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Collaborative Interaction: Military Managers Consulting with American Indians

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Master of Public Administration
Environmental Policy and Management

A professional paper submitted in partial fulfillment of the requirements for the
Public Administration Department
Greenspun College of Urban Affairs

University of Nevada, Las Vegas

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I pray my future actions will serve my family and community, bringing honor upon myself, as I engage new issues while skittering along life's highway.

ABSTRACT

This research paper outlines methods for American Indians' and military land managers' collaborative work of accomplishing resource stewardship aimed at achieving both the Indians' "One Earth" and military "Mission Preparedness" postures. The research goal is to benefit military facility managers' by providing tools to establish interaction programs with Indian Tribes and organizations.

The paper provides a process framework, gleaned from on-going programs, directives, and policies identified by reviewing books, journals, and reports. A comparison of the process-streams from several programs was conducted determining steps recurring in the programs. These repeated steps form key processes for use by installation managers in starting and conducting government-to-government relations with American Indians. The research goal is to provide valid ideas, to be implemented leading to improving methods for conducting American Indian Interaction Programs, providing cooperative team management of military installation land. The process strategies are derived from reviewing interaction programs and research into cooperation, collaboration, and management strategies.

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CHAPTER 1: INTRODUCTION

This paper summarizes research aimed at identifying processes and practices employed by military land managers for interacting and consulting with American Indian people. Further, the paper provides methods for federal employees to use in starting or expanding programs aimed at increasing the value of the enterprise for both the Indian people and the military members. The research questions formulating the study focus on methods of establishing programs and reporting on successful initiatives embraced by managers. The overall goal is to generate research results to be used by facility managers in conducting successful Indian interactions.

Chapter One introduces the concepts of the research initiatives, details the basic premises, and introduces a terminology review, setting the stage for clear communication. Chapter Two chronicles the literature review reflecting the history, experiences, and insights from programs underway.

Chapter Three identifies the research questions, addresses the methods of conducting the research, and analyzing data.

Chapter Four is the outcome of the research reflected as findings, constituting the toolbox for improving program traits, enhancing effectiveness. This chapter summarizes the issues found by the author, setting the stage for success in collaboration, cooperation, and communication. Highlights from various programs are also featured in this section.

Chapter Five is the conclusion reflecting assessment of the literature review, findings, and outcomes. This chapter also reflects weaknesses in the data coupled to suggesting future research to better understand and improve interaction programs.

Formulating premises

Two premises are noted, giving the reader a basic understanding of the starting point for the research. The first premise, and most important, is that military facility managers shall enter into collaborative consultation with the American Indians' who have ancestral ties to the property. While this issue is still debated by some federal managers, no debate will be approached here based on the laws requiring honest interchanges. Some of the laws, mandates, and requirements are reviewed supporting this contention.

American laws recognize requirements for active cultural resource management programs, archaeological compliance, and Native American Interaction. The laws and Executive Orders, coupled with regulations, mandate military installations identify, understand, and protect resources critical to Indian culture. The laws allow Indian people to pursue their culture through spiritual events, powwows, site visits, or perhaps ceremonies on military lands whenever scheduling is possible.

The most recent mandates for federal agency participation in collaborative programs are in the 1996 Executive Order 13007, Indian Sacred Sites; and Executive Order number 13084, Consultation and Coordination with Indian Tribal Governments signed in 1998.

The second premise anchoring this research is that good management practices by military facility representatives can improve existing programs or start new programs netting valuable results for participating Indian Tribes and the military mission. Adjoining this premise is the assumption that facility managers consider this a high priority requirement authorizing annual funding for an adequate program. The research theory is based on the notion that military staff members can initiate successful programs

and tribal representatives will participate. The programs can be postured toward achieving successful communication between the Indian people and the facility representatives resulting in actions on the property enhancing property sustainability, protection of artifacts, historic, and pre-historic sites while providing a forum for identifying and visiting special areas, and developing future plans for Indian site visits, ceremonies, and spiritual events.

Key terms

Communication through this document can be made more successful by clear understanding of terms. A review of the most critical terms is reflected here and the words listed will have the same meaning throughout the document, but can be found in other references with a different intent, thus making this terminology discussion essential. These are the key terms used to express program development; more terms and phrases are listed in Appendix A - Definitions.

Collaboration. A team of people who represent agencies, tribes, clubs, activists groups; working together, contributing joint intellectual effort, and sharing in joint decision making. The members, or their agencies, may be responsible for funding and implementing actions.

Consultation. Consultation is conferring between two or more parties to identify issues and make a good faith attempt to find a mutually acceptable resolution of differences identified. It is an interactive process of seeking advice, or information, and exchanging views (Downer, 2000, p.54).

Environmental Conflict Resolution. Working through conflicts related to the environment, natural resources, and public lands involves using a range of methods of

alternative dispute resolution – allowing all parties or stakeholders in a dispute to reach a mutually satisfactory agreement on their own terms. This provides an opportunity to work out differences arriving at joint solutions (U.S. Institute for Environmental Conflict Resolution, 2000, <http://www.ecr.gov/what.htm>).

Sovereignty. The supreme power to control political affairs within a territory. Native American nations had unchallenged sovereignty in the pre-contact era and they assert that the power remains today. In practice, powers are shared in Indian Country (Thompson, 1996, p. 278).

CHAPTER 2: LITERATURE REVIEW

The first step for a military installation's successful conduct of an interaction program is senior management agreeing the action is required. There remains dissent by a few military managers who note programs are not required, as many do not understand tribal sovereign governments. The author reflects an opinion that requirements are clearly noted in federal law and shall be recapped, not debated.

Legal drivers

American laws recognize requirements for active cultural resource management programs, archaeological compliance, and American Indian interaction. The first U.S. law relating to these topics was listed in 1906, with enactment of the Antiquities Act (Public Law 59-209). This action marks the entry of environmental law, setting the stage for protection of pre-historic and historic sites. The Antiquities Act was followed by requirements growing exponentially throughout the 20th Century. The National Historic Preservation Act of 1966 (Public Law 89-665) with amendments (Public Law 91-243 and others); Native American Graves Protection and Repatriation Act (Public Law 101-601) of 1990; American Indian Religious Freedom Act (Public Law 95-341) of 1978; require protection of historic and pre-historic sites and items, consultation with Indian people, and reverence to the beliefs of Indian Tribes. (An overview of these laws was presented in the *Nellis Air Force Base Cultural Resource Management Plan*; excerpts are in Appendix B – Law summation).

These laws, coupled with regulations, direct military managers to identify, understand, and protect resources critical to Indian culture. The laws allow Indian people

to pursue their culture through spiritual ceremonies and events. Compliance with the laws can be realized, in part, through conducting successful interaction programs.

An example of an interaction program, following the intent of the laws demanding consultation, is the scientific study of the Yucca Mountain site in Nevada for storage of high-level nuclear waste. The Department of Energy has involved Native Americans in the environmental impact assessment phase of site characterization because of the American Indian Religious Freedom Act, the National Historic Preservation Act and the Yucca Mountain Programmatic Agreement (Stoffle, Halmo, Olmsted, Evans, 1990, p. 4).

