

Heather Parker

World Maritime University, Bureau of Ocean Energy Management

***Inclusion of Indigenous Peoples in Emergency Decision-Making: A Case Study of North American Native Tribal Leadership in Oil Spill Response***

Many nations have adopted the use of the Incident Command System (ICS), or similar process for the management of environmental and other emergencies. In the United States (U.S.), ICS use is mandated and will often expand into a Unified Command structure for responses that are larger, lengthy and more complex. A key feature of the Unified Command is overlapping jurisdictions, and identifying the entities with authority to fill a leadership role or function as a supporting agency or stakeholder. Determining where Indigenous Peoples should fit into these structures can be challenging. In the U.S., Indigenous Peoples, or Tribes, with federal-recognition have a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation.

As a federal agency, the U.S. Navy (Navy) shares overlapping jurisdictions with Tribal Nations, particularly with land-ownership issues. In Washington state, for example, Navy must continuously engage in Government to Government consultation with Tribes with treaty rights granting continued use of certain land areas, for hunting, fishing and other uses. During an oil spill response, Tribes must be included in all decisions which affect the outcome of cleanup and long term recovery, however the manner and degree of inclusion has evolved over time.

On 13 March 2024, Navy spilled approximately 12,000 gallons of oily water into the coastal area at Naval Base Kitsap Bangor in WA state. Five separate Tribes have overlapping tribal treaty rights on this Navy base. Each being a sovereign nation, Navy under its trust responsibility was beholden to engage in rapid and continuous communication with each of these Tribal governments throughout the response. In a joint decision among the cognizant Federal and State authorities, a Unified Command stood up with U.S. Coast Guard, WA Department of Ecology and Navy. Each of the five affected tribes was invited to join in this Unified Command. The Port Gamble S'Klallam Tribe agreed to full UC membership, while each of the other Tribes requested close and regular communication and input on key response decisions. This case study presents important lessons learned and good practices for further inclusion of Indigenous Peoples in joint decision making during environmental emergencies that directly impact their trust resources for subsistence and other self-governing uses – practices which can be used to inform and improve future preparedness efforts.