



United States  
Department of  
Agriculture

## **Council for Native American Farming and Ranching**

Thursday, December 12, 2013

Morning Session

Mark Wadsworth: All right, I'd like to call the meeting to order today, Thursday, December 12th. I'll do a quick roll call. Would you mind, again, Gilbert, doing the blessing? Then, we'll brief you on the meeting materials and conduct, and review the agenda and just start off with that. Okay, roll call. Angela Peter.

Angela Peter: Here.

Mark Wadsworth: Gilbert Harrison.

Gilbert Harrison: Here.

Mark Wadsworth: Juan Garcia.

Juan Garcia: Here.

Mark Wadsworth: Chris Beyerhelm.

Chris Beyerhelm: Here.

Mark Wadsworth: Michael Jandreau. Michael Jandreau is not here. Porter Holder.

Porter Holder: Here.

Mark Wadsworth: Mary Thompson.

Mary Thompson: Present.

Mark Wadsworth: Gerald Lunak.

Gerald Lunak: Here.

Mark Wadsworth: Reid Strong.

Reid Strong: Here.

Mark Wadsworth: Sarah Vogel.

Sarah Vogel: Here.

Mark Wadsworth: Leslie Wheelock.

Leslie Wheelock: Here.

Mark Wadsworth: Jerry McPeak.

Jerry McPeak: Here.

Mark Wadsworth: And then myself, in attendance. We'll just break for a blessing.

Gilbert Harrison: Just a little remark, a tradition in our Navajo land which is at the end of any kind of blessing, I'd give it in Navajo. [Speaks in Navajo] That means all is well. We repeat it four times. I do that every time I give a blessing in Native American Navajo language. We bow our heads please. Lord, we come before you this morning, day two of our meeting. We had good discussions yesterday and we take some of those things that have been brought to our attention and addressed them correctly. We have a full schedule today. Please, give us a clear mind and may we have comments and may we make decisions that are in the best interest of what we've been charged with. [Speaks in Navajo] amen.

Mark Wadsworth: Thank you, Gilbert. Leslie, did you want to go over the meeting materials or John, what you have available for us?

John Lowery: Yeah, I can do that. As always, everybody, before you leave today, it's inside the binder. So there was an update agenda provided to every one as of yesterday morning. The biggest change in the agenda from what I sent out was the deputy assistant secretary for Indian Affairs has been moved to after lunch today. And then we also moved the Research, Education, Economics invitee back to the 10:45 spot this morning. So that is the biggest change in the agenda from what I sent out to everyone last week. Other than that, everything's in there. Also, Mary, you are requesting that we put together just to provide a recommendation list for everyone. We did do that yesterday as much as we can. I know Tony was at -- and [indiscernible] here. But we do have enough [indiscernible] to grab those recommendations just to see where we got that work going for everybody.

Mary Thompson: Thank you very much. That will be continued to be done on a regular basis?

John Lowery: Yes, ma'am.

Mary Thompson: Thank you so much, John.

John Lowery: Other than that if there's no questions -- also in the back there is a closed [sounds like] binder for [indiscernible] to you. Thank you, Mark.

Mark Wadsworth: Yes, Gilbert Harrison.

Gilbert Harrison: Gilbert Harrison from Navajo. If we can, somewhere I'd like to ask maybe the Office of Tribal Relations to briefly go over this with us. This is a department regulation, tribal consultation, coordination and collaboration. Back here, I think it's good that we know what the department is doing in terms of the tribal consultation. So if we can, Mr. Chairman, I'd like to have either Leslie or John give us a briefing on that. It doesn't have to be extended but at least, I'd like to put that formally on the agenda - request that.

Mark Wadsworth: I believe we probably have time this morning -- Leslie?

Leslie Wheelock: Mr. Chairman, I'm speaking from 10:30 to 11:00, I can include it at that time.

Gilbert Harrison: Thank you, Leslie.

John Lowery: Mr. Chairman.

Mark Wadsworth: Yes, John.

John Lowery: The invitee from Research, Education and Economics Mission Area will not be here today. So there is a timeslot there that we could do with extended conversation that is around it as well. I just wanted to mention that there will

be about a 30-minute gap there but I think that we will not have a problem filling that time.

Mark Wadsworth: It looks like we have on the 8:50 agenda Zach Ducheneaux will be coming from the Intertribal Ag Council. That's in another 10 minutes. So is Zach here?

Zach Ducheneaux: Yes, sir.

Mark Wadsworth: Would you like to hold 10 minutes --?

Zach Ducheneaux: Sure.

Mark Wadsworth: You can even take 10 more minutes if you need it.

Zach Ducheneaux: I'm here in business as long as you guys want me.

Mark Wadsworth: You can go right ahead, Zach.

Zach Ducheneaux: Thank you very much. Good morning to the Council on Native Farming and Ranching. It's a pleasure to be here, an honor to visit with you. As always, I look forward to offering any advice or experience that we may have out in the field with the network as you do the very important work of putting forward your recommendations to the Secretary of Interior on how our Secretary of Agriculture - I called him on that yesterday, too, Secretary of Agriculture - on how to improve service delivery to Indians. What I thought I might do this morning is engage you in a dialogue if you have any questions at any point in time, please, stop me, interrupt me.

If you have any questions lingering from the last time, I would be glad to try to answer them right now. If not, I'll go ahead and present a few things to you, and we can visit as we go along. Anybody have anything lingering about last time?

Mark Wadsworth: Within our handbook it's on tab 5 and 6 with the Intertribal Network.

Zach Ducheneaux: If not, I'll just go ahead and start presenting. If something comes to mind, please, interrupt me. I'd like to have some feedback from you so that we can do a better job working with you. I know a few of you. This may be a little bit repetitive. I talked about success stories in the main session of our council meeting the other day. I want to go through a few of those things and talk about some of the items that we feel are really the cornerstones to this success.

First and foremost is a quote directly from Secretary Vilsack himself, "You've got to try before you can succeed." He told us here at our meeting a couple of years ago, he would tell his staff in the field that he didn't care if they failed, but what he did care about was if they failed to try. So what we try to inspire in our staff out in the field is to continue to try. In some areas, it's really challenging. There is a significant amount of distrust and mistrust in Indian country for anything to do with the federal government. So we've got our folks out there continually trying to rebuild that trust.

We've got the help of some good folks in the USDA now who are working hand in hand with us to prove up on that argument that we're making out there in the field.

The communication is always a critical component of success. Getting the information out to the people is critical, the right information and the relevant information. It doesn't do much good to hear a regulation voted if you can put it in a real world story, something that they can really relate to, it seems to be a lot more helpful. We do that through our outreach efforts by trying to have our staff be as knowledgeable as the program delivery person in the field. Participation is something that's critical to our success. We're out there trying to drum up participation. We had one of the presenters here, a recipient of one of the micro-loans that the FSA has very thoughtfully put together so that there is a gap that was there that is now filled with a loan product.

Sustainability is something that we really struggle with. Nick Tilsen made a good point the other day in his presentation. He said, "I don't want to be sustainable because I don't want like where I am right now. I don't like where we are on Pine Ridge. We don't want to sustain that. We want to regenerate what we were before." So I told him, I'm going to take that. I'm going to use it. I'm going to apply it to some of the things that we're doing because we had sustainable productive

agriculture when the non-Indian got here. Through the course of federal policies and centuries of broken promises, we had that ability to do that stripped away from us. We have the opportunity now with the council to make recommendations to the secretary, to take steps to rebuild that capacity to regenerate our communities.

Another thing Nick Tilsen said that really made a lot sense was, "Do what makes sense at the time." He was talking about Native-American housing and what type of housing would Native Americans prefer. He said, "Well, time immemorial, we did what made sense at the time. When we were hunting buffalo and we had the hides, we made a tepee out of it." I don't think any of our forefathers would be looking for a buffalo-hide house in this day and age with current technology and current abilities. So we need to work towards what makes sense at the time.

One of the things that make sense at the time - I know this is beyond the secretary's control - but increase loan limits. With the \$300,000 direct farm ownership loan, you can't really put together enough for a cattle operation or a farming operation. So we need to start thinking about what makes sense at this point in time in this day and age. With grazing land selling in South Dakota anywhere from \$600 to \$1000 an acre, and it taking 10 to 12 acres to run a cow, it doesn't add up. We

need to be thinking what's going on out there in the country and what makes sense to us at the time.

The credit history continues to be a problem when applying for FSA loans. We continue to work to try to find solutions to that. I've got a story to tell you that kind of drives that point home. I've had a chance to visit with a couple of folks in the room offline and share the story with them. I've got a producer at home who's done everything he was supposed to do. In high school he got a small loan. He started out with some cows. He got a loan because his dad had banked at this bank. He built that up into about 150 cows but alongside that, he diversified. He started a trenching and backhoe business. So he's doing some contract work on the side and been fairly successful at it. Along the line he engaged in a business deal with a partner and they built a warehouse, an office facility in Eagle Butte, right in the tribal headquarter town. We had an opportunity to buy that fellow out at a substantial discount over the last few months. Because of the success he's had, he had \$1.2 million in unencumbered assets that he could pledge against this loan.

He needed \$107,000. This really doesn't relate back to the USDA per se, but it relates to doing what makes sense at the time. In addition to that \$1.2 million in unencumbered assets which are all long to mid-term in nature, he had 700 acres of

trust land. He was holding the pledge of security. He had \$500,000 worth of construction equipment that he was willing to pledge as security. It was all unencumbered. And he was fortunate enough to be in one of the counties that has the best NRCS staff in the nation. So he's got a conservation stewardship program worth \$40,000 a year for the next five years. So he needed to borrow \$107,000. He's got \$1.2 million in unencumbered assets. He's got a \$200,000 government contract to pledge as payment security. He's willing to do an assignment of income. I took him to three local banks and was turned down at every last one of them.

Jerry McPeak: Why?

Zach Ducheneaux: It beats the hell out of me, Jerry. You get the standard loan denial letter. You get the call from the guy and he says, "Well, you know, we don't think we're going to go with this right now." The banker from Faith, South Dakota called me. He said, "Don't quit sending them to me. Keep sending folks to me." I said, "You've got to be of some use to me at some point in time. I don't get better customers for you than this. If you're not going to reach out and make something work, I can't do it." So the banks didn't really give us a reason why, but my inclination is because he's got trust assets. And because he's living and working on the reservation, there is

this unfounded fear of the tribal court system and the ability to collect on these things. Yes, sir.

Jerry McPeak: I hate to interrupt. I assume these are white folks or white-controlled banks.

Zach Ducheneaux: Yes, sir.

Jerry McPeak: What's your guy's relationship with your state representative or your senator or people who can advocate for you guys? Don't get me wrong. I believe you. That's just unfathomable for me someone doesn't step in and just jerking off on these folks. Do you have any advocates? Who are your advocates? Who can you go to?

Zach Ducheneaux: One of them is standing here in front of you. So what we did is we kept trying and we ended up being over at the local community development financial institution. We got him the loan he needed to conclude that business deal. Now what we are going to do is given the banking industry's estimation of him, we don't feel that he's an appropriate fit for banking anymore. So we're going try to refinance some of his debt with the FSA locally. When you're on a ship that's sinking, you can't worry about who shot the holes in it; you've got to patch the holes. We're patching holes now. Then, we're going to go talk to the folks at the Federal Reserve, talk to the FDIC and have a discussion about why these banks are not doing this in this part of the country because they're getting

low, low interest federal money to serve that community and they're not doing it. We think it's time we start to hold the banking industry accountable.

What makes it relevant to our discussion here is we've got to make the FSA industry make sense. There's no commercial credit to graduate to, so we've got to do things to make sure that our producers have the opportunity to stay in that program as long as needed and not be pointed towards the door for graduation. Yes, sir.

Gilbert Harrison: Good morning, Zach, and also members of the council here.

Zach Ducheneaux: Good morning.

Gilbert Harrison: Gilbert Harrison here from Navajo. I've heard of these kinds of instances. Besides the fact that one of the things that keeps coming up is that if you have an asset or you're going to find some on trust land, the fact that trust land can't be put up as collateral or whatever you do to support your loan, that's also been an issue that I've heard. Then like you're saying, the other one is the tribal court system. I think it goes through that. Have you had any experience -- I see with the issue of trust status as it relates to loans.

Zach Ducheneaux: Yes. Yes, we have. It is an absolute lie that trust land cannot be mortgaged, that it is impossible to mortgage trust land. Banks don't like to do it, but they've

got an obligation to serve their community as well. Chris knows that you can take a mortgage on trust land because the FSA does it. What's happened is the banking industry has -- because of a lack of desire to get into these reservation communities and not being pushed in there by the federal lending structure they've used this as the obstruction. We can't get a mortgage or we can't affect a mortgage on trust land. That's a lie. It's an absolute lie. If anybody's telling you that, they're lying or they're ignorant and you need to educate them, Gilbert.

Gilbert Harrison: Zach, again, along the same line, do we have anything from the bureau or trustee that says trust land can be put up for mortgage? Is there anything because I think as long as there's an absence of any official documentation, what you're talking about, that's always going to come up. Are you aware of any kind of documentation to say you can use tribal trust land as collateral?

Zach Ducheneaux: You can't use tribal trust land but you can use individual allotted trust land.

Gilbert Harrison: That's different.