Department of Defense has a policy statement reflecting principles based on tribal input, federal policy, treaties, and federal statutes. The policy discusses trust responsibilities, government-to-government relations, consultation as well as natural and cultural resources protection (1998, pp. 1-5).

History horror

The need for laws and guidance to the American people and the military grew from the damaging treatment of native people when whites came to the continent so let's look at history.

“The attempted extermination of Indian people failed, but only because of the strength of the native people. As the Europeans floated onto this continent the lives of Indian people were negatively changed forever. The Indian people, and the natural resources were exploited and destroyed as the white fever raged across the land. America was built through rampant racism and greed” (Takaki, 1993).

Also recorded in A Different Mirror, shortly before the beginning of the American Revolution, Benjamin Franklin noted that the number of “purely white people” in the world was proportionately very small. All of Africa was black or tawny, Asia chiefly tawny, and “America (exclusive of the new comers) wholly so.” The English were the “principle body of white people,” and Franklin wanted more of this type of America. “And while we are . . . Scouring our Planet [sic], by clearing America of woods, and so making this side of our globe reflect a brighter light to the eyes of inhabitants in Mars or Venus,” he declared, “why should we in the sight of superior beings, darken its people?” (1993, p. 79).

Takaki goes on to tell us, on February 16, 1803, President Thomas Jefferson wrote a letter to a political leader in Tennessee regarding federal policies toward Indians. The government, he informed Andrew Jackson, must advise the Indians to sell their “useless” forests and become farmers. The founding father was confident that the young westerner would be able to advance the borders of a homogeneous America, which he accomplished by removing Indians (1993, p. 84).

Coming from this horrifying beginning required rules guaranteeing the rights and freedoms of Indian people. As the Indians were pushed off their land for settlements and military installations, they left history, culture, many important plants, and animals behind.

Throughout the history of America and under the control of various presidents, attack on the cultures and lifestyles of Indian people continued. Even though laws and requirements, over the decades, have expressed support and equality for Indian people,

strong actions have not been seen. Various power groups have sought new or restored recognition as Native American Nations, from the U.S. government (Thompson, 1996, p. 19).

The impetus for recognition gained considerable momentum as the Kennedy, Johnson, and Nixon administrations advanced new programs offering various grants to native groups. Special status for selling arts and crafts, fishing rights, tobacco sales, and most recently, gambling enterprises has maintained the interest of many in seeking official tribal status (Thompson, 1996, p. 19).

In line with the changing attitudes and required interaction, the Secretary of Defense contracted a review, *Native American Affairs and the Department of Defense*, stating, “DoD should expect that Native American affairs will be of growing importance to the department, changing from the need to meet a few loosely enforced statutes to a larger awareness involving core DoD interests and goals. DoD will need to develop new capabilities and an increased level of organizational attention” (National Defense Research Institute (NDRI), 1996, p. 8).

Responsibility to Earth

When looking at the fact that DoD controls 25 million acres of public land, it becomes obvious these are spaces where American Indian people lived, prayed, laughed, worshiped, and died. These lands were their homes, hospitals, religious sanctuaries, and represented life. When federal land managers recognize this perspective it is easier to understand why communication with tribes is important.

As the programs are becoming recognized as critically important to sustaining the mission, more data is being shared to help agencies move forward. Exchanging

information, discussing experiences, describing success and failure, all aid in improving communications resulting in program success.

The American Indian people approach interaction as important, coupled to a strong desire to participate in programs that preserve and protect their culture, even though it takes a great deal of their time and energy. The Indian people are tied to protecting the Earth and all the inhabitants upon the Earth. Indian people have a different perspective of plants, rocks, soils, and birds than do Euro-Americans, so this cultural belief brings them to the table to meet and interact with the federal agencies.

Indian people describe and explain cultural resources in terms of their own culture, experience, and knowledge. Because their knowledge and culture are different from that of western scientists, there can be differences in how Indian people and western scientists view these resources (Stoffle, Halmo, Olmsted, Evans, 1990, p. 12).

Because of the different views, archaeologists making discoveries regarding America Indian sites also require Indian interpretation to write conclusive and accurate products. Through interaction programs these interfaces are established. As program importance is recognized, and initiatives are embraced, the topic of interaction and consultation can be approached in many forums.

Initiatives for consulting with native people goes beyond the shores of the United States, as is noted in minutes from the United Nations Conference on Environmental and Development of Native Peoples, June, 1992 in Rio de Janeiro. The record stated:

...of importance, governments, in full partnership with indigenous people and their communities should, where appropriate: (a) Develop or strengthen national arrangements to consult with indigenous people and their communities with a view to reflecting their needs and incorporating their values and traditions and other knowledge and practices in national policies

and programmes [sic] in the field of natural resource management and conservation and other development programmes affecting them;
(b) Cooperate at the regional level to address common indigenous issues with a view to recognizing and strengthen their participation in sustainable development.

Returning from world to U.S. policy, President Clinton issued executive orders strengthening programs. In a memorandum the President noted, each executive department and agency shall apply the requirements of Executive Orders Number 12875, October 26, 1993 (“Enhancing the Intergovernmental Partnership”) and 12866, September 30, 1993 (“Regulatory Planning and Review”) to design solutions and tailor Federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities (DoD, 1994, p. 7).

The directive says, “Each agency shall have an effective process to permit elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policy or matters that significantly or uniquely affect their communities. The order also provides a funding mechanism where it says program cost will be paid by the Federal government (DoD, 1998, p. 11).

Various reports have stemmed from the executive orders along with regulations guiding federal land managers’ interaction with Tribes. The reports, ideas, and recaps must be reviewed with a clear eye toward value as some reports have biased sections that the manager must be able to identify. An example of a report bias is presented to form a structure for managers’ review of data. How can a manager weed out these segments allowing application of the valuable data? The answer proposed by this research is continued learning, education, and growth in understanding of the American Indian culture a philosophy expressed in the life long learning section, page 20.

The National Defense Research Institute report reflects an accounting of signing of the 1994 Executive Orders emphasizing the government interaction with the Indian people. The contractors reported, “On April 29, 1994, President and Mrs. Clinton, Vice President and Mrs. Gore, and every member of the President’s cabinet (other than the Secretary of State) met with more than 3000 Native American leaders of “federally recognized Indian tribes” on the south lawn of the White House. It was the first time in the nation’s history that a President of the United States had held such a meeting” (1996, p. 4).

From an independent reference, also referring to the signing events, “As President Clinton was about to sign Executive Order 12898 in February 1994, seven agencies, including the EPA and the National Institute of Environmental Health Sciences, sponsored a Symposium on Health Research and Needs to Ensure Environmental Justice at the Arlington, Virginia, hotel. According to an EPA official who helped arrange it, one intention of organizers was to reach beyond the regular coterie of “activists who come to everything,” bringing in “ordinary folks” from communities around the country. A \$300,000 government subsidy helped generate some 1,300 attendees, nearly twice as many as had been expected (Foreman, 1998, p. 43).

