

Juridictions Tensions

Introduction

Remediating contaminated land, water, and air is the responsibility of multiple agencies, and the cleanup of Formerly Used Defense Sites (FUDS) in the United States can involve federal, state, local, and Tribal authorities. In Alaska, historic military use of Indigenous fishing and hunting grounds on Sivuqaq (colonial name, St. Lawrence Island) has led to jurisdictional tensions over cleanup responsibilities in areas crucial to the lifeways of Native Yupik people.

Freedom of Information Act (FOIA) requests from Alaska Community Action on Toxics (ACAT) and EDGI between 2022 and 2025 illustrate how community groups leverage public records for advocacy. The documents compiled below show the strategic and counterproductive ways in which different agencies and actors overlap during the FUDS remediation process, highlighting how and why the government failed to address community demands for cleanup. On Sivuqaq, the US Army Corps of Engineers (USACE) was the primary agency responsible for remediating FUDS. While responsible for cleaning up contamination, USACE routinely dismissed requests and recommendations from Sivuqaq residents and their advocates. While the Alaska Department of Environmental Conservation (ADEC) pushed back on many of USACE's assumptions and incorrect assertions, ultimately neither ADEC nor the Environmental Protection Agency (EPA) were able to hold USACE accountable in its site investigations and cleanup, which contributed to a failure in remediation.

Agencies and Actors Involved

USACE worked to remediate the Northeast Cape and Gambell FUDS on Sivuqaq. The responsibilities included characterizing site contamination, conducting analyses, and implementing the cleanup required for remediation to meet environmental standards. USACE was also required to engage with local communities, including providing regular updates and inviting public comment on proposed activities.

While USACE was the primary agent for FUDS remediation, EPA and ADEC oversaw the effort. The EPA was responsible for ensuring that the USACE carried out its responsibilities properly. At the state level, ADEC was accountable for reviewing USACE studies and remediation plans and communicating regularly with USACE and other key players throughout the remediation.

Since its founding in 1997, ACAT has studied the environmental and human health impacts of FUDS in Alaska and advocated to protect the health of Alaska's people and environment, focusing on Indigenous communities. Due to USACE's insufficient community engagement, ACAT and other community partners advocated for establishing and maintaining a Restoration Advisory Board (RAB) to formalize public meetings and community involvement (records indicate the RAB ran from 2000-2014).. The RAB was a crucial forum for communication between the community and USACE, holding regular meetings to communicate with community members about the environmental restoration process and encouraging transparency and accountability from the government.

Cleanup Complexity

FUDS remediation exists in a web of factors related to site ownership, location, and communication between agencies that can create jurisdictional tensions. As early as 1991, communication between the Department of the Navy and the EPA regarding FUDS in Alaska highlighted complications related to site ownership and its implications for cleanup. Throughout [several pages](#), the Head of the Navy's Environmental Management Department, V. L. Vasaitis, communicated the state of site ownership. He detailed multiple property transfers and properties within one site belonging to different parties, admitting that "the situation is complicated."

The complexities of and barriers to FUDS remediation serve as context rather than an excuse for USACE's pattern of inadequately performing its responsibilities. [Correspondence between ADEC and USACE](#) reveals USACE's systematic tendency to ignore and dispute recommendations for more health-protective remediation, which can be explored further through ACAT Repository Documents [18](#), [37](#), [141](#), [157](#), and [278](#). ADEC, to their credit, highlights a slew of inadequacies in USACE's 1997 Draft Phase II Remedial Investigation/Feasibility Study for Gambell, a process used to characterize pre-cleanup site contamination. ADEC asserts that "ecological risks appear to have been overlooked during the selection of sites to be evaluated..." and highlights multiple areas where toxins of potential concern were excluded, chemical exposure benchmark values were not properly chosen, and correct units were not used. Importantly, ADEC asserts that "the Department does not concur with the recommendation of no further remedial action for sites without adequately addressing the potential for ecological risks..." As such, ADEC underscores issues with USACE's approach and methodology and highlights how these shortcomings contribute to incorrect conclusions and actions on the state of contamination and next steps at Gambell. For additional examples of ADEC's direct communication to USACE, see ACAT Repository Documents [15](#), [87](#), [103](#), and [123](#).