Zach Ducheneaux: Yeah, absolutely. I've gotten mortgage documents in my file where we've done it. Maybe it would help to get the bureau to say something with regard to this. The bureau is just sitting there waiting for someone to make the application and then they approve it. That takes about a day's

time. It adds about a day's time to the loan closing process to affect this mortgage on trust ground.

Gilbert Harrison: I think somewhere along the way we get the bureau to come in and sit in with us. I think it would be good to get something official in writing. Didn't we make that recommendation that the BI meet here?

Jerry McPeak: We're writing that like every flipping meeting.

Gilbert Harrison: Until we get this recommendation --

Jerry McPeak: You need to let me write the recommendation the next time. The fact is I'm volunteering to write the next one to the BI [indiscernible]. In fact, I'm going to write one whether you all let me do it or not.

Gilbert Harrison: But I do think that something official with a little title would really be helpful. Under what circumstances can this be done? Thank you.

Zach Ducheneaux: You bet. Yes, ma'am.

Sarah Vogel: I don't have it at my fingertips or anything, but I'm sure the reason why they can do that is because there is a law or regulation that says they can. So that is not a stiff challenge to find the law or regulation that allows them to do that.

Zach Ducheneaux: Thank you.

Mark Wadsworth: Yes, Jerry.

Jerry McPeak: Thank you, Mr. Chairman. Jerry McPeak. In understanding you brought up a thing about the tribal courts, I think most of us who are involved in tribal government can understand some outside people's reluctance to deal with tribal courts. I mean, I've just been real [cross-talking] with that. I can see why that can be scary. We know from our own experience that that guy gets the loan. He's going to be successful. The record shows that but at the same time, being open about things, I can see why they'll be afraid of tribal court.

Zach Ducheneaux: Yeah, I agree and disagree, Jerry. You look at the Plains Commerce v. the Long family. It's been all the way to the Supreme Court. The Supreme Court upheld most of the tribal court decision in that. The only part of the tribal court decision, the tribal jury trial mind you, that the Supreme Court didn't uphold was the right of the tribe to engage in the civil rights law suit litigation. The contract law was right down the line. The tribal court was right. But the civil rights issue, the court found that the tribe didn't have the ability to weigh in that and levy penalties based on the civil rights violation.

Jerry McPeak: Again, I'm not talking about the theory. I'm not talking about the black and white thing. I'm talking about the reality of living in it everyday and walking in it. I

don't give a flying flip about what someone wrote down. I'm just talking about the real thing is I understand why outside folks be afraid of tribal court. Just do the facts.

Sarah Vogel: Earlier, Zach mentioned that when he finished taking care of this particular client, which is the top priority, then he intends to circle back, visit with the Fed. Every region in the country has a Federal Reserve Bank. For South Dakota it would be Federal Reserve Bank of Minneapolis. They have a community development and --

Zach Ducheneaux: Community re-investment?

Sarah Vogel: -- community investment division. They're very strong on the need for banks to meet their community development obligations. I think that this is actually potential for a subcommittee or a task force or working group of this council to deal with credit desert issues. It may be applying pressure on the banks. It may be increasing loan awareness. It may be modifying graduation requirements or other tweaks of the FSA system. When there is no other alternative, it may be something that could be collegially worked with, with the NCAI. I think there are numerous initiatives and programs for improvement of tribal judiciary and code systems and just awareness because that Long case - and I think there are a couple of others in South Dakota - where the PCA just said, we won't lend on reservations. They got slapped up big time. They

have no reason. I mean, they can't use the facile excuse of "we don't want to deal with the tribal court." That is not a reason. That is not going to be accepted.

Inability - if there is no uniform commercial code, no meetings [sounds like] of repossession for example - that could very well be a valid reason, if there's no law. But just being like I don't want to go into a court where the judge is an Indian - that doesn't float under the case law. But I just tossed that out as a potential task force concept. I think it would be good.

Chris Beyerhelm: Mr. Chairman.

Mark Wadsworth: Yes, Chris.

Chris Beyerhelm: Zach, Sarah, and Jerry, I agree with everything you've said. I'd just like to add another piece to this. So the USDA, FSA will take our share of that responsibility. But I think, to Jerry's point - I hate to say Jerry's right but he is - somehow we need to challenge the tribes to hang out the shingles that says welcome lenders, because there is this concern. It's a reality. I've been talking to these lenders until I'm blue in the face about how can we improve lending in Indian country. They have this concern. It's really perceived and somehow not that it's their responsibility but the tribes could somehow send some sort of message to lenders, not FSA but commercial lenders, that we want

you to come lend in our community. We will work with you on some of these concerns and issues. If we have to pass a resolution or adopting UCC or whatever somehow so we can maybe work both sides of the fence on this.

Zach Ducheneaux: What we have is someone whining around about how hot the bath water is without dipping their toe in it.

Chris Beyerhelm: I understand.

Zach Ducheneaux: Our tribe has a UCC. We passed it in 1997. We took the state UCC and we put Cheyenne River Sioux Tribe where appropriate so it mirrors state law. I guess my appeal to you folks here today is start asking some questions. Start prodding the bank from another direction so that they're a little off balance when we come at them from below and say why aren't you lending on Indian reservations because currently, our borrowers can only be in the FSA program for so long, then they've got to go somewhere else. So just start to make some inquiries. Say, you know, we've got this knucklehead from South Dakota that's out here talking about how you guys don't lend out there. What's going on? Because if we get some tangible reasons why, we can then go start working with the tribal governments to say, "Listen, these are the excuses that the banking industry is putting up for not having any capital development in your area. Let's address this and then they got

no damn excuse except you're Indians." You just start poking and prodding a little with us is all we ask.

Chris Beyerhelm: Yeah, I agree.

Gilbert Harrison: One of the things that we found out is that nowadays banks, most of the bigger banks are consolidating their offices somewhere. The loan officer somewhere in the big city is the one that determines a loan. They have no idea of what tribal reservations are like. To them it's just a numerical exercise, yes or no. So I think it's a sign of the times, and so somehow we need to address that. I've had some people saying they made an application to Wells Fargo, and they got a letter. This is [indiscernible]. They got a letter from somewhere back East saying that your loan has been denied. You see what I'm saying? There's no personal interaction. It's just something on the phone or something that comes up on the computer.

Mark Wadsworth: I'd just add to that, too, Zach. I work and I have to deal with the BIA and also with the OST in handling the permits and the income-generated and the billing. It seems to me that I always get this call from this ag credit where you have that he is asking for me to send them proof that our tribal producers sent in their check for our permit. And then I'll tell him, "Hey, I'm under rules of confidentiality. I

cannot just give people information whoever they are. I need that permittee to tell me to go ahead and release it."

Zach Ducheneaux: Absolutely.

Mark Wadsworth: Well, then they'll go to the permittee and say, "Hey, these guys aren't giving me the information. They're jeopardizing your loan." It's just kind of weird little hurdles like that that hurt our people consistently. I'm going to go back and check and see if we had to do the same for non-Indians. I just want to let you know that's occurring too.

Zach Ducheneaux: Very good. So another potential appeal to the council is to request that the secretary look into the establishment of a native ag CDFI because we have a lot of higher level of comfort in operating within our own spaces than a bank would. We hear the stories, but we know half of them are BS. We know the people that we can work with out there in the field so that if that CDFI had the opportunity to participate in the Guaranteed Loan Program to manage those risks, then we've got a business model that's stable, and then we could really leverage the treasury dollars that we're able to get. So that might be something that fills that void as we examine the banking industry.

Chris Beyerhelm: And actually, Zach, that's already done. If you or somebody forms a CDFI, they can get guaranteed loans.

Zach Ducheneaux: Excellent.

Chris Beyerhelm: We made that change last year or so.

Zach Ducheneaux: Oh, very good.

Leslie Wheelock: The CDFI has not been in the USDA [cross-talking] certification with the Department of Treasury.

Zach Ducheneaux: Absolutely, yeah. We just want to make sure that that --

Chris Beyerhelm: We are recognizing the CDFI as eligible guaranteed lenders.

Zach Ducheneaux: Excellent. I'll be sending the folks from Cheyenne River. One final thing that came out of yesterday's discussion regarding the lingering impacts of these settlements, we had a gentleman from one of the pueblos, a small operator - 10 or 15 cows - who told a very poignant tale about the non-Indian producers who have this chunk of ground next to a Forest Service lease which entitles them to that Forest Service lease so much so that when he decides to sell his land, he can sell access to that Forest Service permit. It's sort of like an anchor to get access to that. What we would like to have since Forest Service is within the USDA, an examination of these anchor properties and possibly expanding that to let some Native American folks compete for those because they're getting the Forest Service leases far, far cheaper than our people are getting our own ground. So maybe examine that a little bit. We understand there's going to be a huge amount of pushback from

the good old boys who have had those Forest Service leases for decades and centuries, but there should be no reason for them to have that anchor property when it probably belonged to Indians before that. All we would ask is a fair shot at competing for it. Yes, sir.

Gilbert Harrison: Zach, that's the second time we've heard it here. We've had it brought up to our attention earlier too. One of the issues we had brought to us, if you have a tribal raising or Land Use Permit where you are legally entitled to raise livestock on the reservation, that should be equivalent to an anchor plot of land.

Zach Ducheneaux: Absolutely.

Gilbert Harrison: So that's something. I wish Butch Blazer was here. We need to address that in an equal level. That's a very good point. The council, maybe we can make a recommendation to the Forestry Service to make an analysis of that.

Zach Ducheneaux: Yeah, an analysis would be great so that we could go forward with policy recommendations. Thank you. Folks, that's what I've got prepared to visit with you about. If you've got any questions --

Sarah Vogel: I might be jumping the gun a little bit, but maybe you want to talk later about the outreach that you hope to do in these states with the statistical anomalies. So maybe

that sits better when Chris gives his report. But I think it would be interesting because there may be opportunities for Zach and his team to work with members of the council from those regions.

Zach Ducheneaux: Absolutely.

Sarah Vogel: That's at 10:15 or so, but I hope Zach can come back and talk a little bit about that.

Zach Ducheneaux: I'm just down the hall at your disposal until we have our membership meeting, and then I'm at theirs.

Gilbert Harrison: Mark, thank you. Zach, the other day I attended the board meeting.

Zach Ducheneaux: Yes, sir. It's good to have you.

Gilbert Harrison: I appreciate that very much. One of the issues that really caught my attention - I want to say that you guys are on the right track - that is the issue of tax laws. I need to get the senator's name. There's an initiative to reduce some tax laws related to, I guess, tribal operations. A couple of things that really caught my attention is that any -- maybe you can explain it.

Zach Ducheneaux: I sure would, yes.

Gilbert Harrison: Thank you.

Zach Ducheneaux: If you guys would indulge me a few more minutes. So what we've noticed is that there's very little incentive for our producers to participate in local food

systems. That's part of a bigger tax picture where an argument can be made that any production on trust ground by an Indian should be non-taxable. If it's in your own trust ground, if it's on allotted ground, your income is not taxable. Your expenses are not deductible, but your income is not taxable because of the nature of the title to the ground. What we're trying to do is carve out a little section of tax law that would incentivize some local food supply chains. What that would involve is, you know, if Gilbert had a few cows and he sold them to a local feedlot, he would receive a tax break on the income from that. So that he wouldn't have to demand the premium that he needs to live, he could realize that premium in the form of a tax break. That tax break could be passed all the way up the food chain until it's in the store at which time the customer can come in and get a higher quality locally grown product with that discount passed on to them and it would be more affordable.

Another portion of that plan that we're trying to put together is incentivize some corporate investment in Indian country. For example, in Indian country you can take accelerated depreciation on fixed assets and chattel. Allow corporations who invest on a trust lease to take that same accelerated depreciation. Then they've got a little quicker return on their investment, and that can help alleviate some of their unfounded fears of our court system. We've got to try to

find some ways to draw people in to our environment so that we can share in their resources to further develop them. I think that's what Mr. Harrison is asking about.

Gilbert Harrison: Along the same lineup, one of the things that I think I shared with the board was that I would like you also to maybe request in and through the board or maybe hear the issue of tax as related to NRCS EQIP grants. Right now that's treated like ordinary income. Well, if you're doing work on trust lands or allotted lands, actually you're working on government property in effect and you're expected to pay taxes on that. I know a lot of my people get turned off because you get the inflated cost of what we're talking about. All of a sudden the engineering cost goes up so high. Now you get a grant from NRCS for a \$100,000. You get a 1099 for a \$100,000. Who's going to pay \$6,000 or \$7,000 of tax associated with that? I think that should also be part of that package. That's to say that grants from NRCS, as long as it's related to tribal trust property or trust land or allotted land, should be nontaxable. Thank you.

Mary Thompson: Thank you. Are we talking state taxes or federal taxes?

Mark Wadsworth: Federal, federal taxes.

Mary Thompson: Are we trying to get BIA tagged on that one, then get the IRS to start with that?

Jerry McPeak: Yes. Thank you very much, Mr. Chairman.  
I'm going to sound like a politician when I say this.

Zach Ducheneaux: I like to hear it from you though because I can get [indiscernible].

Jerry McPeak: Here's what I'm going to say. I absolutely agree with the deal [sounds like] of the trust bank. I agree with where you are. At the same time, having sat there within the governments, every time you talk about reducing taxes or something, what pays what these guys do for us? And when you cut back on taxes, you're talking about cutting back on that income. So when you think about that, we've got folks within the federal government unfortunately who have pledged not to raise taxes on anything. Well, that's just stupid. That's like pledging not to raise more cows. I'm in the cattle business. That's beyond stupid. Because be careful, I'm absolutely on board with you. At the same time, we ask for taxes off of things, but we recognize we're asking to decrease the pool that we're asking to increase funds to us. It makes sense?