“But the event is still grimly recalled less for any initiatives it generated than for the harsh questioning and verbal attacks that reduced EPA administrator Browner to tears when she departed from her prepared remarks and conversed with the assembly in a prolonged and unscripted series of exchanges” (Foreman, 1998, p. 44).

These opposing accounts of events surrounding ceremonies relating to the same topic are caused by, what social scientists view as, filters. It is through filters that

individuals view all activities causing five people to describe one event in five different ways because interpretation is based on personal background. Company reports might filter out data the client might not want to hear or only see half of the story.

The National Defense Research Institute report does contain much valuable information and recommendations and would serve as a value for managers to read, contemplate, and consider how actions can be applied to a local program. The report concludes: DoD must include interaction with all Native American groups, not limited to federally recognized tribes; Native American groups have a growing ability to access the political process; there is a strategy to address diverse issues; DoD is obligated to protect Native American artifacts, religious sites, and historic monuments. From this, the authors' suggest DoD prepare a written policy (which has now been completed). Additionally they advocate DoD determine which non-recognized tribes have valid claims to the property and communicate intentions to develop and implement policies in a highly visible and politically symbolic manner (1996).

Along with the interfaces with Indian people environmental justice must be considered. Environmental justice is a tool attempting to identify and mitigate discrimination against minorities who are more affected by the negative impacts of contaminated soils, waters, landfills, and hazardous waste sites. Research reflects more hazards are located in the communities with higher percentages of colored people than in communities of whites. Indian people are included in this minority representation of those abused by environmental damage and thus have additional protection to assure they are not further damaged by environmental impacts.

The bedrock federal statutes of modern environmentalism were enacted between 1969 and 1980; environmental justice activists held their first meeting with EPA only in 1990 (Foreman, 1998, p. 7).

Environmental justice advocates for the fair treatment of all people by equal distribution of hazardous waste facilities, remediation actions, evenly dispersed through rich white neighborhoods and poor black areas. This law also requires protection of the people while cleaning up and maintaining the environment.

The crux of the challenge to making environmentally sustainable policy is thus the reconciliation of different communities' divergent interests in ecosystem maintenance intragenerational and intergenerational distribution. One can crudely distinguish between three categories of relevant human concerns commonly expressed in most debate about sustainability: protecting the natural environment, advancing economic welfare, and providing base human needs (Barrett & Grizzle, 1999, p. 24).

There are many different schools of thought regarding sustainability including the American Indian attitude that the Earth, rocks, plants, animals, soil, humans, all have their place. The humans are put on Earth to take care of the other entities and must always give back to the Earth in thanks for what is taken.

Some people are concerned that human overexploitation of the natural environment ultimately threatens human survival; others argue that some depletion of natural resources is inevitable and economic growth is necessary to assure accumulation of human made capital that is substitutable for natural capital ensuring future generations enjoy an equivalent standard of living (Barrett & Grizzle, 1999, p. 25).

Partnership

Another report, Native American Sacred Sites and the Department of Defense, addressing Indian interaction was produced by ‘a committee composed of cultural scholars, military cultural specialists, and Native American people’. They note the report weakness was a lack of direct input and review by Native Americans. The un-funded, second year of the study, was designed to have American Indian focus groups take the findings from the study and give a distinct Native American point-of-view. Therefore, the findings and issues raised by this report cannot be said to fully reflect a Native American perspective (Deloria & Stoffle, 1998, p. 13).

The reports purpose is providing information assisting DoD in building better partnerships between its installations and contemporary Native American people who have traditional ties to portions of land or cultural resources currently held and managed by DoD (Deloria & Stoffle, 1998, p. 14).

Some good relationships between military facility representatives and Indian people have developed over the years. An example is the relationship between Fort Hood and Native American groups developed because of the presence of the Comanche National Indian Cemetery and the Leon River Medicine Wheel at Fort Hood. Many people attribute the success of the relationship to the particular individuals involved. Although several individuals have been instrumental in getting the relationship to work, people from both groups act in a planned and coordinated fashion to maintain the relationship and ensure interactions are successful (Deloria & Stoffle, 1998, chap. 7).

As it is apparent interactions are important, this paper proceeds with identifying methods to conduct programs but first some ideas on personality impacts. DoD cannot

recruit people based on their personality and desire to participate in interaction programs. Therefore this may be a problem, especially as positions are vacated and new employees hired. There might be consideration, on the part of each installation commander, to screen those involved in the programs and sort out the employees who are adverse to such work.

The literature addressing this aspect identifies positive events and does not delve into problem issues. As it would also violate a federal employees privacy to reveal any adverse actions taken in regards to injuring programs that data cannot be released. This is obviously an area where managers must be cognitive of the practices of their staff.

Personality issues affect all participants, as there may be events where tribal representatives do not fully or properly represent the wishes of their people. When behavioral problems arise the best treatment is dealing with the issues directly and immediately.

To find the tribes a military facility should contact, the staff first searches historical records relating to the use of the land prior to the time when the military began operations. In the past, this was a difficult and time-consuming task, at times ending with anecdotal and often incomplete results. This process step has been improved by the expanse of technology coupled to the desire for improved communication, as employees can find tribal contacts and detailed information through a variety of methods.

One of the key starting places to determine interested tribes would be contact with the Bureau of Indian Affairs, chartered to provide this type of assistance. The Bureau has established a automated tool for acquiring this information called the Native American Consultation Database (BIA, 2000, <http://www.cast.uark.edu/other/nps/nacd>). This search tool allows each installation to identify the tribes with ancestral ties to the property

and spells out where to begin making contacts. While the data retrieved may not be inclusive of all Indian tribes, bands, people, and organizations that should be involved, it provides a dynamic start.

Another excellent tool is contacting agencies in close proximity to the installation. They may have programs, or contact lists, of local Indian people. If a neighbor agency has an ongoing program ask to attend meetings or events. Military installation representatives can also contact their headquarters or environmental centers for help.

Even with shared data and cooperative work between agencies such as the Bureau of Indian Affairs, National Park Service, and Air Force Center of Environmental Excellence, local reconnaissance is required. Staff members need to make personal contacts with tribal representatives and continue to ask who else should be included. The research remains tedious, specific research questions must be answered to determine the correct people to involve in programs, but use of modern data sources saves time.

Before going to talk to tribal representatives, and before sending letters, the military staff members should have some understanding of tribal customs and traditions. The staff members involved in programs with Indian people should all receive an orientation briefing or introductory lessons regarding the traits, qualities, characteristics, and some of the beliefs of Indian people. The cultural differences need to be recognized to improve understanding. An excellent source of data is EPA's web mounted, Training on Working Effectively with Indian Nations and Indigenous Peoples, (<http://www.epa.gov/region02/nations/webtrain.htm>). The source can be used for providing initial information to staff members and commanders involved in Indian interaction programs. It can also be used to educate new staff members who come to the

program based on new job assignments, military rotation, and additions as the program grows. All staff members involved in interaction programs can be briefed and updated on program progress, interesting topics, and issues. The facility representatives need to assure education for all the people involved in the program, including participating agencies, contractors, regulators, and other meeting attendees.

