

# NAGPRA Issues at Camp Pendleton

Camp Pendleton is located in San Diego County, California, along the Pacific Coast and extends inland for a distance of approximately 20 miles. It extends 17 miles from San Clemente, California, southward to Oceanside, California, comprising 125,000 acres. It is situated between the City of San Diego to the south and Los Angeles to the north and is the only relatively open coastal area within the southern California megalopolis.

Camp Pendleton exists to train marines. The base's natural resources are unique and irreplaceable to the Marine Corps because they combine a long coastline and extensive, diverse inland ranges and maneuver areas. Camp Pendleton's mission is "to operate an amphibious training base to promote the combat readiness of operating forces by providing necessary facilities and services; to support the deployment of the Fleet Marine Force and other organizations; and to provide support and services responsive to the needs of Marines, Sailors and their families." Camp Pendleton's resident population consists of 50,000 Marines, 15,000 dependent families, and 3,000 civilian employees

## **Archeology**

To date, over 80% or 90,000 acres of the non-live fire impact areas have been archeologically surveyed. The live fire areas consist of 12,000 acres. Dating from the early Holocene to European contact, 650 sites have been recorded on the Base. There are seven ethnohistoric villages recorded for Camp Pendleton. The location of four villages has been verified through field study. The other three villages have been located by ethnohistoric study. The types of prehistoric sites on the base include shell middens, milling sites, residential bases, quarries, and rock art.

## **Tribal Territories**

Camp Pendleton is located in the traditional territory of the Juaneno and Luiseno Tribes. Most likely these Shoshonean speakers were one tribe prior to the intrusion of the Spanish. It has been estimated that they arrived in the area about 2,000 years before the present. Prior to that time, the area may have been occu-

pled by the ancestors of the Yuman speaking Kumeyaay, who also claim the Camp Pendleton area as traditional territory.

There are 19 tribal governments with which Camp Pendleton consults. These include six Luiseno (Pechanga, Pauma, Pala, Rincon, La Jolla, and Soboba) and 13 Kumeyaay (San Pasqual, Mesa Grande, Santa Ysabel, Barona, Sequan, Viejas, Campo, Manzanita, Cosmit/Inaja, Cuyapaipe, La Posta, Jamul, and Capitan Grande), one Kumeyaay repatriation coalition, one Luiseno repatriation coalition that is forming, one Luiseno non-federally recognized tribe, and three Juaneno non-federally recognized tribal governments.

## **NAGPRA**

The Native American Graves Protection and Repatriation Act (NAGPRA) mandates the repatriation of Native American human remains and objects possessed or controlled by federal agencies and museums. It covers items in agency possession prior to 1990, and items discovered inadvertently subsequent to 1990. It is the inadvertent discoveries that will be addressed in the balance of this article.

The implementing regulations of NAGPRA mandate a series of steps that can result in project delays up to and at times longer than 30 days. NAGPRA also permits development of a comprehensive plan of action (comprehensive agreement) which is a legally binding equivalent to memorandum of agreement.

NAGPRA is property rights and human rights law. It covers human remains—full burials or elements of burials, with the exception of naturally shed items, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony. Inadvertent discoveries are those remains and objects found during an activity or project action including archeological excavations.

To date, there have been 17 inadvertent discoveries involving three major military construction projects on Camp Pendleton. They have included complete burials, human bone fragments, and ceremonial and funerary objects.

There have been seven NAGPRA consultations on Camp Pendleton involving representatives of up to 19 federally recognized tribal governments, four non-federally recognized tribal governments, and tribal legal representatives. The meetings have varied in size from six to 30 tribal representatives; up to 150 days in project delays; preparation of five individual plans of actions; over 800 hours of Marine Corps and Naval Facilities Engineering Command (NAVFAC) staff time; and hundreds of hours of uncompensated Native American time. Camp Pendleton staff time consists of initial determination of the discovery, contacts with the tribes and notifications, development of background information, determination of affiliation, conduct of consultation, development of a plan of action and newspaper notices, repatriation preparation of reburial site, and assistance in reburial if requested.

Camp Pendleton's approach to inadvertent discoveries has been to follow the NAGPRA regulations, conduct the consultations in a non-confrontational atmosphere, take field visits to the locations of the discoveries, and develop a mutually agreeable plan of action.

#### ***Developing a Comprehensive Plan***

Camp Pendleton and NAVFAC entered into a cooperative agreement/contract with two tribal governments (one Luiseno and one Kumeyaay) to provide program management, meeting facilitation, and elder consultation. There were monthly working group meetings to address concerns of the tribes and Camp Pendleton over a nearly two-year period. The result of these meetings has been a draft comprehensive agreement that covers future inadvertent discoveries.

The goal has been to develop a comprehensive agreement that will allow the Base and the tribes to achieve the aims of NAGPRA within a timely manner and in an atmosphere of mutual respect. The final draft comprehensive agreement is currently under review. The elements of the final draft agreement include:

- Definitions
- Affiliation determination
- Points of contact
- Treatment of inadvertent discoveries discovered during construction or routine activities
- Treatment of inadvertent discoveries identified during archeological field work
- Treatment of items not positively identified as human remains or cultural objects

- Treatment of items identified in the laboratory and during analysis
- Treatment of items if further archeological excavation is required
- Notification and disposition of inadvertent discoveries
- Dispute resolution, amendments, and confidentiality

Identification of points of contact is the key element of the agreement. The appointed tribal representatives and the government archeologists will form a rapid response team to shorten the consultation time and to provide for an expedited decision tree. The time between a discovery until the consultation occurs will be seven days.

The tribal signatories to the agreement will appoint a total of two points of contact (POCs) and two alternatives. The POCs for Camp Pendleton will be the Base archeologist and the NAVFAC archeologist. Currently when there is an inadvertent discovery, the Base calls each tribal government, the Kumeyaay coalition, and the non-recognized tribes. Within three days, this is followed up with a letter to each tribal government with a date, time, and place for a consultation meeting. The time lag between discovery and action in the field can take over 30 days. Under this agreement, the Base will contact the tribal POCs who will contact the individual tribal governments. The consultation meeting between the government and tribal representatives will occur within seven days. The consultation will determine further action and treatment based on the procedures within the agreement. The POCs will serve to better facilitate the treatment and ultimate repatriation of the human remains.

#### ***Expectations***

The implementation schedule is as follows:

- Complete legal review of the agreement document by the end of 2000 (accomplished).
- All involved parties will agree to the plan by May 2001.
- Appoint POCs by mid-year 2001

It is expected that the Comprehensive Agreement will result in smoother consultations and a better response to inadvertent discoveries on Camp Pendleton.

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