Zach Ducheneaux: Yes, sir. It does.

Jerry McPeak: Okay. So I apologize for [cross-talking] here.

Zach Ducheneaux: I would suggest that the increased revenue we generate from opening up those anchor properties on that --

Jerry McPeak: I used to like the Republicans.

Zach Ducheneaux: You're dang right.

Jerry McPeak: And we'll cut taxes until it makes the government better.

Zach Ducheneaux: No. I'm finding you an offset for it. We've got people renting federal property, dirt cheap with no competition.

Jerry McPeak: I understand the concept.

Zach Ducheneaux: Okay, so there's the offset. But with regard to Mr. Harrison's issue, if I may, if we can and we'll work to do better. But if we can do a better job of educating our people, we'll get out there and we'll do some tax seminars because the things that you're doing with your NCRS grant are all deductible expenses. If we can help our people file better, they won't realize any tax. That's a shortcoming on our part, and we'll do a better job.

Gilbert Harrison: Okay. One final comment, Mark, related to that. In the farm and village that I represent and also as a Navajo, many of the properties that we talked about are five or ten acres. They're a mom and pop operation. Very, very few Navajos run 100 or 200 head of cattle, basically maybe 15, just enough to be right there below the poverty line. If you start talking about accounting and getting tax deductions, the amount that somebody else is going to do, an accountant to do all your

paperwork is much more than what you earn. In other words, what I'm saying is you have to pay somebody to get a very little tax deduction. So a lot of people in my area I know can't afford those services and that's why a lot of these things turn them off.

You want to put a little, get a piped irrigation system on a five-acre plot of land. In NRCS property, the grant is about \$30,000. Are you going to pay \$6,000 on that? It's really just the smaller operations, that's where I'm coming from, where you don't have the capital or the cash flow to address a lot of these things that the bigger corporations have and the people there are running a lot of livestock are doing. I think that's where the tradeoff needs to be looked at. Jerry, I don't know about you politicians [cross-talking], but I think the amount that we're talking about is miniscule. Thank you.

Zach Ducheneaux: Tax preparation isn't that expensive if we get in the habit of preparing for it. If we do some documentation that we're going to do in our mind over the course of doing our business anyway and just put that on paper, you know, I have a producer that had \$220,000 in sales. He got his entire tax return done for about \$400. I think that if we can spread the word, help our people acquire the tools to better prepare for that, then we can take care of it. You know, we'll definitely work harder on that. We will.

Mark Wadsworth: We're going to let Sarah one more question, then we're going to the next speaker.

Zach Ducheneaux: Absolutely. I appreciate your time.

Sarah Vogel: It occurred to me that maybe when the NRCS does these grants, it could also have a sample example of the IRS form that you would use to make the deductions. Alternatively, that might be an appendix to the guide for lending in Indian country. In other words, if it were made accessible, people might be able to do it, make those tax deductions. Because I agree, those would be fully tax deductible. There's got to be a way to do that.

Mark Wadsworth: Are we ready? Well, we sure appreciate that, Zach.

Zach Ducheneaux: Thank you very much for having me. You've all got my contact information if you need anything from me in the way of further information. I understand you've got a list of recommendations. If you need any back-up documentation on those recommendations, please, please use us. Thank you very much for your time.

Mark Wadsworth: Thanks. Okay, the next speaker will be Rick Gibson. Then we'll go on to break after that.

Rick Gibson: Thank you very much, Mr. Chairman. It's an honor to address all of you and see all of you once again. It's been nearly two years since the charter for this council was

approved by the department. We're very proud so far of the work that everyone's been doing and the time and the dedication that all of you have put towards this cause. I don't need a full 30 minutes to give you a Keepseagle update. There are two big issues right now, one is the cy pres. The other issue that I did want to announce here is the opening of the ombudsman position. USDA announced the position on USAJOBS on December 9th. We're very happy internally that this has finally happened.

One of the designs of this settlement agreement from the attorney's perspective - at least in the programmatic relief area - was to get as many internal and external voices into this process as possible, so the creation of a council with persons outside the USDA to provide advice, the creation of a technical assistance network. So we had Indian voices actually helping people out in the field and trying to build the customer base and rebuild the trust, and then having an ombudsperson inside to work with the various agencies and stakeholders and also kind of be an accountable person on the inside that you all could come to or the agencies could come to, to try to work through these problems.

Mary Thompson: This ombudsman position that you're talking about, how high up in the hierarchy of the programs will they be?

Rick Gibson: The person reported directly to the general counsel, so be right under the general counsel for USDA.

Mary Thompson: Okay. So this person could foster the meetings, the joint meetings between BIA and some of the different programs where we need to revisit the policies and procedures. Are they going to be in a position to do something like that?

Rick Gibson: Ideally yes. I mean, they should be able to work through the general counsel as we have been doing to get memorandums of understanding with BIA and work through other issues.

Mary Thompson: Is that your understanding, Chris?

Chris Beyerhelm: I think that's certainly a possibility. I mean, just from my personal perspective as my boss isn't in the room, but I think he'd agree with this. Our hope is that the ombudsperson will be like the Maytag repair person, have nothing to do. Because if I'm doing and I'm supposed to do and all the other agencies are doing what they're supposed to do and working with Leslie [indiscernible] they shouldn't have anything to do. So that's my objective, it's to have them have nothing to do.

Mary Thompson: But we already know how much they need to do.

Mark Wadsworth: They like that job.

Mary Thompson: I'm sitting here trying to work on this little action item thing here too. I noticed this joint meeting with the Jodi Gillette, all these folks that need to get together to revisit those policies that are hindering the Indian farmer from getting something done - whether it's NRCS policy, whether it's BIA, land leases, all of these issues that we keep hearing over and over again.

Chris Beyerhelm: I think the ombudsperson can be helpful in that. I think with the leverage that Leslie has gotten from the secretary now and with his interest in this, I think we're where we need to be.

Leslie Wheelock: So Mr. Chairman, if I may. As I've mentioned yesterday, as a result of what we requested at our last meeting, I'm the point person that the secretary has designated to take those issues over to BIA. We're just beginning that conversation next Tuesday with Assistant Secretary Washburn coming over to learn more about USDA. We've got his ear for two hours, and it's primarily education to get him up to speed on some of our programs. Then Larry Roberts, from the Department of the Interior, has been tagged by Secretary Jewell to be my equivalent over there to work through things. When issues come up on our side, my obligation is to get them over to him. His obligation is to start working them

down through Interior to try to figure out what the next step is to clear those roadblocks.

Jerry McPeak: You talked to BIA or you talked to the Department of Interior?

Leslie Wheelock: BIA is part of the Department of Interior.

Jerry McPeak: I understand that, ma'am. My question was [cross-talking]

Leslie Wheelock: I call them both. I refer to both. I use the DOI and BIA interchangeably because as far as I'm concerned the activities of BIA are too siloed in that organization to the extent that we end up with Bureau of Reclamation and Bureau of Land Management following different practices and procedures that BIA itself follows and it causes more problems with our tribes than it should.

Jerry McPeak: So you're saying the Department of Interior and BIA are synonyms.

Leslie Wheelock: I am trying to make them synonyms just as I can talk to Chris about USDA. It may not be an FSA program, but we are beginning to pick up our sister agencies and help them do their jobs better. DOI needs to do the same thing. I'm only one person, sir.

Mary Thompson: And to continue, a follow-up on this, Leslie. Then whenever you go over and meet with these folks

then, we, I would like to get a little feedback on how it's progressing, what issues you're bringing up and just where you're going with it.

Leslie Wheelock: I'll be happy to do so.

Mary Thompson: Just a follow-up that we need to be getting back. We talked about this communication and follow-up on our proposals, on our action items and this type of stuff. But yes, please report back to us. Thank you.

Gilbert Harrison: I have a question for Rick. Rick, thanks very much. But a couple of things come to mind. Number one, I keep hearing different information on the balance or what's left in the Keepseagle Settlement. That's one. There are some people who have said what happened to the difference. Who took the extra money? I said I don't know; it's not my account. But there are questions on what is the balance. I'm sure we don't have it down to the last penny, but just what's the balance. The second thing is that I also keep hearing the council at our last meeting made a resolution and passed a resolution to say that we supported the concept of a foundation. Now, over the course of the last couple of days and other times, they're saying that those funds may be just given out to tribes or other educational entities. What should we be saying? Is there any thought or decision on that? Thank you.

Rick Gibson: For the first question, we can give you - I know the Class Counsel can give you kind of an accounting of how much funds have been spent from the designated account. At their last reporting to the court, it was slightly over \$299 million.

Jerry McPeak: There's been money come out of that account?

Rick Gibson: That's right. That was payments to successful claimants, payments to the class representatives, and payments to Class Counsel for their attorney's fees. Then whatever is left in that account will go to cy pres fund. So there has not been any distributions from cy pres fund yet because one hasn't been created.

Gilbert Harrison: Two hundred ninety-nine balance?

Rick Gibson: Two hundred ninety-nine has been paid, so balance is 380.

Gilbert Harrison: Three hundred eighty.

Rick Gibson: Correct.

Gilbert Harrison: Thank you.

Rick Gibson: Yeah, right around there. I know that there are still some prevailing claimants who are still working through probate issues. Less than 50 is what I've heard, but I know that Epic Systems is still providing claims administration funds, so I think they're still providing checks to those persons as they clear those issues. But the balance should be

close to \$380 million for cy pres. The parties met with the court in November. Meeting with Judge Sullivan is always interesting because of a very discursive style or a very conversational style then he kind of punches you in the stomach and surprises you with something. During this meeting, he said things like, "Well, maybe Class Counsel should refund part of that \$60 million if they didn't get enough claimants," which surprised them.

For us, he said, "Why does USDA even care about what's in this fund? Why are you even here, DOJ?" I don't think he offered any pointers about which way he's going. I tend to think he wants the parties, Class Counsel and DOJ, to work it out. Lead Class Counsel and political levels at DOJ have had one meeting talking about how to come to an agreement about how to structure the cy pres fund. We intend to have more meetings before January. There's a joint status report due on January 21st from USDA and Class Counsel. I think whatever comes out of that report will set the timetable about what we're doing about cy pres because I know the parties will come to some kind of agreement about who is going to distribute this money, how it's going to be distributed, how long it's going to be distributed or they won't, and Class Counsel will have to file a Rule 60 motion to amend the settlement agreement without USDA consent. I think procedurally that's where we're going.

Male Voice: Would you say the judge I won't say offhandedly, but I mean, said that perhaps the money needed to go back where? Is it a general fund, or what did you --?

Rick Gibson: Yeah, just refund part of the money. He didn't say where to go. Just refund part of our fees which is legally would be unusual.

Sarah Vogel: Could I add that a couple of other points that the judge made? I don't disagree with anything Rick has said, but one of the tightropes we've tried to walk down is that this \$380 million was sent in 2010 to the Class Counsel pursuant to the settlement agreement as part of the entire settlement. As the claims have been paid out, I can give you the exact numbers. In fact, I'll circle back to that. But among other things, big bombs that the judge dropped, he asked the Department of Justice spokesperson, "Do you have any intention of trying to get that money back, the \$380 million?" The Department of Justice lawyer said, "We haven't. The idea is not foreclosed." And then he went on to say that if we go ahead and do the 60B motion without the Department of Justice's consent and they don't like the result, then at that point - and there was sort of a soft land, but at that point they're holding that out. To their credit, the Department of Justice in all of our different meetings has never once brought that possibility up until in response to the judge's direct question.

Another big bomb he dropped is he asked the parties -- because one of the things we would be willing to do would be to ship the money to, you know, sort of double up, pay the rest of the money to the claimants. The Department of Justice has in written materials say they're opposed to that. The judge said, "Wouldn't that be an undeserved windfall to the successful claimants?" which sounds like there would not be a lot of judge support for that concept and he appeared a little testy.

Rick Gibson: To say the least. So the parties, I think, are on a pretty strict timetable with this judge. I don't think he'll be very patient. If the joint status report is one page and says --

Sarah Vogel: We're still talking. You don't want to go there.

Rick Gibson: Right. I think it's in the parties' interest to continue meeting.

Sarah Vogel: Exactly. And in that sense, I think the judge gave probably close to no clues as to his preferences or what he wants. He also raised something that was rather spooky I'll say, and that is not too long ago there was an appeal, I think it was a Facebook-class action that had leftover money and many different circumstances between that case where the successful claimants got no money and all went to cy pres and our case we're close to \$300 million went out to claimants. But

be that as it may, Chief Justice Roberts wrote an opinion where the Supreme Court said we're not going to take this case. But basically Justice Roberts said, "I can't wait to get a cy pres case because I hate them. I hate cy pres awards and I'd like to get rid of them." And that's a chief justice.

So the judge brought that up, too, to keep everybody's attention on how ugly an appeal might be. When we said we want the Department of Justice and us to come to a deal by the end of December, the Department of Justice lawyer said no way. The judge did agree with you on that one and he gave until the end of January. I mean, that's a perfectly reasonable timeframe. But that's kind of where it stands. In response to one of your questions, Jerry, the money is still sitting tight earning very modest interest and awaits a resolution or not with the Department of Justice.