Understanding cultural values

As programs proceed there is sharing about culture allowing the military staff to build upon their personal knowledge. As one Fort Hood employee commented, “They’ve taught me, in a very patient manner, why this is of importance to them. I think I’m better able to be of assistance since they’ve taught me what they have” (Deloria & Stoffle, 1998, chap. 7).

The teaching and learning process applies to all participants, demonstrated again by the Fort Hood example, the success of the relationship also requires planned and organized actions by the installation personnel. Individuals at the post have supported the participation of the Native American people by helping them understand and master the post’s bureaucratic procedures. The consultation team (Indian people and Army staff) are working within Army rules and regulations to ensure that activities and policies can be supported, scheduling meetings with the appropriate installation representatives, and providing buildings for visits (Deloria & Stoffle, 1998, chap. 7).

Indian people have many different beliefs and practices than the imported Americans. These unique attitudes need to be recognized by military facility managers,

just as U.S. envoys to foreign countries must prepare by learning about the language, beliefs, and attitudes of the host country, so must facility representatives learn Indian traits.

An example of a difference in attitude can be described by the view of what time means to the cultures. The military culture demands members are attentive to the clock watching each minute, arriving and ready for meetings and presentations well before the assigned time. “Indian time” is a much different aura than military time. Indian people will finish a discussion before starting a meeting and the military representatives will be hopping around ready to begin as the hour chimes. The military staff tends to exhibit nervousness when falling hours behind the pre-printed meeting agenda and the Indian people progress through topics believed to be important enough to detail.

One of the beliefs reflected in the literature is American Indians’ “One Earth” concept. Even a definition is hard to conceive, let alone understand, for non-Indian people. One reflection of the deep, heart-felt respect for the total Earth comes in a review of rock art.

For Paiute people, rock art sites elicit behavioral proscriptions. Many Paiute people believe that no Indian person would casually mark a rock, because all rocks are alive and powerful. Also, to mark a rock is to place a human desire on the rock’s desire. It is much like picking a plant without its permission. It would not be done without a clear-cut and culturally acceptable reason that the rock understood and accepted. Most Paiute people would not deliberately anger a powerful rock, and therefore it is understood that any marks on a rock, whether pecked or painted, were made within the bounds of culturally appropriate behavior (Stoffle, Loendorf, Austin, Halmo, Bullets, 2000, p. 14).

In comment to this article, Mr. Richard W. Arnold, Pahrump Paiute Tribe, shares, “Contrary to some non-Indian perspectives, Southern Paiutes evaluate areas using a complex system that goes far beyond just rock paintings. Indicators such as locations, representational styles, paint types and colors, plant communities, cultural landscapes, viewsapes, songsapes, and acoustics, to mention a few, assist in developing cultural definitions today as they have for thousands of years” (Stoffle et al. 2000, p. 18).

Interpretation of resources on military lands cannot be “assumed” to represent some identity or issue without extensive multi disciplinary study, discussion, and assessment. Involving American Indian people is critical in triaging work to be accomplished, fully participating in all field, office discussions, meetings, and interpretive communications so the answers are correct.

Additionally, tribes are independent and often have beliefs and attitudes different from other tribes. It is incumbent upon military managers to understand – at least be aware of – current issues of importance to the tribes they are working with. An example of a good resource is the Environmental Protection Agency (EPA) information regarding Indian Programs. EPA Region 2 has a database available on the World Wide Web (<http://www.epa.gov/region2/nations/webtrain.htm>) that has resources listed and educational presentations. They outline program requirements and provide access to their training program, a tool for enlightening people regarding the traits and beliefs of Indian people. Additionally EPA has documents identifying Indian programs and implementation ideas available to view on line.

Life long learning

Besides web based training, books, professional journals, and research papers offer information for expanding knowledge as do topical meetings, conferences, seminars, and symposiums, highlighting American Indian cultures, philosophies, and attitudes. Additionally there are forums to exchange information about experiences from interaction programs, as they are becoming more common.

Plants serve as a good example of a topic that managers may want to study because of the significant importance to American Indians, while more apt to be given less precedence by typical white federal managers, though a change for the better has been noted in recent literature.

In 1978, our ethnographic research team began to record Southern Paiute plant concerns. We found, however, that federal land managers largely rejected tribal recommendations for protecting plants (Stoffle, Halmo, Evans, 1999, p. 416).

This philosophy has been altered and now the researchers note they suspect many land managers may have an interest in how local people categorize elements of the environment. Still, their primary interest – or more accurately, responsibility – is to take into account potentially adverse impacts of land-use decisions and actions on the land and resources of local people in the project area (Stoffle et al. 1999).

It is impossible to know how extensive the Southern Paiute plant domain was before Euroamerican settlement (Stoffle et al. 1999). This is now important to land managers, because some plant species are sacred to Indian people. Or perhaps, the habitat of specific combinations of plants represent a critical area to Indian people for which a land manager may be required to identify so it can be protected. These

researchers have identified methods to scientifically calculate the plant cultural significance even though the process includes subjective and objective data.

Many American Indian life events can be identified by the plants, the land, and topography as they are identified in stories and song. These stories and songs are methods Indian people used to capture their history.

The creator bestowed upon all of creation a human-like life force, according to Paiute and Shoshone beliefs. Rocks, mountains, springs, rivers, air, and wind are alive. Plants and animals are not only alive but, like the natural elements, are conscious and willful (Stoffle et al. 1990, p. 15).

Native American cultures are living cultures, as well as lessons in history. The goal of Native American tribes is to preserve a way of life. Tribes seek to preserve through management, research, interpretation, protection, and development not only historic sites and structures, but also the integrity of their cultures in general. To Indian tribes the definition of “cultural resource management” means efforts to preserve and transmit language and oral tradition, arts and crafts, and traditional uses of plants and land. Tribes need to maintain and practice traditional religion, culture, and preserve sacred places. They record and retain oral history, communicate aspects of tribal culture to others, and use cultural resources to maintain the integrity of communities while advancing social and economic development (Legacy, 1994, p. 11).

Indian people believe that along with life, the creator bestowed certain human-like rights to all aspects of the world. Among these rights are: to have a place to be, to be treated appropriately, to be pleased or angry, to use or not use power and to use power for or against something else. “Talk to it” is one of the first normative instructions given by

tribal elders when they tell others how to interact with plants, animals, springs, mountains, and wind (Stoffle et al. 1990, p. 15).

Dealing with Indian interaction issues requires understanding of the cultural differences through training (which is never completed when a philosophy of life-long-learning is adopted). In addition to cultural issues, managers must possess negotiation skills, be able to recognize collaborative opportunities, and access facilitators.

