on the properties, and addressing releases of hazardous substances, pollutants and contaminants, including military munitions, that were the result of DoD activities.

The scope and magnitude of the FUDS Program in Alaska is significant, with more than 500 properties, of which many are on Alaska Native lands, including those transferred under ANCSA.

The work performed on FUDS properties in Alaska represents a large percentage of the FUDS Program. Since 1984, the DoD has invested over \$1.0 billion in cleanup of FUDS in Alaska, including over \$200 million on FUDS in the last five years, the highest funding commitment to a single state. In fiscal year (FY) 2022, the Army Corps of Engineers plans to execute approximately 15% of the FUDS appropriation on sites in Alaska.

The Army Corps of Engineers is committed to achieving the cleanup program goals established by DoD and the Army. Coordination with and input from our state, local, Tribal, and federal partners is an important component of successful attainment of cleanup program goals. Teams from Army Corps of Engineers district offices coordinate with state environmental offices and the U.S. Environmental Protection Agency (EPA) and provide for meaningful involvement by federally-recognized Tribes, landowners

(including ANCSA corporations), local officials, and the public in performing its work. The focus remains on continuous improvement in cleanup programs.

NALEMP

The NALEMP annual appropriation was first drafted in 1993 by Senator Ted Stevens (Alaska) and Senator Daniel Inouye (Hawaii). It funded a unique and successful partnership between participating federally-recognized Tribes and the federal government. After years of work under the appropriations process, the program was formally codified in Section 2713, Chapter 160 of title 10, United States Code in FY 2021.

The NALEMP has a specific focus on past DoD activities that may have had adverse environmental effects on Tribal lands. Congress has provided funds annually to mitigate environmental effects to Native American lands including those transferred under ANCSA.

DoD screens sites identified by the Tribes for NALEMP eligibility. A unique aspect of NALEMP is that it considers environmental effects to life-ways, including the ability of Tribes to safely conduct subsistence activities or access sites for cultural or religious purposes. Under NALEMP, funds are provided to the Tribes under cooperative agreements to carry out environmental mitigation projects proposed and prioritized by the Tribes. In addition to completing the projects, funding provides for training and technical assistance from the Army Corps of Engineers, which helps build capabilities in the Tribes to effectively complete the projects.

The work performed to date in Alaska under NALEMP is also significant. Since 1993, DoD has invested over \$100 million into cooperative agreements with Alaska Native Tribes, including approximately \$30 million in the last five years, the highest funding commitment in a single state.

Cleanup on Alaska Native Lands

The success of the FUDS Program and NALEMP is a credit to the extraordinary individuals at the staff level and the interagency cooperation in Alaska. The Army Corps of Engineers partners with federal agencies, state agencies, local entities, ANCSA corporations, and the Tribes. These partnerships improve consultation, communication, coordination, and cooperation resulting in the protection of human health and the environment through environmental restoration and ensuring compliance with applicable state and federal laws and regulations. To assist our partnership with the Alaska Department of Environmental Conservation (ADEC), the State of Alaska receives an average of over \$400,000 per year under the Defense and State Memorandum of Agreement (DSMOA) Program. The DSMOA Program provides funding to the State of Alaska for requested services such as the expedited review of technical documents, site visits, and public participation support.

The Army Corps of Engineers values local community input and recognizes the importance of public involvement at FUDS that require environmental restoration. Restoration Advisory Boards (RABs) have been formed in multiple communities to discuss cleanup issues or concerns collaboratively with the Army Corps of Engineers and the state and federal regulators. RABs include members from the Tribes, ANCSA corporations, and local communities and reflect the diverse interests in the communities that are impacted by the cleanup activities.

Arctic Executive Steering Committee ANCSA Contaminated Lands Initiative

The Department, EPA, and the Department of the Interior (DOI) co-lead this effort with the support of the Department of Energy, the National Oceanic and Atmospheric Administration and others, to foster a collaborative approach across the federal family to leverage collective resources and expedite progress to clean up contaminated sites. The goals of this initiative are to strengthen collaboration between the federal government, the State of Alaska, Alaska Native Corporations, Tribes, and Alaska Native

Organizations; improve data and transparency through the creation of a joint lands inventory; prioritize cleanup of contaminated sites; and initiate cleanup of sites that have not yet been addressed.