Mary Thompson: Sarah or Rick, I guess either one. What's the big sticking point between DOJ and the Class Counsel coming to terms? What's the major hold up?

Rick Gibson: I think there's three questions: who distributes the funds; how long; what the vehicle is, whether it's a new foundation or whether it's as written in the agreement to existing organizations. I would say those are the big three. If we can solve two of the three of those, then we'll be well on our way in January.

Mary Thompson: What is Class Counsel's position?

Male Voice: What are the three again?

Rick Gibson: Who is going to make the decisions about who benefits; how long is this foundation or how long is this distribution going to be continuing attached to the case; what the ultimate vehicle is whether you do it through a new foundation or whether you do it through some kind of court appointed administrator.

Mary Thompson: Okay, but I'm still trying to figure out what does Class Counsel want to do, and what does the DOJ want to do?

Rick Gibson: The Class Counsel wants to create an entirely new foundation.

Mary Thompson: Class Counsel does?

Rick Gibson: Correct.

Mary Thompson: And DOJ?

Rick Gibson: Distribute the interest of the corpus of the fund for or as long as they can.

Mary Thompson: So they just want, okay, just distribute the interest and leave the principal amount there to keep the foundation going.

Rick Gibson: That's correct. And from the government's perspective, that's not something that DOJ has done before - I don't think - in any of the settlements, not even Cobell where

there is a fund. It's further than what they've done in past settlements. I can say just as a defense side attorney on my own behalf, my interest in the settlement is always like how fast can I get this money out to this person if I'm settling. I'm like, all right, let's get this done with. How fast can I get it to him? I broke your car; I ran over your garage; I killed your dog. How can I act the better -- I'm going to buy a new dog. I'm now creating a new -- because I'm simple.

Chris Beyerhelm: I've got two questions. One is what's the status of those intervening claims? I think you have two or three.

Rick Gibson: The judge did not make a determination. I mean, both Choctaw Nation and Great Plains intervenors were in attendance at the status conference. He did not invited them to speak. He didn't seem to be very interested in them speaking. He didn't really raise their issues at all. Again, he is holding his cards tight because if the parties don't get in gear and provide something meaningful, then that's something he can argue, well, let's let other people in. Let's see someone else's idea and I don't think that's necessary at this point. I don't think that really would add to the resolution of what the cy pres issue is.

Chris Beyerhelm: Switching gears from the cy pres, the other piece of the settlement was the programmatic things. With

the advertisement of this ombudsperson's position, are we ready to say those are all done? As Zach mentioned the other day, we really haven't officially said that IAC satisfies requirement on the settlement agreement for the technical assistance piece. But I think we're pretty much there, aren't we?

Rick Gibson: Yeah.

Chris Beyerhelm: Can't we close that and say, yes, they are official?

Rick Gibson: Yeah. I mean, my understanding of the settlement is that we don't ever have to say we're done and cross off the list. If we don't comply with it and Class Counsel says, "Well, you're not complying with this provision for the five years," but we have a five-year period of the program radically [sounds like] so we can't say, "All right, we're done," if IAC ceases to exist.

Chris Beyerhelm: Yeah. I just want Class Counsel to think that we're doing our due diligence, that we're satisfying the spirit and the intent of the agreement.

Sarah Vogel: There is a provision in the settlement agreement that if either side is not happy with the other, there's a requirement that we talk and make a record of those talks and then go to the judge. That has not come up. Everybody is working along pretty well, I think, especially now

that the ombudsperson position is getting going. I wish that they would extend the ombudsperson slot or -- [cross-talking].

Gilbert Harrison: Is there a target date on when we're going to tell the judge, here it is, it's what we wanted, what we recommend?

Sarah Vogel: I guess the meeting at O.K. Corral is going to be January 27<sup>th</sup>. Did he say 11:00?

Rick Gibson: Eleven thirty I think, or eleven o'clock, yeah.

Gilbert Harrison: Twenty fourteen.

Sarah Vogel: Was it 1:00?

Rick Gibson: No, it's 11:00 or 11:30.

Sarah Vogel: Eleven o'clock in Judge Sullivan's courtroom. About a week prior, he wants something from the parties. So I think a month hence, but obviously there's pressure from the judge for the parties to get together.

Jerry McPeak: It is open to the public since it's in a courtroom.

Sarah Vogel: Oh, yeah.

Rick Gibson: That's right.

Sarah Vogel: It's an open courtroom. It's on the schedule. By the way, I do have the briefs that have been filed. I think Rick, you actually had said you'd get those out but forgot. But there are several key briefs that spell out the

parties' position. One is our status, our report to the court which also requested a status conference which has all of the exact numbers out of that date, the government's response, and our reply to the government's response. I think those are the three key documents. They're all PDFs and we can send them to everybody.

Rick Gibson: And the intervention motions are worth reading, but not quite as simple.

Sarah Vogel: And the resolution of the council, Mark signed it and it was submitted to the judge that day, he didn't mention it. He didn't mention any of the board resolutions from NCAI for example or the council. He didn't mention any of that, but it's in front of the judge. So we can check that off the [indiscernible].

Mark Wadsworth: I appreciate it, Rick. Let's try to do a 15-minute break, and then we'll have Dr. Dick from the USDA Animal and Plant Health Inspection Service.

[Break until 1:15:58]

Mark Wadsworth: I think we'll get started into the next presenter or speaker. When I worked with the first outreach within the Intertribal Ag Council to have USDA agencies start to work with tribes, one of the top agencies I always felt that did the most and the quickest in trying to understand the Indian concerns was the Animal and Plant Health Inspection Service.

They had some real good representation within there. I haven't met Dr. Jere Dick but I have married, I admit, Dr. Clark. I was looking at that the other day, and I said Dick Clark. We might have the *American Bandstand* here. Anyway, if you guys could come on up and do a presentation pretty good. Thank you, Jere.

Jere Dick: Thank you, Mr. Chairman. I appreciate it. It's certainly a pleasure to be here with you. I might ask how many of you were present yesterday morning during my presentation? That will give me some sense of what I need to go through here. Just a couple, okay. Great. Well, I wanted to just tell you briefly a little bit about myself. I practiced in the northwest, in the State of Washington, for about nine years in a private practice. At that point in time, went to work for the government and I've worked for veterinary services for 25 years. Just this last month, I moved to the associate administrator position for APHIS. So I am certainly pleased to be in this new position. I have a steep learning curve to learn about all of the other organizations within APHIS.

This morning I brought my right-hand people. Dr. Terry Clark in the back - please stand up - has become just in the last year our Native American liaison, the national liaison. Terry is a veterinarian like myself and he works heavily with the tribes year-round on animal and plant issues. Carl Etsitty, sitting right next to him is our PPQ APHIS plant national

liaison. Both of those gentlemen do a really great job of getting out into the country and on the ground working with folks year-round. If you don't know them already, you need to make sure that you catch up with them this morning before the meeting is over.

So I have worked, as I said, for about 25 years with APHIS. I have been in the field in numerous positions in the State of Montana, in Alabama, in Tennessee. I was the manager of the state program in New Mexico for five years, and then I went back East and was a regional director for a number of years, and then onto Washington, D.C. and I've held positions there in our policy division and in our deputy's office for veterinary services for about nine years.

I visited my grandson about three weeks ago. He's 14 months old and likes to give those open-mouth kisses. He had a cold, and so he passed it on to me. In about three days he was done, and I'm still suffering after about three weeks, so I apologize.

It's a pleasure for me to be here this morning to talk to you just a little bit about what APHIS is doing. Some of you probably already have been associated with us and know a little bit about us, but we basically are the secretary's arm of USDA to protect American agriculture as far as the health and profitability of plants and animals. That is our primary goal.

We believe that the role of government is to do collectively what no one person can do, and so we have programs that assist tribal and state governments. We certainly want to ensure that our livestock and crops are safe from pests, diseases and predators. That's mainly what we focus on. You probably have been associated with our Wildlife Services folks, previously called Animal Damage Control that do a lot of control work for wolves, coyotes, and bears. We combat invasive insect species in our Plant Protection and Quarantine Unit, and we work in Veterinary Services on a wide variety of animal diseases like TB, brucellosis and so forth.

So what we're wanting to do is to move forward with our commitment this past year to hire a full-time Native American liaison. We want to do a better job of working in partnership with the tribal governments to extend our programs. However, in today's climate - I think you're going to be talking about budget hearing in just a little bit - we do have significant budgetary constraints. I don't need to describe to you what's been going on in Washington, D.C. around the budget. I'm keenly aware that certain measures to downsize our budget have had significant impacts not only on the tribes but the states and others that we serve. Just to give you a sense of what that impact is, in the last three years since 2010 APHIS has lost \$250 million collectively. So there is no more low-hanging

fruit, if you will. We have to learn to do business faster, perhaps without regulation, and make sure that we're doing it as efficiently and effectively as we can. Those are the things that we're focusing on right now.

Dr. Clark and his team have been out in Indian country, as I mentioned, and at meetings such as this making sure that folks are aware of our resources and our opportunities to collaborate. We know that we haven't always done a great job. We admit that we haven't done a great job in our consultations. We want to do a much better job. That's why we've dedicated the resources that we have to talk to you continuously about your issues. As part of their effort, just to give you a sense of what we're doing in APHIS, we've developed a four-part training for our employees to make them better aware of the programs that are important to you. Those training programs are actually led by distinguished tribal members so that we can have firsthand experience in those trainings. We've also reorganized our internal methods of how we communicate in APHIS. We have launched a new tribal website and we encourage you to go and visit that page. We continue to try and attend as many of these kinds of meetings as we can to get your input. That's what I'm here for today. I'm just going to speak for a few more minutes, and then I want to hear the questions that you have.

One of our major goals over the next several years is to fully implement an animal disease traceability system. Those of you in the animal industry know about that. That rule was finalized in March of this last year. It basically requires that you have a health certificate or a veterinary certificate of an interstate inspection and/or another legal document such as a brand slip and the animal must be identified to move interstate. Otherwise, that regulation was developed specifically to be flexible to allow tribes and states to meet their own needs. So the states and/or tribes are running that program themselves. We have made it a point to work closely not only through the development of that rule - in the working group we had tribal representatives - but to continue to get your input and feedback as we develop that program.

In relationship to horses and burros, APHIS has been participating in efforts where we've been asked to provide equine healthcare services such as testing for equine infectious anemia. With regard to the wild horse overpopulation issue, we have a small piece there. We have our slaughter horse to transport rule that we are regulating as far as making sure that horses are delivered humanely. We've also done some research at our National Wildlife Research Center. We know that it's going to take many tools to address that difficult issue, one of which is continued reproduction. So we've actually worked to develop

a drug called GonaCon that can be purchased by the tribes. It can be given to the female horses. They develop an antibody against the ovum and they do not reproduce for a period of years after injection of that drug. That's just one tool. We realize it's not going to solve everything, but we have been working with the tribal governments to make sure that that's available also.

We also know that feral swine issues are a big problem across the United States. They cause somewhere around \$1.5 billion of damage annually. They're terribly destructive and we are in the midst of proposing a comprehensive feral swine control program run by our Wildlife Services folks. Right now we just started the EIS for that. We hope to have that done within the next year. We've asked Congress. In the president's budget, there is \$20 million set aside to begin that program in the coming year. Right now they're doing a pilot in New Mexico so that we can learn what methods are effective and which ones aren't. As we roll this program out, we'll be continuing to talk to you about what your needs are in that regard.

As far as crops are concerned, I see that Leslie is going to visit with you about the Farm Bill and other things. In 10201 I just do want to say that we have about \$15 million set aside in the president's budget. We hope to get that money in the next budget appropriation for 10201 funds to work and

prevent invasive plant pests. Last month, we provided a webinar for the tribes. We have one more webinar scheduled for next week, on December 18<sup>th</sup>, if you go to our website. For those of you who want to be more informed about the 10201 process, I will ask you to flag one date, January 3<sup>rd</sup>. It's the last day that you can submit applications for those funds, so please be aware of that.

Biotechnology is another area that we're involved in. We know that it has a significant impact on you. It's important to clarify that the food safety element of genetically modified organisms is regulated by the FDA. The portion that APHIS looks at is whether that plant, a genetically modified plant, is going to impact the environment as a plant pest. That's the piece that we look at. EPA has a piece, FDA has a piece, and APHIS has a piece. So it's a fairly complicated area, but our BRS folks have been working diligently with the states and the tribal governments. We are pleased to say that we're developing a rule. We're getting near to finalizing that regulation that would allow us to disseminate some confidential information about where companies or entities want to plant those GMOs so that we can notify you ahead of time when they petition us to plant those so that we can be visiting with the tribes about the issues around GMO crops. I think that will make it much easier

for us to provide you feedback in the instances where we're working with GMO crops.

We are working on our 2015, five-year, until 2020 strategic plan. This is really a key time for us to continue to get your feedback. That's why we're coming to these meetings and we want to hear from you. Certainly, we want to continue to expand our partnership with the tribal government. I'm going to close with those comments and open it up if you have any questions. I'll certainly try and answer them. If not, a couple of my colleagues in the back can pitch in. If there's something we can't answer, we'll certainly get back to you.

Angela Peter: Angela Sandstol, I mean Angela Peter, from Alaska. I noticed in here, and I was really, really happy to see it but I still want to understand it. In Alaska, we have a very, very bad time with beavers damming up our rivers and our creeks. Thus, the fish can't get by and spawn, yada, yada. So how does that work? How do you guys --?