Negotiating and communicating

One of several opportunities to learn these skills is a Navy sponsored “stimulating three-day workshop” providing instruction on negotiation and communication skills to establish productive relationships and achieve beneficial agreements with regulatory and public stakeholders. It stresses the interpersonal, organizational, and public interaction aspects of negotiation that promote constructive relationships with stakeholders to obtain mutually beneficial environmental decision-making (CECOS, 2001).

All topics will not flow smoothly resulting in easy answers and shared decisions when engaging Indian people in consultation and interaction programs. The various operators, tribes, archaeologists, biologists, scientists, commanders, or agents might come to a conflict in demanded outcomes so managers may find it valuable to study negotiation skills. People can attend classes designed to enhance staff skills so they can identify problems, identify common ground, move toward collaborative answers and implement action at the U.S. Institute for Environmental Conflict Resolution (February 1, 2001). Similar educational opportunities are available at many universities.

Environmental disputes pose powerful challenges to civil societies. More often than not, they are complex and hard fought affairs that present urgent and practical

problems to be solved. Frequently they are laden with contested scientific and technical information and important collisions of social and economic values. Inevitably, they are also political fault lines in larger ideological wars (Adler, Barrett, Bean, Birkhoff, Ozawa, Rudin, 2001, p. 5).

Training in conflict resolution can be of value to the manager and here are some skill ideas:

If sufficient experience or knowledge is lacking, do not hesitate to team up with a scientist, technical expert, or more experienced mediator.

Immerse yourself in the issues, language, and terminology of the dispute to sharpen your own insights and ask better questions.

Allow yourself to be fully educated by the parties on technical and scientific issues. Be a quick and savvy learner.

If you do not have expertise in a given area, exercise great self-restraint in demonstrating your knowledge, suggesting solutions, or inadvertently creating the appearance that you have the answer (Adler et al. 2001, p. 23).

Money

The teaching, learning, discussions, and trips bring to light an integer for program conduct, which must be included, adequate resources. There are high costs tied to program management. The time spent by Indian people and the military staff members represent critical resources. The Indian people come to the meetings representing their tribes and cultural backgrounds. They also have lives, jobs, and requirements at home yet continue supporting programs, traveling to the installation, incurring travel costs, expenses, and time away from work, home, family; they need to be compensated because they are working as consultants on a critical project.

In addition it appears people from both the military staff and the Indian people volunteer their time to move programs forward. Those extra hours reading, on the phone, in the office lead to program benefits. Back to the Fort Hood example it was noted,

American Indians have donated their time, labor, and financial resources to carry out the tasks necessary for the success of religious ceremonies held at the post, (Deloria & Stoffle, 1998, chap. 7).

Money, budgeting, and funds management are topics that bring on emotional reactions from all participants. As the actors involved in the programs expand as the programs grow, funding must keep pace. The executive order provides a funding mechanism, saying program costs will be paid by the Federal government (DoD, 1998, p. 11).

When building a budget an agency manager must prioritize and consider all costs, the facilitation requirements; travel, per diem, lodging for Indian people and federal employees; duplicating documents, mailings; and participation of sister federal agencies, the State Historic Preservation Officers, and the National Park Service. When issues come to light through cooperative programs, collaboration, or catastrophic events these are the regulators who must be engaged so they should be involved in the program from its birth progressing with the team through all growth stages.

Other participants are land management federal agencies such as the U.S. Fish and Wildlife Service and the Bureau of Land Management. They often have responsibilities for resource management in conjunction with the military land managers. When the topic of endangered species comes to the floor in discussions with American Indians, the USFWS should participate. Also issues of hunting and fishing often adjoin interaction programs involving state departments of fish, game, and wildlife.

Funding is essential to the conduct of these programs because time and effort are limited. Federal officers must program all costs for multiple years, acquiring money

annually guaranteeing program longevity. It is valuable to rank the interaction program funding above other projects such as archaeological surveys or historic building work, based on the critical nature of present day interaction and consultation requirements.

Cultural conflict

Frustration for Indian people and military managers comes from the conflicting tone of the cultures. By understanding these conflicts and differences it makes it possible to work around them, or at least know the limits of interactions.

An example of Indian frustration, from the Fort Hood model is that Indian people are grateful for the work done by people to help support their program. For example, the individuals who blade the road to the Medicine Wheel site and who maintain the grounds at the cemetery should be recognized along with the more obvious participants such as the post archeologists. Sharing gifts is a central part of Native American culture but the receipt of gifts for work performed “in the line of duty” is considered unethical for federal employees and officers (Deloria & Stoffle, 1998, chap. 7).

Another cultural conflict lies in the desire for publicity and public acknowledgement of activities. Publication of successful interactions benefits military leaders seeking additional funding for their programs and encourages others to adopt good practices. However, Native American people do not wish to have their religious ceremonies become public spectacle and want site locations kept secret (Deloria & Stoffle, 1998, chap. 7).

Manager qualities

Another element of this discussion is management style. There are extensive sources regarding management styles, abilities, ethics, actions, tricks, and theories. This

section will highlight some of the managerial topics leadership should consider when conducting interaction programs. Many management topics are appropriate within a wide range including ethics, equal opportunity, and inter-racial communications. The intent of this section is to excite readers, enticing them to investigate these topics.

Federal managers are encouraged to look for exceptional programs to use as models for new or expanding programs. Finding program models often reduces the financial liability of starting a new process, therefore managers need to be aware of work in progress.

This paper provides ideas of programs to look at as models. Let's look at a program where Indian people are running a consultation program with other Indian tribes regarding tribal properties. The Navajo Nation's experience demonstrates that consultation can work if the agency seeking to consult is committed to the process; realize the process will be, especially during start up, time consuming and require intensive efforts; if the agency provides a workable basis for identifying and resolving conflicts and cultural heritage issues with project development needs; and if it can promote functional, working relationships on heritage issues, even among parties engaged in significant disputes on other fronts or areas (Downer, 2000, p. 56).

If program participation is not going well there are external assets, which can be called in for assistance in team building. These advocates for negotiation and resolution can assist in determining the problems and identifying actions to improve relationships. Team building seminars or neutral facilitator participation can put programs back on track when divergence is noted between military representatives and the American Indian tribal representatives. This type of encounter can lead to sharing past grievances aimed at

repairing processes, leading to discussions of real issues. This facilitated process can be beneficial when past actions on the parts of one or more parties resulted in resistance because of hard feelings, emotions, and bad deals of the past.

These are all ideas of improved management techniques that can aid the land sponsors to conduct beneficial consultation programs.

CHAPTER 3: RESEARCH METHODOLOGY

This research project was based on extensive literature review determining program features used by Department of Defense and other federal government offices conducting Indian consultation and interaction, focusing on the Southwest United States. The approach for this research was a study of literature searching for actual experiences in conducting programs and the processes used to communicate between American Indians and federal government representatives.

The second priority was identifying management tools for program implementation. Most programs will continue for many years, developing affiliations between the people, hopefully resulting in trust relationships benefiting the program by enhancing communication.

Many research questions are probable in investigating the processes of interaction programs, but the list has been pruned to the following.