While ADEC's comments allude to a process of checks and balances that challenge and correct USACE's approach to remediation, this is eclipsed by USACE's pattern of not meaningfully taking other agencies' input into account. EDGI conducted a detailed comparison of [USACE's Final Phase II Remedial Investigation](#) against [ADEC's comments](#) on the draft report, which indicated that many of ADEC's concerns went completely unaddressed. For example, paragraphs where ADEC requested details of the habitat and specific species at Gambell remained wholly or significantly unchanged. Most notably, USACE did not heed many of ADEC's recommendations to evaluate ecological risks. They maintained their "no further action" conclusions at sites where environmental risk was not assessed, doubling down on what ADEC identified as misinformed conclusions. **This exchange highlights the shortcomings of a remediation process that allows agencies to oversee each other's actions without a reliable system of enforcement or accountability.**

EPA's federal oversight role could [hold USACE accountable](#) in ways ADEC could not. Still, EPA followed a pattern of offloading its responsibilities to others rather than addressing USACE's problematic conduct head-on. Due to concerns about ecological and human health risks at Northeast Cape, Sivuqaq Native communities asked the EPA to place the site on the National Priorities List (NPL). Still, the EPA declined to do so three separate times. The last denial in 2013 included EPA's final [review](#) of USACE's FUDS cleanup, in response to contamination and health concerns maintained by Gambell and Savoonga residents. The EPA

concluded that the cleanup was consistent with CERCLA regulations and EPA guidance and that the USACE generally adequately oversaw the cleanup efforts. Notably, EPA demonstrates its lack of direct community involvement by stating that agency officials were unable to meet with community members during the review process (due to factors such as inclement weather, scheduling, etc.), and instead passed off the responsibility of community communication to the CDC's Agency for Toxic Substances and Disease Registry (ATSDR). EPA concluded its 2013 review with a series of recommendations they "strongly encourage the Corps to implement to improve the protectiveness of the cleanup," but fell short of mentioning how EPA will track these changes. For additional details on the EPA's decision not to place Northeast Cape on the NPL, see NPL narrative on APE, and ACAT Repository Documents [47](#), [49](#), [60](#), [61](#), [62](#), [64](#), [65](#), and [66](#).

Communities Step Up

The RAB presents one last line of defense against a lack of government accountability and oversight, epitomizing the tension between what it looks like to include community partners in the remediation process meaningfully and unfairly placing the burden on them to ensure proper cleanup. [This 2002 letter](#) from Kendra Zamzow of ACAT to USACE highlights how community groups fill in gaps created by the government. Zamzow characterizes USACE's work as "spotty and inconsistent," and highlights instances where USACE was vague about the cleanup timeline and reasoning for testing procedures. Her astute identification of issues with arsenic testing displays the technical knowledge the community must hold to address the government's shortcomings. Zamzow positions local communities at the center of her argument: "It is extremely important to the people who use the Northeast Cape that all sources of contamination be removed." Her repeated mentions of local communities highlight that their preferences and well-being were not sufficiently considered throughout the cleanup process.

The government's repeated dismissal of the community is more evident in the [RAB's comments](#) on USACE's Final Feasibility Study report, where RAB member Dr. Ron Scrutado provides more than four pages of detailed comments. Scrutado opens his letter with "I recognize comments were not requested for the Northeast Cape Final FS Report, but considering the importance of the report, I felt it important to share perspectives with the RAB on this document." Scrutado highlights how limited the channel of communication for the RAB is for USACE. The comments expand on earlier [RAB comments on the Draft FS Report](#), which went largely unaddressed by USACE. Despite their extensive knowledge and demonstrated desire to be involved in the remediation process, the government rarely takes community input seriously, and the community is disenfranchised without being considered meaningful contributors in the cleanup. For additional correspondence between community members and the RAB with USACE, see ACAT Repository Documents [20](#), [21](#), [22](#), [23](#), [137](#), [138](#), [139](#), [140](#), [144](#), [217](#), [282](#), [284](#), 342 (upcoming soon).

Conclusion

In theory, the FUDS remediation program combines the power and expertise of diverse government agencies to address U.S. military legacy pollution. However, proper cleanup is complicated by a lack of government accountability and transparency and inadequate consideration of impacted communities. On Sivuqaq, USACE's inadequately performing cleanup

duties, coupled with a lack of oversight and enforcement from ADEC and EPA, contributed to a failure in proper remediation that continues to impact the environment and local people today.

Sivuqaq communities bear the burden of long-term contamination and associated health and environmental impacts that historic military activities have caused. In particular, Native Yupik communities reliant on the land for cultural and provisional services are disproportionately impacted by contamination of their land. ACAT's work highlights the will and potential of local community groups to influence the FUDS remediation process while revealing the fine line between meaningfully including local communities and agencies that deflect responsibility to ensure remediation.

Those tasked with protecting our people and environment cannot continue to treat them as dispensable. To prevent history from repeating itself, we look to impacted communities again for guidance. In the words of ACAT, "Clearly, there must be a better way. And there is. Ultimately, the only way to stop the poisoning of our water, air, and food is to stop the sources of pollution at all levels..." (ACAT, 2003).

Documents Listed in Narrative (in order of mention):

- [ACAT FOIA Repository 319](#)
- [ACAT FOIA Repository 149](#)
- [ACAT FOIA Repository 6](#)
- [ACAT FOIA Repository 252](#)
- [ACAT FOIA Repository 217](#)
- [ACAT FOIA Repository 121](#)