Jere Dick: Well, our Wildlife Services folks do those sorts of damage mitigations. In every state we have a state director. I don't know immediately offhand and off the top of my head what the name of your state director is, but you can contact them. They can work with you in those kinds of programs to mitigate the damage that the beavers are causing. I don't know, Terry, if you have any extra information.

Terry Clark: If you do need that contact, inside your folder is a pamphlet. At the back of it is my contact information. If you want to know who that is just contact me and I'll provide that information to you.

Jere Dick: Yeah. There are so many people working for APHIS that we can't give you all of the names. But APHIS, one of our primary programs is Wildlife Services. They do the animal damage component.

Angela Peter: Okay, I understand that. But I was just asking if you know how it's done.

Jere Dick: Oh. Specifically, Terry, you want to address that?

Terry Clark: The question is how --

Jere Dick: How do they do beaver damage control.

Terry Clark: I know down in the South - I'm from North Carolina - what they do is they go out to the beaver dams, locate the beavers. They relocate those beavers. Some of them are taken; some of them are relocated to other areas and some of them are destroyed. There are instances where the dam will be destroyed to allow the waters to flow so they relocate those beavers.

Angela Peter: They relocate them within the state?

Terry Clark: They relocate them to areas that want beavers. Some areas want beavers, some do not.

Angela Peter: I don't think anybody in Alaska wants beavers.

Terry Clark: [Cross-talking] Some areas do, some areas don't. Mainly, if there are otters and stuff, they relocate them to tribes that want them.

Jere Dick: They'll work with you, in other words. If you want the beavers removed, in other words terminated, they have a variety of methods that they can take them.

Angela Peter: Being the rep from Alaska and the Alliance of Tribal Conservation Districts, that's one of the main issues that we have. It might seem small to some of you guys, but when the fish can't get up to spawn, we don't have fish to eat. That's what sustains us. Thank you.

Gilbert Harrison: Thank you very much, Gilbert Harrison from Navajo Reservation. You talked about the wild horse/feral horse issue. In the past, the government had tried different ways "to get a handle" on this problem. Right now I understand the government has something like 30,000 horses they can't get rid of because nobody wants to adopt them. Anyhow, you say we have this vaccine or some sort of drug that's going to prevent or cut down on the multiplication of these species. Those are very expensive - of trying to handle a problem. Do you have a Plan B which is much more effective and less expensive to really get a handle on this problem?

Jere Dick: Yeah. First of all, I've visited many of the tribes and I've seen the devastation that the horses do. I don't know if you listened to the speaker yesterday afternoon who gave a fairly good synopsis. One of the problems here is the levels of authority and that there are various government agencies involved. BLM on BLM land handle the horses. We, APHIS, supply them with our veterinarians to help when they have the roundups to make sure that if horses get cut or they need some sort of veterinary assistance, we help them with that. That falls under our authority. The problem with the wild horses is there are already way too many of them, so simply using one tool like a contraceptive is not the answer obviously. We personally, APHIS-USDA, does not have the authority to go in and destroy horses. It falls under the purview of the tribal governments. Unfortunately, one of the ways that we had of getting rid of horses in the past was slaughter. Food Safety Inspection Service, which is a part of USDA, is willing and ready to inspect horses at a slaughter plant and provide the American public with that relief. That would be a much cheaper way. In fact, you would be able to sell your horses to get that relief.

I will tell you though that there are many, many people in this country that believe that horses are pets. They have deep pockets and they support different organizations that are very

adept at filing lawsuits. If you have followed the wild horse situation recently, there were three plants that wanted to start operation as slaughter plants in this country. One of those organizations filed a lawsuit. The judge granted an injunction. It was eventually overturned and then they appealed. It's now sitting again with another judge. So USDA is willing and ready. We know that humane euthanasia with a captive bolt, which is what they use in slaughter plants, is an accepted method of euthanasia by the AVMA, the American Veterinary Medical Association. We're willing to inspect those plants so that we can ship that meat to countries that utilize horse meat. But right now it's tied up basically in the courts, and that's unfortunate.

Chris Beyerhelm: Do you know how many of those three plants are still willing to proceed once the lawsuit is settled?

Jere Dick: I haven't talked to them specifically, but we have petitions as I understand it. I'm not in FSIS, but as I understand it, FSIS had three petitions to grant inspection. They call it the Grant of Inspection. Those plants were in New Mexico, Missouri, and Iowa as I recall. I don't know what the status is right now other than that it's tied up in the court.

Chris Beyerhelm: Yeah. I heard that at least one and maybe two of them said it's not worth it because they assumed

once the suit gets settled there would be another one following that.

Jere Dick: As a businessman, that's exactly what those groups want to have happen, you can't as a business operate one day and not the next, and then operate the next day and not the next. The chaos that's created by lawsuits, that's sometimes the offshoot.

Chris Beyerhelm: Just one follow-up question. What about the issue about transportation? If they do open up, what about the issue of transportation of these horses?

Jere Dick: We have sufficient personnel. As you know, those horses are shipped to Canada and Mexico currently for slaughter. We have personnel that monitor that. We already have in place a system to monitor the actual horse transportation act so that's not problematic for USDA.

Porter Holder: Does the COOL labeling fall under APHIS?

Jere Dick: It falls under AMS, Agricultural Marketing Service. I'm probably not the person to speak directly to that. I don't know. Leslie or somebody else can speak to that. But it is not part of APHIS.

Leslie Wheelock: We should take your comments at some point in time on COOL just to make sure that we get it on the record.

Jere Dick: Right. We can elevate whatever questions you have.

Mark Wadsworth: If I could, the question on the traceability, one of the struggles, because this has been going on now for seven, eight years to get this in place. One of the solutions I think that was brought to you was that as a part of our Native Americans and some tribes have even passed resolutions or put it into their operation procedures within the tribe is that they have to register under a traceability program. Now, most tribes that deal with larger [sounds like] landed ones also deal with the Office of Special Trustee through the TAAMS system, the Trust Asset Allocation [sic] Management System, in which we log down all the information of those cows that are impregnated within our range units. They also do that within the leasing of the pastures through the bureau and depending on whether you're dealing with the tribe or you're dealing with the bureau. I always thought it would be quite simple if you guys, wherever they interface on one of those sections within that computer system, if you could approach those people and see if you could in some way have a little icon for traceability information that people post in there. It makes it a lot easier for us to find that information.

Jere Dick: You bet. And that's a great suggestion. One of the things that we've struggled with over the years - as you

said, this has been 10 years in the making - is trying to find a system that will suit all of the industries. The cattle industry is very diverse, and then you go to the pork industry and so on, it gets very, very complicated in a hurry. But essentially, by passing the ADT regulation, we would like to work with the states and the tribal governments to mesh the ADT system with systems that are already in use. We don't want them to have to recreate the wheel. We want to be able to use those kinds of systems. The problem, frankly, has been that many, many of the states and/or tribes want to keep that information confidential. They don't want the federal government, if you will, dabbling and having access to their computer systems. I'm just being honest and open with you here. So it's been an uphill climb, frankly, to try and get agreement for us to tap into those systems.

Jerry McPeak: Your Indian summer youth intern and training program, could you expand on that? I've never heard of it before.

Jere Dick: Let Terry talk about that.

Terry Clark: Well, that is we have corporate funding that we provide tribal colleges. This past year we partnered with --

Jerry McPeak: It's only through tribal colleges?

Terry Clark: Well, the ones in the past have been on tribal colleges. We can look at other avenues, but in the past

few years we partnered with several tribal colleges, in the past year Navajo Tech Community College. We partnered with them and hosted a two-week summer program for students ages 14 to 17. They would come and live on the campus. They would have instructors basically around agriculture and natural resources activities. APHIS would also come in and provide some presenters to talk about what APHIS is and about the programs within APHIS. Last year we had Navajo Tech Community College. The year before we had [indiscernible] College. We are looking at possibly expanding that in the future, but that's basically the gist of the two-week summer program.

Jere Dick: Any other questions?

Porter Holder: It's really not a question. It's kind of a statement for this council. Talking about the horse slaughter, now don't get me wrong, I love the horse. I probably owe my life to the horse, and the horse has been good to the Native American. We got way too much of a good thing right now. Wouldn't a simple solution, maybe not simple, but at least a solution to make [sounds like] these processing plants and your lawsuits, and the people with the deep pockets, wouldn't a solution be to put that processing plant on a reservation that are overrun with these horses? Then you add a value-added product, plus you control, plus these people you're talking about. I know who you're talking about that shows up with the

deep pockets and the lawsuit. If they come on that reservation without permission, they're trespassing.

Jere Dick: I think the issue there is still under the regulation, under the federal red meat inspection regulation. The federal government still has to have a meat inspector present onsite if the meat transits a state line. So the problem becomes if you have a tribal inspector and you're going to utilize the meat, that's one thing. But if you're going to sell it commercially and it transits an interstate line, and it goes to Mexico or Europe or some other country, it has to have a stamp of inspection. So we get right back to that issue. But that's a great suggestion and it needs to be explored further. But I think you'll run into that process. I can take that back and we can talk to FSIS more about it, but I'm pretty certain, Leslie, that that's been broached before and that was the answer.

Mary Thompson: Thank you, I'm Mary Thompson. I'm wondering about the damage mitigation by the state directors, and I'm wondering how much time or is there a specific amount of time dedicated to tribes from this state inspector or director for damage mitigation?

Jere Dick: One of the things that we have been trying to do proactively in APHIS is to get our state managers in all of our programs more directly involved with the tribal governments.

One of the ways we're doing that is with these four tribal trainings that I have been talking to you about. We're going to be training all of our major managers in their responsibilities - training to service, if you will, the tribal concerns. So we hope over the next year to have all of the managers trained to the point where you'll be on a first name basis with them. That's the way it should be.

Mary Thompson: That would be good. I have another question about the biotechnology you spoke of and disseminating information to tribal members. You mentioned the webinar and the website, but sometimes not everybody has access to Internet services. Is there any other way that you have in mind for communicating with farmers, ranchers, agriculture folks?

Jere Dick: Terry has crossed that path before so he could talk about that.

Terry Clark: Now, in addition to just BRS issues, any issues where APHIS has a program or issues that affect tribes, one of the things we started doing last year was we started sending letters to all the tribal leadership to let them know about the process or the upcoming regulation or the issue that may impact them as we build our relationship with tribes. We're receiving email information because there are several folks at this table that I sent emails to about the issues. First of all, we sent a trial letter to the tribal leadership. I know

that that letter doesn't always make it down to the department head sometimes, so I'm in the process of doing now is trying to capture as many department heads' emails to send information to the department heads or the contacts that I have. So we're going beyond just the tribal letters. We do try to provide information as much as possible.

Mary Thompson: And that would include like your extension programs?

Terry Clark: Yes. If we have their contact information, we do. I have about 1,500 tribal contacts that I have in my email list and I send out information about that. In addition to the tribal letter, we do have a conference call with the tribes and invite tribal leadership or department heads to participate in the conference call to obtain more information, so we're trying to build upon that. It's not the best, but we are building upon that system.

Mary Thompson: It amazes me. I don't know how they get my name and address, I get so much junk email, but they can't get the regular mail out to the people that need it. I do understand that sometimes with tribes, maybe agriculture is not their top priority, so it gets bypassed or left unopened or no attention is paid to it. So do you go to other tribal conferences other than agriculture? Like in the East you said

you've got all these big intertribal organizations that might include natural resources that you could get contacts from.

Terry Clark: Yes, I do. I do. I was at a USET meeting here recently in Cherokee. I go to the USET. We go to wildlife meetings and such. We go to all the tribal meetings that we can attend to provide information to make those contacts so that we can add them to the list of information that we're working on within APHIS. We do try to build upon that.

Mary Thompson: One last little question on these genetically modified crops. Who is the major group of people that's doing that? Is it tribal members or non-tribal members?

Jere Dick: It's basically the huge seed companies like Monsanto and others that are developing this to feed the world. The global [indiscernible] we have to double our output by 2050 to feed the world. So anything that can be done genetically to crops to help them increase their productive level, these seed companies take that on as a social responsibility and also as profitable because if you can get 100 bushel per acre or more, it's profitable for the farmer also. The major seed companies petitioned us they're going to have new products. There has to be field trials and they do those under certain conditions. They're very closely monitored by our folks, but sometimes those field trials may be within a mile or two or such from a tribal land. What we want to make sure that we do before any agreement

is made with the company is to consult with the tribes to see if they have any concerns. Our specialists will do that on a need to know basis.

Mary Thompson: Well, that's good because there are some tribes that have their own, I guess, traditional seed crop or whatever. Sometimes I think that - I don't know - intellectual property rights that can be associated with that. That seed crop need to be looked at and protected. One last thing on your cooperative funding through tribal colleges, how would that funding get to be accessed by tribal members when there is no tribal college there?

Terry Clark: That's a good point. As I mentioned, this is a new process for us and we started out with tribal colleges. It appears to me we need to explore beyond that and look at other areas where we can get tribal students that does not have a tribal college. Right now when we work with the Navajo Tech Community College [indiscernible], we asked them to go beyond their system and encourage students from other tribes to attend. We also have another program called Ag Discovery, and those are located all across the U.S. It's very similar to the tribal summer program. It talks about the same issues with APHIS, et cetera, and they are located in different states. We also try to get the information out to tribal members about those summer programs as well.