Research questions

What is the process for a military installation manager to use in starting and conducting an American Indian Interaction Program, based on the most recurring process steps found in the programs reviewed?

What management skills and education are required to contribute to a successful program, conducted over a period of several years?

The research premise was that capturing the experiences from existing programs and identifying the processes, would result in a program model for use as a tool for establishing new programs, or as an idea-bank for enhancing current programs.

It must be made clear that all the programs underway are not included in this study. A cross section of several initiatives along with two recommended process models are displayed and used to create the outcome, which is a program framework.

CHAPTER 4: FINDINGS

The method of identifying the processes of Indian Interaction programs was reading various books, articles, and documents, which were talking about existing programs. From these articles a determination was made as to which issues were ‘process steps’ and these data points were scribed onto a spreadsheet so the details could be analyzed. The chart was studied and the resulting analysis depicts the process framework presented in this paper.

The Appendix C chart encapsulates experiences from various consultations. The tool of charting program experience appeared easy at onset but taking the literature and extracting information into process steps became tedious. The results were worth the initiative as the comparisons were informative.

In the literature two-program models were identified and are listed as the first two examples on the chart (page C-2). There is no record revealing that these steps had been embraced by a facility starting a program so were not given special emphasis but were treated as a process equal to actual experiences.

A concern about processes not reflected in the literature was considered and dispatched as it was determined if the process steps or issues were significantly important they would be included in the program brief. Based on this explanation, a lack of the line item in the flow chart does not mean the action – or step – was not taken, it indicates it was not one of the most important program issues. Once the different programs were reviewed and the process steps listed, they were tabulated to identify the most common steps. The chart is provided, for your reading pleasure, as Appendix C titled American Indian Consultation Examples. The outcome of the research, shown on the chart, reflects

a format of process steps to be used as the framework for conducting consultation programs.

Charting process

Each chart column represents a program as it was expressed in the literature. After reading the program overview the process steps were identified and placed on the chart reflecting commonalities across the programs and determining the most repeated steps. This section discusses the findings.

First the installation must identify the tribes, bands, and organizations with ancestral ties to the land. The executive orders require consultation with “federally recognized tribes”; however, expansion to other tribes and Indian organizations is occurring now when the people show related involvement in the area. Indian tribes embraced a mobile type of society, so now it is common to consult with tribes living many miles away from the facility conducting the program.

To initiate a positive consultation program, the Navajo Nation’s theory was to cast a wide net to identify interested tribes. They report that this method does not result in tribes seeking to consult when they have no reasonable bases for interest; and if there are reasonable ways to identify tribes with real concerns, they will be identified and can be consulted to meet both the letter and the spirit of the law (Downer, 200, p. 56).

Once the proper tribes are identified and engaged in the program, the installation must realize it has a multiple year program. At the onset of collaborative projects, some facility managers envisioned working on just one specific topic and ending the involvement. As people share program information, compatibility grows, additional topics surface, resulting in cooperation and communication leading to trust relationships.

An equally important step to enduring relationships is a method to exchange comments between the host and Indian participants. In several of the case files references are made to Indian people providing recommendations, and after consideration, the agency returns a response. This is the part of the process that allows, and encourages, communicating issues, ideas, problems, or corrections. The issues need to be communicated in a written format such as meeting minutes, recommendation letters, memorandums, or other design so initiatives and responses are tracked throughout the life of the program. This communication step was noted in the DoD consultation model, Bandelier National Monument, Department of Energy Yucca Mountain, Department of Energy Nevada Operations, and Nellis Air Force Base. This appears to be the avenue for enacting collaborative management, documenting the actions requested, what is decided, who is to act, and who will pay the costs.

To launch this communication step it is recommended that the group prepare a jointly written statement, or memorandum, discussing the way communication will be conducted and documented. By finalizing this type of a document it leads to smoother transitions when staff members change, and participants understand how to contribute process inputs.

After progressing through the organizational and communication steps, the group enters a working phase where research, interviews, and fieldwork are completed and documented. It is critical all information be carefully protected and guarded as classified data. The research reflects that people will work together to develop documents revealing the important Indian sacred, historical, and cultural sites. The reports and studies listing these areas and portraying the history of the tribes, or detailed information

from the elders, must be guarded as confidential documents. Under the laws of historic preservation the location of sites and details of what makes them important can be withheld from public circulation because release of the data often results in pilfering and destruction of sites or violation of the sacred nature of the area, thus destroying the intent of the program.

The process step on the examples chart shows the 5th and 6th initiatives as educating participants. Education for Indian people should be provided in areas such as training monitors on methods to use in conducting fieldwork, including safety and health provisions, plus documentation methods. Also some Indian people take archaeology classes and serve as document writers while other gather ethnographic information from the elders of their tribes. Additionally, they have to be informed on the bureaucratic processes of the department such as range access, escort requirements, times when the mission does not allow access to sacred sites and why the mission impacts sites and access. They have to learn badge, clearance, and travel requirements on the military installations also.

The next level is education for the installation staff, managers, and may extended to the local community. It is important that everyone from the facility involved in the program learn about Indian customs and traditions. All of the staff needs to be current on the status of issues critical to the tribes being consulted, as well as the structure of the tribal government involved. The training for land managers should be extensive, not a one-time offering, but inclusive of frequent updates.

Managers must realize the total spectrum by interaction programs. It is beneficial when senior managers view consultation as complimentary to the mission, not as an

opposing mandate. Many human resources are required to run the program including federal employees and contractors, and it cannot be just an extra duty assignment for the base cultural resource manager or archaeologist. Participating in the program often spreads across all segments of the facility. Many resources must be available ensuring valid program outcomes including the managers, commanders, funding, archaeologists, Indian consultants, Indian field monitors, ethnographers, recorders, biologists, or other experts combined for a responsible program.

This contention is supported in the article, *Ghost Dancing the Grand Canyon*, that combines analysis of rock art, ethnohistory, and contemporary ethnographic analysis with the interpretations of the people who share the cultural traditions being studied and who participated in the study (Stoffle et al. 2000, p. 2).

It can be noted that some Indian people have not viewed anthropologists and archaeologists as a value to reporting or preserving Indian history. It is the belief of this researcher, that negative impacts and confrontation can be reduced by honest interaction programs, consultation, and enlightening.

The disenchantment with anthropology as a discipline and anthropologists as “officious meddler” is still a part of the fabric of research in reservation and urban communities. This disdain may increase as issues of repatriation and intellectual property rights escalate – for example, Kennewick Man, writes Ms. Bea Medicine (1998, p. 254).

Management skills

A cohesive consultation program can serve as the bridge from adversarial relations to a cohesive program. If the consultation program has many weak beams it will be a poor bridge and may fail under stress reverting to negative actions. To plan for a positive program one of the first steps is enlightening managers and participants about history and culture of the Indian people and tribes involved.

Additionally the facility staff should understand collaboration techniques. Cooperative venues should be encouraged by strategies such as face-to-face meetings, meeting locations accessible to all participants, and acquiring facilitation if conflict overwhelms all events generating only negative results.