Statement of Cooperation Executive Steering Committee

The Army Corps of Engineers has been working cooperatively with the EPA, ADEC, Alaska Native Corporations, the DOI and other federal agencies for years to address contamination on ANCSA-conveyed lands. The Army Corps of Engineers is a member of the “Statement of Cooperation Working Group,” a chartered partnership of state and federal agencies in Alaska to evaluate pollution impacts and prevention and cleanup of contamination. The charter now includes 13 agencies, and a committee for Contaminated ANCSA Lands.

The Army Corps of Engineers is supporting efforts to refine the DOI joint lands inventory, share information on cleanup efforts, develop approaches for managing complicated sites, research and categorize sites, and identifying ways to better share this information with stakeholders. The Army Corps of Engineers also provided FUDS data for the Contaminated Site Inventory map, created by the Bureau of Land Management (BLM).

Amaknak Island Cleanup Example

A great example of a cleanup success story is a site in Unalaska called “Amaknak FUDS Unalaska Valley.” DoD’s use of Amaknak Island began with the Navy’s acquisition of land for a radio station and other naval facilities in the 1930s. The Navy constructed a Naval Operating Base on Amaknak Island. The Army was ordered to defend the base and collocated its facilities on the island. After the June 1942 Japanese bombing of Amaknak, the Army moved to disperse its housing on Unalaska Island to areas such as Unalaska Valley. In 1947, the last of the posts were closed and the land transferred to the BLM. Following the passage of ANCSA, the Aleut Corporation

obtained subsurface rights and Ounalashka Corporation obtained surface ownership of the Unalaska Valley in 1974.

Buildings and debris at the site were removed by the Army Corps of Engineers beginning in 1985 and continued into the 1990s. Historical information, records, and maps of the area indicated that a number of buildings potentially had underground storage tanks (USTs) associated with them. From 1997 to 2016, extensive USTs and associated petroleum-contaminated soil removal actions occurred throughout the Amaknak FUDS including the removal of approximately 52,000 cubic yards of contaminated soil, over 200 fuel storage tanks, and over 10,000 feet of pipeline.

In the summer of 2019, the Army Corps of Engineers reassessed the community's support for the formation of a RAB. This inquiry was met with overwhelming support from the community in part due to the tri-lateral agreement between Ounalashka Corporation, Qawalangin Tribe of Unalaska, and the City of Unalaska. The RAB was formed in 2020. Board members include many Unalaska community leaders and residents. Between 2020 and 2022, the RAB has expressed community cleanup priorities; top among those priorities is the cleanup of Unalaska Valley. Cleanup of seven individual UST sites in Unalaska Valley is underway by Ounalashka Corporation Environmental Services, LLC.

Recently, the ninth Amaknak RAB meeting was held on August 3, 2022. The Army Corps of Engineers will build on the success of the Unalaska Valley cleanup by next addressing the RAB-identified areas of Little South America and Summer Bay-Humpy Cove. Approximately \$3.4 million over six years is projected to be expended to address these community priorities.

Challenges

Cleanup work in Alaska is logistically challenging. Many Alaska FUDS and NALEMP sites are isolated from the Alaskan road system. Equipment and workers are often flown

and/or barged to the project locations with limited infrastructure available to support cleanup operations. Additionally, due to the arctic climate, the field season is limited. To maximize the field season and minimize mobilization costs, investigation work is often done concurrently with removal actions. Additionally, large sites under investigation are broken into smaller projects with achievable remediation solutions.

Conclusion

In closing, we sincerely thank the Committee for this opportunity to discuss the Army Corps of Engineers environmental cleanup activities on ANCSA contaminated lands. We are committed to addressing this contamination resulting from past DoD activities in collaboration with Alaska Native Tribes and ANCSA corporations, the State of Alaska, and other federal agencies.