Male Voice: It's called Ag Discovery?

Terry Clark: It's called Ag Discovery. I think we have two there in North Carolina.

Male Voice: How about the Pathway [inaudible]?

Terry Clark: No, Pathway is to be the [indiscernible], yeah.

Mary Thompson: I'm just going to go ahead and say this too. With, say, North Carolina, the two that you have in North Carolina, that's well and good. But at times maybe that information don't make it over to the other side of the state where we're in.

Terry Clark: I agree 100 percent. I know where you live and I agree 100 percent on the issue.

Mary Thompson: But that's an issue that needs to be addressed. I mean, we don't want to just we agree to agree, but let's do something about it.

Terry Clark: And we will.

Mary Thompson: Thank you.

Terry Clark: That's why the administrator put this office together so that we can start correcting the issues.

Porter Holder: What year did you do say, in 20-what, that we have got to double our food production?

Jere Dick: In 2050.

Porter Holder: In 2050, 37 years. [Cross-talking]

Terry Clark: That's the information at this current rate of world growth in population.

Porter Holder: I have to argue with that. I'll say it's soon. I'll say in 20-30 years from what I have seen in the last 10 years, the way things deteriorated, I'll say 2030. Maybe I'm a little dramatic here.

Jere Dick: Economics is just explosive. Crunch the numbers at the current rate of growth and current production level and so on and so forth, that's an estimate of course.

Porter Holder: Right. And that's figuring in the, the USDA says, we lose one acre of farm and ranching every [indiscernible]. That's a big obstacle coming down the road and we've got to do something about that.

Jere Dick: Yes, it is. Mr. Chair, any other questions?

Mark Wadsworth: I think we really appreciate your communication with us.

Jere Dick: Sure, any time.

Mark Wadsworth: I imagine you will be receiving some communications from us.

Jere Dick: You bet. Great. Thank you very much.

Mark Wadsworth: All right, the next speaker will be Chris Beyerhelm. He will be going over that statistics in the book.

Chris Beyerhelm: Yes. Thank you, Mr. Chairman. You want to turn to Tab 2 and 3 just to remind you of the history of

this. As part of the Keepseagle Settlement agreement, we are required to report to the council, to the ombudsperson, whenever they get assigned, to Class Counsel, and to the Department of Civil Rights about statistics on the approval rate between natives and whites. So what you find in Tab 2 are the state results. Then under Tab 3, the agreement requires that for 15 particular states, we go down to the county level. So what you see in Tab 3 is the county level. I'm not going to go through all these numbers with you. I just will tell you that the last time I reported on the state basis the overall approval rate for whites was 92 percent and natives was 86.2. This report reflects that both groups' approval rates went up, whites to 92.8 and natives to 89.6. So the gap in the last report is 5.7. The gap now is 3.2. So we're pleased that we're closing that gap. So there's basically a 3 percent difference in approval rates between whites and natives.

If you look at the county level data under Tab 3, at the last report whites' approval was 91.5 and natives was 86.2 for a gap of 5.3. This report reflects 93.4 for whites and 90.8 which is a gap of 2.6. So that gap has even been reduced more. So I think we're headed in the right direction. There does continue to be a couple of states where, as we work with five states, where we see more than a 10 percent difference in approval rates. Actually, what we have proposed to do about that -- I

met last night with Sarah and Christine Webber from Class Counsel's office, and Leslie, and met with Zach from IAC. What we want to do is start, I guess, an outreach program on steroids, if you will, using IAC folks and resources on the ground to try to target these areas not just for approval rates. But probably more importantly, to increase the number of applications that we're getting because the information that Sarah and Christine have would indicate that given a population of natives in those particular areas that we should be getting more applications.

So it's really two things. One is, what is the approval rate of the applications we do get; secondly, should we be getting more applications based on the population of natives in particular areas. So that's the numbers. Sarah, if you want to add anything to the discussion we had, or Leslie on --

Sarah Vogel: I would just add that this is a feature of the settlement agreement that we put in really at the behest of Joe Sellers and Christine Webber who have lots and lots and lots of civil rights experience. It's kind of an early warning that if something is not quite right, we'll have a chance to get that information on a fairly timely basis, and then do this deeper dive into what it is that's causing the lower rate of applications than we would expect. By the way, it's not just on the basis of Native Americans. It's on the basis of Native

American farmers and ranchers as identified in the Ag census. It's pretty wonderful. This was what I was hoping Zach could comment on, is that because there is this IAC network they can go out and have these conversations and learn what's up. It could be a variety of things. It could be that there is skepticism on the part of the Native Americans that they would get a fair hearing at the USDA office. Sarah Vogel: A little bit of encouragement will do the trick. It maybe that people need an extra hand to fill out applications. It may mean that there is a cluster of folks with credit on the rejection rate. It might be something, credit history. We can learn from that and maybe find out what's up. I'm just delighted that it's working that these statistics are being recorded. I know when I look at the state I'm most familiar with which is North Dakota, I had a couple of questions about a couple of counties. At least in some states, as we understand it, the data is recorded only by county. In other states, it's also recorded by reservation. It really takes somebody who knows where the -- I'll say what county Cheyenne River is in? What county Fort Berthold is in? Then maybe a little bit extra digging. But these are the 10 states with county data. We have quite a bit of information to work on. I think that if members of the council see, say, you're from a state which is not one of the

top 10 with county data, there's probably a possibility of learning a little bit more from Chris.

Chris Beyerhelm: Yeah. I'm glad you mentioned that, Sarah. That's actually in the settlement agreement that the council can ask. If it appears that there's some anomaly in the numbers, they can ask for a deeper dive in a particular area. Now, what we're trying to do is be proactive about that. What we see, like I said, we're using 10 percent difference as kind of our red flag that we need to do a deeper dive on.

Mary Thompson: Mr. Chairman, I have a question.

Mark Wadsworth: Yes.

Mary Thompson: Thank you. Mary Thompson. You say that you've got these numbers for the Native American as self-identified from the Census Bureau?

Chris Beyerhelm: These numbers I've reported to you just are application data. What we're doing is, in those states or counties where there's more than 10 percent difference, we're bouncing against other information from NASS saying what the population of folks are in those counties to determine whether or not there should be more applications. The report you have only is going to tell you the approval rates, so that's one issue. The second issue is the outreach issue, is whether or not we should be getting more applications. That's in a different -- you don't have that report in this binder.

Mary Thompson: Well, I was just wondering because if I identify myself as a Native American but I'm not a member of a tribe, then are those numbers going to skew your data as far as the real Native American farmer and rancher?

Chris Beyerhelm: They could. It's self-certification. If somebody identifies themselves as a native, we're not going to ask them to provide evidence.

Mary Thompson: But I guess in the process there, though, is there not this place where you put your tribal affiliation?

Chris Beyerhelm: No, we don't.

Mary Thompson: The way I'm thinking is that your data maybe --

Chris Beyerhelm: You'd hope that people are going to report accordingly, but I suppose there are maybe some people that don't and --

Mary Thompson: Well, the reason I say this is because sometimes the funds that are set aside or appropriated in any given program, there's a lot of competition for those services. Sometimes it might be easier to say I'm a Native American and go that route and receive the services.

Chris Beyerhelm: Understood.

Mary Thompson: So there ought to be a check and balance mechanism in place somewhere to make sure that those resources get to the Indian farmer and rancher. Thank you.

Chris Beyerhelm: I just want to mention too, and I know there's another question. Zach is here. In addition to this outreach thing we're going to do with IAC, we're also working on I guess what we're calling a guide to lending in Indian country for our loan officers dealing with a lot of the issues I talked about - the credit report issue. Some of the cultural differences in Indian country were a lot of times in the lending industry, say, you say dad's going to let me use my machinery. Normally we're going to ask for a written statement to that effect. We understand that culturally that's not the way things are done in an Indian country, so we're going to empower our loan officers to recognize that's the way business is done in Indian country, and then also with the whole mortgage lending issue and experience in some of those kind of things. So we're going to be working on that. I think that's going to be helpful as we move forward.

Gilbert Harrison: Thank you, Chris. Gilbert Harrison from Navajo. I know we have a lot of information on these tables and things like that. My question, Chris - and I guess addressed to USDA - is have you made any policy changes or regulation changes that make an impact on these numbers? In

other words, how do you make these numbers improve? There was something that was prohibiting something before where your numbers were low, all of a sudden your numbers are high, something has to have happened. Did you change direction in policy? In other words, what I'm saying is what changes in policies or what changes in management decision method have you affected so these things take place? Because I know a lot of times -- excuse me, but I see near the reservation, it says some automobile company, used car lot will say no applications refused. They take everything. But exactly what the final outcome is, you don't know what's going to happen.

So what I'm saying is you're giving us a lot of numbers here which shows improvements, but what has led to these improvements? How do we make sure that these things that you've done to make the improvements are within the USDA guidelines or policies so that they stayed there for a long time and it's not subject to reinterpretation by new staff members or others. That's what I'd like to know. What have you really changed to make these things happen?

Chris Beyerhelm: I think my answer is probably long overdue because I think you have asked me this the last two times. For the record, I'm going to read into - if that's all right, Mr. Chairman - the things we've done. This would've been since 2010, actually November 1, 2010 which is the date that the

settlement agreement was signed. We've issued three different notices particularly dealing with the Keepseagle claimants. We specifically wanted to make sure our field folks understood while that process was going on that no foreclosures would take place, no loses would take place, no attempts to collect would take place. So we basically, I guess, isolated all of those cases until Keepseagle was done. Then once Keepseagle was settled, we issued another notice where we worked again with IAC and Zach and his group to specifically refer those folks to IAC for help as they tried to restructure their operations. That was the first thing.

We have been instrumental in developing this MOU with BIA and USDA and implementing policies that prohibit duplication. For instance, we had to do an appraisal. BIA does an appraisal. That's one issue we've dealt with. We have to go out and count collateral. So if somebody has cows as security, we have to go out and count them and BIA does too. Well, in some cases, we go out and then two months later BIA goes out and then they got to count the cattle two times in a year. We set it up in the surrounding, and do that one time. That's something else we did.

We issued the plain language guide in July of 2012, which is a very handy layman's typewritten document for applicants to walk them through the application process. I think I've given

the council a copy of that before. We have worked with OAO, which is the Office of Advocacy and Outreach, to provide race, ethnicity, and gender data on a county level. So anybody can go in to whatever county you want to and you can see, again, based on NASS data the population of whatever race, ethnicity you want to look at and then it will show what the USDA's performance is for those particular groups. Again, transparency shining the light of day on what the issue is.

We're, again, working with IAC. We use what's called a Farm Business Plan, which is our automated system for credit analysis. We're actually working with IAC where that information -- they actually have purchased that same software. I don't think we're there yet, Zach, but we're working so we can import that data back and forth or export. I'm not a computer guy, I don't know if it's import or export, whatever. Share data back and forth between our two systems so as they work with clients, it's more efficient.

One of the issues in discrimination cases and the issues that go to Reid's shop were sometimes when people don't follow the regulations, we determine them to be in bad faith. Once somebody is determined to be in bad faith, it's like the big banana peel. I mean, you're going to slip on it the rest of your life as you deal with USDA. We issue direction to the field that should only be used in very, very extreme cases and

also put controls on it, so if you're going to issue a bad faith decision, it has to go to the state office and be approved. We try to take some of that local control away from that.

Another thing is if somebody appeals a decision, it goes to what's called the National Appeals Division. If they overturn it, if the agency said no and it gets overturned by NAD, in some cases our folks were dragging their feet on implementing that appeal. So we issued very clear direction that if no decision was overturned by NAD that we would immediately implement that decision, and, again, followed up by state office and national office folks. We developed the Microloan Program specifically for, as Zach mentioned, these operations. I think it will work well in Navajo where you've got 10 or 15 cattle. \$35,000 is a perfect loan size to set those up. We recognize those operations need that small amount of credit. The average time to process a normal loan is about 30 days, and the average time to process these microloans has been about 12 days. We streamlined that. We've streamlined servicing where we're starting to recognize different accounts need different servicing. We've made getting subordinations of collateral, getting releases, processing some of that stuff much more efficient.

On our guaranteed program, Zach was mentioning about this bank that wouldn't make this loan to this guy. What he didn't

mention to you that I think it's the same bank that was charging 16 percent interest or something like that. In our guaranteed loan program, we've actually implemented new rules that set the interest rate, the maximum interest rate that lenders can charge in order to participate in our program. If they charge more than that, then we're going to remove their guarantee loan status. As I mentioned, we're going to work on this lending in the Indian country guide. So these are a lot of directives we've done.

The biggest thing we've done is done an attitude adjustment with our folks and said, "You know what? We've had three lawsuits filed against us. Enough is enough. We need to start doing the right thing." Credit decisions are credit decisions and you have to be eligible. You got a cash flow; you got to have security. But like everything else, there's a little grey area and all that stuff. So what we tried to tell people is if you're on the fence, follow on the side of yes. So that's it kind of in a nutshell.

Gilbert Harrison: Thank you very much. I'm very much interested in this microloan thing. I happen to be in Vegas here four days, and I may need a loan.

Juan Garcia: This is Juan Garcia. If I can add, Gilbert, to your question just a little bit if you'll permit me.

Gilbert Harrison: Go ahead.