Collaborative work is not a simple mantra to echo in 2001, it is a powerful decision sharing condition of program management. To acquire a proactive and successful program federal managers need to develop working relationships with sister federal agencies, state agencies, regulators, and Indian tribes. Partnerships between DoD, state, and federal environmental regulatory agencies can create an environment of trust and communication. A good work relationship can result in early identification of areas of agreement and disagreement, increased capacity for problem solving, and diffuse potentially adversarial situations (DoD, 2001, p.5).

Collaboration by public and non-profit organizations has become a key issue in American public administration. While relationships between diverse groups certainly are not new phenomena, we have come to recognize that an agency's capacity to achieve public outcomes depends upon its ability to establish meaningful, effective relationships with other institutions of governance (Grubbs, 2000, p. 275).

Grubbs further notes that collaboration is difficult and including issues such as economic and social costs, mechanisms for administrative control, coordinating systems of governance, sharing resources and accountability, and integrating organization cultures (2000, p. 275).

These are all issues the federal managers must use in the interaction program. It is important to realize that through collaboration the participants are sharing power, control, resources, and accountability. This is a tough issue for many federal managers who have opposite experiences and attitudes because many are held personally accountable, for actions on the property, thus they release control and responsibility begrudgingly and with trepidation.

Enlightened managers are engaging in education and life long learning. Many opportunities to continue education and training about interaction programs or specific adventures to learn about tribal cultures, helps frame the context of involvement. If a military land manager has knowledge of some of the tribal cultures, it helps in bringing about discussions resulting in actions.

The practices of environmental dispute resolution and consensus-building draws on theories, principles, and guidelines from different disciplines, among them, public administration, law, applied psychology, planning, industrial relations, public health, and communications. While mediation and facilitation are, at their best, rigorous and robust practices, they remain more art than science. Practice strategies tend to be tacit, reflexive, and improvisational (Adler et al. 2001, p. 22).

Educating managers in techniques of consultation and alternative dispute resolution practices will aid in the conducting interaction programs, throughout the

breadth of environmental conflict resolution, as well as within the purviews of daily business. In the most comprehensive effort to date, Cornell University conducted a survey of the use of Alternative Dispute Resolution (ADR) among 1,000 of the largest U.S. corporations. The findings, which indicate that ADR techniques are widespread and are likely to grow significantly in the foreseeable future, were based on a mail and phone survey of 528 respondents. ADR involves the use of private parties to resolve disputes that might otherwise be litigated, and includes the techniques of mediation, arbitration, fact-finding, mini-trials, and the use of ombudspersons (Lipsky & Seeber, 2001, <http://www.ilr.cornell.edu/ICR/NEW/execsum.html>).

Managers are responsible to bring about cooperation and interaction with American Indian tribes. To accomplish this the managers must possess and practice ethical, trust traits, be able to listen, and negotiate. To gain skills in these areas, in addition to remaining up-to-date on tribal customs and current events, represents an opportunity for manager to embrace life-long-learning achieving these encompassing attributes.

CHAPTER 5: CONCLUSION

This research project resulted in an exciting tool for managers to use in assembling interaction projects. The results column on the spreadsheet presents the pathway to follow in establishing programs. The opportunities for success are structured to benefit both military managers and tribal representatives.

A program requires building trust relationships between the federal facilities and tribal representatives. Establishing candid communication requires time and assignment of good federal bureaucrats to the project. It is the details of the personal interaction in face-to-face relationships that makes work happen. It is the involvement of real people sitting at the table, discussing via honest communication, issues of significance and developing collaborative answers. These are the keys to successful consultation with American Indians.

The process flow, based on review of the projects researched includes identifying Indian people with ancestral ties to the land, plan and fund multiple year programs, jointly define clear communication techniques, protect ethnohistory, ethnobotany, cultural resource reports input and output, educate the Indian people on military protocols and bureaucratic processes, educate the military staff on Indian culture, traditions, ethics, multi-cultural communication, and other topics. With these steps in place the program success probability increases over poorly planned projects.

Weaknesses

This study lacks the depth a survey of Indian people or military facility managers could provide. Conducting a well-crafted mailed survey or personal interviews appears to be a logical follow-on research step aimed at revealing subtle answers for enhancing

communication. It is believed that anecdotal information would be gathered from interviews or surveys with people who have experience participating in programs, providing insight for improvements.

Research futures

The authors' experience of natural and cultural resource management, land stewardship, consulting with American Indian representatives, and in the study of the cultures of Indian people, their spiritual beliefs, and history has aided in preparation of this document. The literature review revealed a number of successful projects following similar processes resulting in a framework to use in future initiatives. Revealing that many agencies are conducting these important interaction projects is enlightening; even though reality shows additional projects need to begin, and several ongoing efforts require mediation or facilitation to reach environmental solutions. Seeing the process framework revealed from the ongoing projects shows these difficult issues can be dealt with and accomplishments listed in all programs.

National and Department of Defense leadership has highlighted the need for enhancing collaborative work with tribes according to various laws, orders, and mandates. It is apparent from the directives that this is the time of heightened awareness to enhance current programs or launch new starts.

This paper summarizes research identifying processes and management practices employed by military land managers for interacting and consulting with American Indian people. Further, the paper explains methods for federal employees to use in starting or expanding programs with an outcome of increasing the value of the enterprise for both the Indian people and the military members. The research questions formulating this

study focus on methods of establishing programs and reporting on successful initiatives to be embraced by managers. This research project was based on extensive literature review determining program features used in conducting American Indian consultation and interaction primarily in the Southwest United States.

There are numerous aspects of interaction programs warranting study. Having the opportunity to investigate many successful multi-agency programs deducing the process steps, results in this valuable management tool. The second priority, determining approaches for use by program directors, resulted in identifying several educational and training opportunities. People need to be enlightened on American Indian culture and the legal requirements governing consultation. The managers need to learn to listen to the American Indian people without being defensive or judgmental. Managers can improve listening, collaboration, and negotiations skills through training such as the Naval School, Civil Engineer Corps Officers “Environmental Negotiation Workshop” (CECOS, 2001) or course offerings of the U.S. Institute for Environmental Conflict Resolution.

The literature supports the contention that it is important to plan the program as a long term commitment for many years, thus relationships will grow between the representatives of the tribes and the land managers. A valid outcome resulting in trust relationships will benefit the program by enhancing open communication.

In conclusion, military managers face dynamic opportunities of opening communication with American Indian Tribes, bands, and organizations. Candid communication establishes committed partners sharing the work of ecosystem sustainability, bringing critical information to the program, and instilling a level of

spiritual candor to the management of lands. All these attributes are aligned to assist in managing a sustainable environment.

Beyond these initiatives, review by the expert scientific committee, revealed the possibility of expanding these process traits to overseas programs elevating DoD partnering with local communities wherever bases are located. With the increase in worldwide environmental sustainability requirements the impact of DoD is under extreme scrutiny. Expanding partnering to acquire collaborative management further expands environmental stewardship opportunities contributing to a healthier ecological future.

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APPENDIX A: DEFINITIONS AND ACRONYMS

Collaboration. A team of people representing agencies, tribes, clubs, activists groups, working together, contributing joint intellectual effort, and sharing in joint decision making. The members, or their agencies, may also be responsible for taking actions after decisions are made.

Consultation. Consultation is conferring between two or more parties to identify issues and make a good faith attempt to find a mutually acceptable resolution of any differences identified. It is an interactive process of seeking advise, or information, and exchanging views (Downer, 2000, p.54).

Cooperation. An act of cooperating. An association for mutual benefit.

CRMP. Cultural Resources Management Plan. The document that sets the stage for management of the cultural resource program for a specific body of land.

Cultural Landscape. The identification and interpretation of special units that are culturally and geographically unique areas for Indian people (DOE, 1997).

DoD. Department of Defense.

DOE. Department of Energy.

DOI. Department of Interior.

Environmental Conflict Resolution. Working through conflicts related to the environment, natural resources, and public lands involves using a range of methods of alternative dispute resolution – allowing all parties or stakeholders in a dispute to reach a mutually satisfactory agreement on their own terms. This provides an opportunity to work out differences arriving at joint solutions (U.S. Institute for Environmental Conflict Resolution, 2000).

EPA. Environmental Protection Agency.

Ethnoarchaeology. The interpretation of the physical artifacts produced by our Indian ancestors (DOE, 1997, Las Vegas office, NV)

Ethnobotany. The identification and interpretation of the plants used by Indian people (DOE, 1997).

Ethnogeography. The identification and interpretation of soil, rocks, water, and air (DOE, 1997).

U.S.F.W.S. United States Fish and Wildlife Service (often referred to as “the Service”).

NAFB. Nellis Air Force Base.

Rock Art. The identification and interpretation of traditional Indian rock paintings and rock peckings (DOE, 1997).

Sovereignty. The supreme power to control political affairs within a territory. Native American nations had unchallenged sovereignty in the pre-contact era and they assert that the power remains today. In practice, powers are shared in Indian Country ... (Thompson, 1996, p. 278).

Traditional Cultural Properties. The identification and interpretation of places of central cultural importance to native people. Sometimes Indian people refer to these as power places (DOE, 1997).

APPENDIX B: APPLICABLE LAW SUMMATION

Current federal cultural resource management programs began in 1906 with passage of the *American Antiquities Act*. The law resulted from scientific concern over losses of numerous Native American artifacts, especially those collected in the Southwest United States, migrating to museums around the world. While the law required permits from the Federal government to conduct work on public lands, it failed to provide a means of enforcement.

In response to concern over the demolition of historic structures in downtown sections of major cities for urban renewal, the *National Historic Preservation Act* was passed in 1966. This law dominates federal cultural resource management programs. The act provides processes to identify, evaluate, and protect archaeological sites on federal lands, and to record and conduct data recovery at historic properties for proposed federal actions. The *Archaeological Resources Protection Act* of 1979 provided the law enforcement link with monetary penalties and possible imprisonment for individuals responsible for damage or destruction to cultural resources (NAFB, 1998).

The origin of the Native American awareness cultural resource management subprogram may be traced to the *National Historic Preservation Act* of 1966. The law requires agencies to notify and consult tribes and interested parties in assessing effects from Federal undertakings. The *American Indian Religious Freedom Act* of 1978 (AIRFA) provided Native American people the rights to practice their religion, in particular when the exercises involve access to Federal land. Artifacts collected in the past, especially those considered by Indians people as funerary objects, sacred objects, or items of cultural patrimony, become subject to review through the *Native American Graves Protection and Repatriation Act* of 1990 (NAGPRA). Native American people must also be consulted concerning future discoveries of graves and ceremonial areas (NAFB, 1998).

Current federal cultural resource programs are direct results of the need to manage a complex package of laws enacted to address concerns with the removal of artifacts, the destruction of archaeological sites, and the rights of Native Americans to practice their religious rites and protect graves, sacred items, and other ancestral resources. Federal and military departments have provided addition direction, for example, Department of Defense (DoD) composed the *Archaeological and Resources Management* directive and the Air Force created an instruction document. The laws and directives provide the agency's program commanders' detailed instructions concerning processes needed to maintain compliance and protect valuable resources.

Each law or directive below is discussed in one of three categories, Federal Archaeological and Environmental Laws, Native American Rights Laws, and Air Force Direction (NAFB, 1998).

Federal Archaeological and Environmental Laws. The need for preservation and scientific investigation of cultural resource properties was recognized and implemented by law since 1906, followed by numerous archaeological and environmental acts. These laws, listed below, have conceptually interwoven cultural and environmental resources into the management scheme for federal agencies (NAFB 1998).

Antiquities Act of 1906 (Public Law 59-209). This law prescribes preservation and scientific requirements for investigating historic sites or scientific value locations on Federal lands.

Historic Sites Act of 1935 (Public Law 74-292). The act establishes national policy, including the National Park System Advisory Board, for the need to preserve historic sites and buildings of significance.

National Historic Preservation Act (NHPA) of 1966, as amended (Public Law 89-665 with amendments 91-243 and others. The law requires preservation of historic properties (the term includes prehistoric sites) for the benefit and education of U.S. citizens and establishes, (1) The National Register of Historic Places (NRHP); (2) a set of criteria for nominating properties to the NRHP; (3) a State Historic Preservation Officer (SHPO); (4) the Advisory Council on Historic Preservation (ACHP); (5) procedures to inventory an area and evaluate sites in the event of a proposed federal undertaking (Section 106), responsibility for Federal officials to adequately inventory lands and to identify and manage historic properties (Section 110), and requires that individuals who conduct identification and evaluation activities meet professional standards developed by the Secretary of the Interior (Section 112).

Section 106 requires the head of the agency must take into account the effect of an undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion on the National Register. Subsequent regulations provide a process to identify and evaluate cultural properties such as 36 Code of Federal Regulations (CFR) 60.4 which stipulates a set of four criteria to determine if a site or area has the potential to be nominated for listing on the NRHP (a document providing illustrations and descriptions of the most important cultural properties in the U.S.). If a property meets one of the four criteria but does not retain a sufficient degree of integrity of location, design setting, materials, workmanship, feeling and association, the site would not be considered eligible for nomination to the NRHP. Criteria (a) through (c) are met almost exclusively by historic archaeological sites and buildings. Exceptions include rock art sites and Traditional Cultural Properties (TCPs). Criterion (a) describes sites that are associated with events that have made a significant contribution to the broad patterns of history. Regional events include localized features. Criterion (b) concerns properties that are associated with the lives of people significant to the past. Criterion (c) generally refers to structures that embody the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction. Criterion (d) addresses the eligibility of most prehistoric sites, but is also applied to historic properties considered to retain unrecorded data. Properties that have yielded or might provide information important in prehistory or history are considered eligible (NAFB, 1998).

APPENDIX C
AMERICAN INDIAN INTERACTION PROGRAM EXAMPLES