Juan Garcia: Along with what Chris has mentioned, we have made some improvements in our outreach stuff within our agency. We have a new outreach coordinator that's very interested in outreach, very dedicated to outreach, reviewing the state's outreach plans to make sure that they are including outreach to all these groups, not only Native Americans but all our groups, and having some performance goals for our state directors. Outreach gets done really at the field level, but they have to have encouragement from our state directors down to our district directors and down to our staff. As Chris mentioned, we have an attitude adjustment. Sometimes it takes a little bit of time, but I think you can see that we're moving in the right direction. We're going to continue moving in the right direction.

Gilbert Harrison: Anyway, to cap it off, I appreciate USDA making some effort. But I really think to give credit where credit is due, Chris, maybe somewhere along the way, those things should be put right. In that way, we can tell people these things have been done, to say that changes have been made; that's why you're seeing the results of that. You guys have done a lot, but I'd like to give credit where credit is due. We need to share that with the general public. Thank you.

Female Voice: I would like to second that. The other thing that would be helpful, and I realize numbers came together

at the last minute, would be a summary of the very high level comparisons you went through at the beginning in the binder or with the materials in the binder so that if I wrote a number down incorrectly, that's my fault. It's very nice to have those kinds of summaries so that when we need the material, we've got a chance. Thank you.

Mark Wadsworth: Any other council members?

Male Voice: We'll know the next speaker, who he is, USDA's mission area, Research, Education, and Economics, Ann Bartuska.

[Inaudible]

Leslie Wheelock: She's not here. We did invite Dr. Ann Bartuska to join us at the session. We'll be sure to extend that invitation again for our next session. I think that due to the furlough, we had some timing problems. Sir?

Mark Wadsworth: I can't hear you.

Leslie Wheelock: You can't hear me. You can't hear me? The microphone is on. I can just talk louder or I can stand out here and talk about it. We will be re-extending that invitation with the council's approval because I know that you did want to hear her. Jerry, are you still having trouble hearing me?

Jerry McPeak: I'm getting there, but it's certainly not hurting my ears.

Leslie Wheelock: I think the problem is the level here. Is that better?

Jerry McPeak: Not much.

Leslie Wheelock: Okay, good. I can do this. I was just saying we will re-extend that invitation to Dr. Bartuska to come in and talk with you. She does have the research programs, as well as NIFA which provides four of the five programmatic funds to the tribal colleges and universities that come out of USDA. The fifth fund is a rural development community facility funding that comes out of Rural Development. We will be asking her to come on in. Dr. Bartuska has been attending the tribal leaders' meetings in Washington. She and several of our deputy undersecretaries got together after the last one and put together a report back to Jodi and Charlie, as well as to the folks in Interior who jumped in to work on this as part of the new White House Council. We forwarded those recommendations back to try to make those leadership sessions a little bit more useful, at least from our perspective, to the attendees. Any questions, Sarah?

Sarah Vogel: At the last meeting, there were discussions I think by the lady who's doing the outreach, so we really, really, really needed to hear from Dr. Woteki.

Male Voice: Doctor, who?

Sarah Vogel: Woteki.

Leslie Wheelock: Dr. Woteki.

Sarah Vogel: One of the requests, I think, that I had for this meeting is that we have Dr. Woteki. I think that Dr. Bartuska was the boss of Dr. Woteki.

Leslie Wheelock: No. Doctor Woteki is the boss of Dr. Bartuska. John, did you have a comment?

John Lowery: That's right. That all I was trying to say, was that we've got [indiscernible] in segments.

Sarah Vogel: Okay. But the lady who did the outreach, she did emphasize we need to talk to Dr. Woteki, so I bring that up again. I'm not exactly sure about the whole structure of issues we were talking about. I think it had to do with the Indian extension agent, and the funding, and to this and to that. She said Dr. Woteki so --

Leslie Wheelock: Because she's on top of that agency, on top of that mission area.

Male Voice: Who said that?

Male Voice: It's probably Carolyn Parker.

Sarah Vogel: Carolyn Parker, exactly. Carolyn Parker said we need --

Male Voice: She's the director of OAO, Office of Advocacy and Outreach.

Sarah Vogel: She said with these problems, you need to talk to Dr. Woteki. Ms. Parker also said that she was going to

find out for us and report back to us on what that was all about.

John Lowery: When we sent out the invite, the invite went to Dr. Woteki and Dr. Bartuska and also their chief of staff. So it's one of those where you just send it out and you say we aimed for the top and we hope to get the top, but usually the top is either going to come or she's going to send her second. I mean, at the end of the day, they speak pretty much with one voice. And we as office have been in numerous meetings where we see Dr. Bartuska. But yes, we will aim to get Dr. Woteki before you guys hopefully the next time.

Sarah Vogel: It's just that the problem six months going by between -- but be that as it may, I was just trying to get that straight. I didn't mean to chew up your time.

Leslie Wheelock: That's all right.

Sarah Vogel: I'm so sorry.

Leslie Wheelock: They had time in here too, so I think we have a cushion. I've been asked to report out on a number of things in addition to what's on your agenda, but I'll start with what's on your agenda which is Farm Bill and budget followed by OTR and then a few additional announcements. The status of the Farm Bill as of yesterday, as of the information I had yesterday which is public information, is that the House and Senate negotiating team continues to work on the negotiations. They

reported yesterday that they do not think that they will have those negotiations finished by the time Congress recesses for the holiday break, which means that we will not have a Farm Bill by the end of the year. They are working, according to their report, very hard to get an agreement between Senate and House out for a congressional review before they take this break but they do not have the time to put the bills together that they need to get to the House and Senate floors in order to take real serious action. It sounds like they're close. We're not sure what they're close on.

USDA has been providing technical assistance as requested on a number of items as they've come in. Those have included some interesting pieces that I think we all know about. We've got a subsistence bill or subsistence writer that Senator Begich has offered that's been rewritten in the past two weeks, as my understanding, and I do not have a copy. I have not seen a copy of the rewrite. We've seen some other changes. But from our office, we have not seen and have not had a lot of information, so I apologize but I do not have a lot of information to share with you.

The next phase, of course, is the budget. What happens? Let me finish with the Farm Bill. The Farm Bill, we are hoping that there is something that USDA can begin working with in terms of a Farm Bill around mid-January. Within USDA, we are

planning how we're going to deal with a Farm Bill rolling in that we need to get regulations out very, very quickly, which means that we will need to be working on consultation plans. In those consultation plans, we are, in some cases, going to have to modify to get things that are desperately needed immediately out in not only Indian country but rural America out as quickly as possible. So what we will likely be issuing are regulations that are potentially subject to change down the road depending on whether or not we find detrimental effects. But the need to get some of those regulations and some of the funding from those regulations out into rural America and to our farmers and ranchers in some cases is quite desperate, and so there will be some things moving very, very quickly once the Farm Bill is agreed and signed.

There are other things that will roll out over time. At some point, it would be useful to have some of the council's recommendations on how to work through consultation on some of these regulations without over consulting the tribes, given some of the restrictions that we have on travel, and making our native voice heard. There's not generally a native voice in the Farm Bill to the extent that we can affect the regulations. That's where we need to do our work for this Farm Bill. At the next Farm Bill, we may get a native voice in it, but that's where this one stands right now. So I'm encouraging you to work

with me. Give us some recommendations. Tell us if you worked or had folks in your tribes or your communities working on the 2008 regs or any other subsequent regs that came out, and there were things that worked for tribes and things that didn't work for tribes in terms of regulatory consultations. If you can get some of that information back to me, it would be very useful.

I'm sitting on the rollout team for the Farm Bill, and we are seen as a bottleneck. There are three bottlenecks. These are organizations that either are small, see almost every regulation, or have additional responsibilities that go along with the issuance of the regulation. We tend to be all three of those things, and so we are one of the bottlenecks and trying not to be and yet trying to get our consultation obligations taken care of in place and hear from our tribes. Also, if you hear any grumblings out there because we're falling down on that in the area of consultation, I would like to know about that as soon as possible please.

Mary Thompson: On the Farm Bill, before you move on, I wanted to ask that. I'm just wondering if the Intertribal Ag Conference, if they have legislative - I don't know - subcommittee or something that proposes legislative changes to the Farm Bill, and if we could use them as a resource to get the verbiage that we need to politic individually to get it into the Farm Bill. I don't know about some of the tribes out west, but

where I'm at in North Carolina because we're small farmers, we're not ranchers, so agriculture is part of the tribe's overall -- they have some programs there where it's not the top priority, then my chiefs and my council members don't always proactively lobby for changes in the Farm Bill. I'm sitting on this group. This is not a lobbying group. Individually I can go out and lobby for things. But if it comes from an organization like that, I think it has more power and pull with our legislative or our elected leaders in the state and national to support changes to the Farm Bill.

Leslie Wheelock: Hi, Zach. Zach's here. Zach just entered.

Zach Ducheneaux: Yes.

Mary Thompson: Zach, does the IAC have a subcommittee or legislative committee that lobbies for changes in the Farm Bill?

Zach Ducheneaux: Most of the changes that we work to affect come out of our membership meeting, and they are worked on by IAC staff in the Billings office. We work closely with the representatives of some of our member tribes and some of our friendly tribes who aren't paying members to affect those policy changes. But much of the work that we've done with regards to the Farm Bill has been a result of our membership meetings, our staff, largely Ross Racine's input. But the most recent and most effective push we have was when we aligned with the

diversity initiative in 2008 to make a tremendous impact in the Farm Bill.

Mary Thompson: I guess that would make a tremendous impact. I don't know who sits there from the other side of the Mississippi. I know that Seminole and I guess Cherokee are represented there, but there are many other tribes out there. I don't get the feedback to know what your recommended changes are.

Zach Ducheneaux: I will make sure that you have that before you leave this meeting.

Mary Thompson: Thank you because that's something that we'll be working on. Was it the 2017 assembly?

Zach Ducheneaux: Yeah.

Mary Thompson: The next one, right?

Gilbert Harrison: The next one, yes.

Mary Thompson: Yeah. Because this one, it's going to be 2017. This one comes out sooner. Thank you, Zach.

Zach Ducheneaux: I'll make sure we get it to you. Thank you.

Sarah Vogel: This is Sarah. I think that Leslie is saying if we know that regs are going to be -- right now the challenge is going to be with USDA regulations to implement the Farm Bill. That's what's going to be coming up. I don't know if Leslie or John or whomever could give us a little bit of heads up on topic

areas that you likely will have emergency regulations. I imagine one of them is going to be the livestock disaster assistance because of the big blizzards. That would be one, but maybe there are others. So if the organization had a little heads up on what those topics are. And then for the ones where there is more leisure where the typical process, we're anticipating amendments, here are our proposed amendments, there's always time to come and done those. But the emergency ones are --

Leslie Wheelock: You will know as soon as we know. We actually had discussed with the group that's working on the Farm Bill whether there was an ability to do some kind of an analysis that essentially said here's the Senate version, here's the House version of these things. They look very close together. But because we are USDA and because this is the council that it is, we are unable to do that right now. Anybody can go online. Congressional Research Services Organization has a side by side comparison of the two Farm bills prior to the negotiation. So what has happened in the negotiation is the problem. We don't have the finals out of that discussion.

Sarah Vogel: Are there any good things coming out of it for Native Americans?

Leslie Wheelock: We hope so. The Senate and the Farm versions, when it came to how the language focused on minority

and disadvantaged farmers and ranchers - I think is the language in the Senate version - completely rewrote some of that legislation, that language, resulting in a lot of discretion given to the Secretary to modify or to take actions as necessary to ensure that the substance of what the legislation was trying to do actually got done. I don't know how that's going to work out because it was brand new language and the House went with the old language. They just modified it a little bit. That's one of the areas that I would be guessing about right now in terms of what's going to come out of the committee.

Juan Garcia: This is Juan. If I could mention a few things and you mentioned, Sarah, the regulations. Once this Farm Bill is approved -- and I think something will be done here in January. There are all the indications and I've talked to staffers from the Hill. Something will be there. There's a lot of discussion right now as far as an extension, a one month extension because if there's not a Farm Bill, a permanent law comes in which the first commodity that will apply under permanent law is the dairy program. Going back to the 1949 Act where we'll have to be paying about, say we're paying \$18 to \$36 per hundred weight for milk, and I don't think the taxpayers can afford that. So I think there will be something done here after the first of the year on indications that I get.

A lot of the programs, the initial programs that we'll be able to start administering very quickly are the livestock disaster programs, which in both the House and the Senate, those programs, Mr. Chairman, back in the '08 Farm Bill - Livestock Forage Assistance, the Livestock Indemnity Program, we had the major blizzards in South Dakota - those programs could be retroactive back to 2012. In fact, we have been working on regs. In fact, we had started working on regs last year and nothing got approved. These programs were extended with no funding that I feel this time they will be extended. That's going to help a lot because of the drought that we had in '12, the drought that we had in '13. So we'll be able to start implementing those programs a lot sooner I think than the other ones because there's a major change in the commodity titles. That's going to take a good while to get regs done.

I mean normally - and Rick, maybe you can help me here - but when we do get the law, we started working on the regulations. We started working on software, everything else. It will take a good while, six to seven months, to get done, maybe longer sometimes before we can get a farmer. But I think the livestock programs will help. There are some provisions in there under the noninsured assistance program, and this will help those producers with native grass where they can even buy up coverage as in the past. It will be a lot better coverage

that they can buy up based on a fee which will give them better coverage. I just wanted to mention that.

Sarah Vogel: Just a tiny followup. When the Livestock Indemnity Program is put out, and I assume it will be, in years past - I'll just mention this - not that recent past, I think it was about 2000, 2001 - the Livestock Indemnity Program, or Forage it was, Indians totally couldn't be part of it because there was some teensy program over at the BIA totally different. But because there was a BIA program which Indians were eligible and then there is the big USDA program, there was -- and believe you me, it didn't take more than a letter to have the FSA folks back off. But you want to make sure that if there are some teensy programs, whether tribal programs or BIA programs that Indians not be deemed eligible for the basic USDA program because that did happen in the past.

Juan Garcia: Well, if I can just comment on that - and we're going back to 2001. That was a special program that was initiated by Congress. I'm not that familiar with it. But the '08 Farm Bill had the Livestock Forage Program which is totally different than the program you're talking about. But I understand.

Sarah Vogel: But it just sensitized me.

Juan Garcia: Right. It was a special program back then strictly for Native Americans.

Sarah Vogel: But they misread the rules to deem Native Americans ineligible.

Juan Garcia: Yeah. Many times, it's just the writers of the law. When you come up with a statute and the statute comes around, then we try to interpret statute the best we can and have the best flexibility that we can based on that statute. But that wasn't a special program. I know what program you're talking about.

Mary Thompson: When the Farm Bill gets passed and comes out and we start working on the regulations, and you were talking about this non-insurance program --

Juan Garcia: Non-insured, NAP.

Mary Thompson: Well, these folks are talking here about the horses eating all the grass and there's nothing left for the cows. It might be then they could qualify for some -- you could write some regulations in there where they can ensure the grass is over there.

Juan Garcia: We may talk to the staffers on how to write that.

Mary Thompson: Also, I guess that as you're working on those regulations out, the authority of the Secretary, he's going to have a lot of authority there. Well, I guess we just better hope and pray that he lives forever and stays in that position forever so that we get the good working relationship

that we have right now with him. Because if he goes into another program, and people change positions a lot, then we're back to square one reeducating someone. As you're writing your regulations, I hope that we can do some consultation and get the verbiage that we need in there to protect our interest. Thank you.

Chris Beyerhelm: I just want to add too. I mean, as Leslie said, we're going to do consultation but also all the regulations that we draft come out in what's called the Federal Register. So in addition to the consultation, you have an opportunity to make your comments on the Federal Register before those regulations go into effect. So you really have two shots at it if you're native.

Mary Thompson: And see, Zach, that's where we need these little subcommittee groups that are working on and keeping up with things like that so that when that opens up, when that consultation whenever it opens up, we're ready. We're proactive. We're ready and have something to submit instead of trying to get --

Gilbert Harrison: Thank you. Just one comment. I'm Gilbert Harrison from Navajo. I think we got to be aware when these regulations are being made that there's a distinction between trust lands, allotted lands because a lot of regulations that are formulated are made for non-reservation lands, but when

you get to trust land and allotted land, there's a difference. We need to be aware of that to make sure that we get proper treatment on both sides. Thank you.

Mark Wadsworth: Leslie, you have some more?

Leslie Wheelock: I do. I'm writing my note here. The other thing that will be happening hopefully before mid-January is the passage of the next fiscal year budget. We are on a continuing resolution right now. As you all know, both the tribes and the federal government shutdown for a couple of weeks as a result of Congress not coming to an agreement prior to the end of the fiscal year or the beginning of this fiscal year. They have deadlines set up mid-January that they need to meet in order to avoid having a shutdown again. The one thing that I did want to add, I need to back up one second on the Farm Bill, is that the discussion about whether or not they're going to continue the 2008 Farm Bill. So the Senate will not agree to a continuation of the 2008 Farm Bill once the current resolution, continuing resolution for the Farm Bill expires mid-December. The result of that is the potential for milk to go up. Secretary Vilsack has apparently told Congress that there are some actions that USDA can take temporarily to prevent that milk spike from happening. I'm reading into what I read in the newspaper reports so I don't know exactly what he did say. But also, the Senate side will not agree to an extension of the 2008

Farm Bill into January partly in order to keep everybody's feet to the fire to get the new Farm Bill passed.

Back to the budget - I apologize for jumping around - we're waiting for the budget. We're waiting to see the budget. We heard I think this week that there has been an agreement reached on the budget. I'm not really sure what that agreement is. I haven't seen any information about it other than the fact that there are some Republicans in the House who are not happy with the agreement. So how that agreement fairs I think right now is up in the air. There are a couple of nice things in both the Farm Bill and the budget. The Farm Bill House and Senate versions, when they went into committee anyway, both of them established the Office of Tribal Relations in the Secretary's office of the U.S. Department of Agriculture as a permanent office. In the budget, our budget -- I don't know if you know history, but the budget for the office was around a million dollars slashed to zero. A couple of years ago, the Secretary, with the help of some House folks, came back and put us back in about half a million dollars and we've got potentially another 40,000 that was requested in the upcoming Farm Bill. I have a feeling that's all going to be spent on consultation travel.

In addition, however, we do have some money identified to start bringing some native youth into our program and getting them into USDA. They don't have to be youth, but I'm looking at

younger people. I'm trying to get them started in USDA and hopefully get them moved through our organization after a few months into some other job in USDA in a different non-OTR position so that we've got some folks scattered throughout the organization who could be helpful to our agencies.

Additionally, I'm going to make a request that we, the council, put forth a request to USDA to bring in an Alaskan Native adviser somewhere within the organization because it's an area where we actually have had people in the department serving in that knowledge capacity and we don't have somebody right now. I think that it's needed. I don't know where that person would reside. We haven't really -- nobody has talked about it. It's just kind of coming out off the top of my head, but I think that it's something that this council might want to consider.

Gilbert asked about a couple of things; Office of Tribal Relations' planning, as well as the consultation planning. I'm going to run through my kind of high level list of priorities and the things that we've been working on. I think that at the top of that list and possibly the thing that has the potential to move Indian country forward and faster than it has been moving forward is the new White House Council on Native American Affairs. That council consists of 28 different cabinet-level personnel who report up to its chair. Its chair is Secretary Jewell at the Department of Interior. They're already kind of

working on the one USDA model that we're trying to get moving in USDA in terms of getting all of the different agencies in the departments that work with tribes, tribal people, tribal operations and tribal businesses talking to each other because we have within the federal government multiple programs for tribes, in some cases multiple programs for the same thing, but they're in different departments in there or agencies in there and they're managed differently.

We're just beginning to figure out what it is the federal government does throughout all these different organizations that affect tribes with the hope that we can start pulling things together a little bit better and make it easier for tribes to work with the federal government. As part of that initiative, the Secretary has made me the point person in USDA for that council. That's the White House Council on Native American Affairs. Hopefully we will be able to start putting together reports out to you both on that and on some of the other things that you've mentioned here today that you'd like to have updates on because six months - Sarah, I agree - is too long.

Some of the other initiatives that were already in place when I came into the office, one was the sacred sites working group, the sacred sites' memorandum of understanding among the Department of Defense, Interior, Agriculture, Energy. The

Council of Historic Preservation was signed a little over a year ago. The people, the representatives of those different departments and organizations, have been meeting since then. I joined that working group when I joined USDA in April. We've started drilling down into sacred sites information on what our different agencies are doing right now with regards to sacred sites both in terms of the statutory requirements as well as on the ground basic management tools that people are using, funding that people have to support consultation around sacred sites and so forth. We are working to get a report out. We were trying to get it out in time for the Tribal Leaders Conference, but the furlough kind of killed that ability and so that report will be coming out along with the other reports out of the Tribal Leaders Conference.

As part of our work in USDA on sacred sites, we have kind of a bifurcated project that we started up with year-end funding from last year from several of our mission areas and departments. It's a GIS mapping initiative. We initially looked at it as something that we thought would be useful in terms of land-use planning by tribes if they could get the maps that USDA has right now. The best description of federal maps is that you've got a really nice drought map that looks like this, and then you've got a really nice floodplain map and it looks like that. It's very difficult for anybody in USDA tribe

or anywhere else to sit down and take all these different maps and lay them on top of each other and work with them. And so we started looking at land-use planning specifically around sacred sites.

But that's a rather high hurdle to talk about with tribes, and so what we're trying to do is to put a model together for the material that USDA has that can be given to the tribes for their use, for land-use planning. We have a lot of tribes that are very proficient in GIS database working, and we have some tribes that are not as proficient. So what we're trying to do is to give them a tool that will help them with land-use planning. It's up to them to use it. We're not actually going to be pulling any of their information in. But when the tribe comes in and they're looking at laying cable or putting in infrastructure, water facilities, electrical facilities, it will help both USDA and the tribes to be working off of the same mapping materials so that the conversations are shorter and more direct to each other.

It also helps in terms of sacred sites with financial planning because you don't get into the middle of a project only to realize on both parties' sides that there's a sacred site potential that needs to be worked around causing your entire project to need to be reworked and typically the financing necessary to finish the project to go up. There's a lot of

thought going in to this, and we hope that we have some pilots that are coming out into Indian country. We're looking for tribes and GIS professionals to work with us on this project because the sooner we start talking to tribes about what they'd like to see, the better off we will be.

Moving on a couple of the things, we have MOUs. As many of you know and I think have mentioned, with the Department of Interior, those MOUs are specifically within three of our agencies; NRCS, FSA, and Rural Development. Those MOUs were in place and sitting on my desk when I arrived at USDA. At our initial meeting, one of the things that the combined DOI and USDA folks identified was that we don't always have between the folks who are in the region, in the state, on the ground the best communication. USDA has recognized that itself among its agencies. That's why we have a program like Strike Force out there to get our agencies on the ground working better in Indian country. For us, this actually goes beyond Indian country, but for us, it's in Indian country in a number of states.

One of the initiatives that I am kicking off in 2014 is the tribal One USDA initiative where we're going to come out - my office is going to come out - and we will facilitate discussions between as many tribes from a state as we can get into a room and as many of our agency representatives from the states as we can get into a room in order to introduce people, in order to

make the work easier on the tribes, and in order for our agencies to get a little bit more comfortable with talking about each other's programs and how each other's programs fit together in any of your projects that involve USDA funding. In terms of the consultation document that Gilbert asked about --

Jerry McPeak: Leslie.

Leslie Wheelock: Yes, sir.

Jerry McPeak: If you don't mind. You're doing a great job. You're rolling right along. In reference to that, we actually have a thing in Oklahoma that -- and I'm trying to come up what this lady's name was. She did a great job and speaks of the fact that the tribes themselves are not being very good at giving information out. But they actually had a statewide meeting that many of the USDA offices were there and were invited, and most of them, maybe all of them showed up. The tribes didn't show up so well. I went because I remember this. I had heard about it. I wasn't invited, but I showed up anyhow as you might suspect. The people have been doing - and I'm only speaking for Oklahoma. It probably doesn't happen any place else, but in Oklahoma it happens. It is a prime example of we - - there is no one from the Creek Tribe there. I'm just --

Leslie Wheelock: I actually got the idea from a number of different states. I went home to Wisconsin because NRCS has been having these meetings with the Wisconsin tribes. NRCS has

been having these meetings with all of the tribes in Wisconsin for something like 15 years in an effort to figure out among the tribes, and with the tribes' help, how to disperse the EQIP funds that are limited in nature. The tribes were actually determining among themselves which projects we're going to move forward for funding nominations that year. The NRCS asked all of the other agencies to join them this year. I watched them in action, identified some facilitation meeting, facilitation models that they needed to implement in order to make those meetings more productive for the tribes, and that's what we're going to be stepping out with. The All Pueblo Council has asked me to come out and talk to them. I'm still in the process of putting this together so they're my guinea pigs.

Jerry McPeak: May I have a follow up on what if, a follow up on that, by the way, before I come across being too nice to you guys. The NRCS was started in Oklahoma as well.

Leslie Wheelock: Probably.

Jerry McPeak: The lady who oversees it - in our case, the people in our county level got it - in Oklahoma is clueless, absolutely, totally clueless when it comes to Indians. Oh my God, it was so obvious that it was a superficial act. I don't know what the hell her name is, but she is clueless. She's an older lady. Oh my God, she's bored.

Male Voice: What agency?

Jerry McPeak: I think she's with NRCS.

Male Voice: The one with FSA.

Male Voice: You know Francine [phonetic]? Francine is from FSA.

Jerry McPeak: Yeah. She gets it. She really gets it. She's one of those smarter kids who is going to come to counter state colleges as smart she is. But that old lady, whoever that lady is, whoever the NRCS people, that lady is clueless. That is not my opinion. That's a flipping fact. But they did a good job, her people did. She's just clueless. When it comes to Indians, she can't spell it. She thinks NDNS.

Mark Wadsworth: Sarah, you have a question?

Sarah Vogel: Leslie, any other area that's already doing it, it's such a great idea to get people together at the local level face-to-face, handing out business cards, having an acquaintance, knowing who to call or how to network. In a prior incarnation, I was the commissioner of Agriculture for North Dakota for eight years. In my experience, one of the big gaps in delivery of services is state governments. The federal government uses state governments a lot. I mean, many states have credit counseling programs that probably don't reach Indians. Our enforcement division is completely federal-funded through the EPA. But if I didn't insist on it, the folks I worked for just historically had never been to the reservations.

The marketing department gets money through foreign aid service in implementing stuff. So as long as you're at it, get just a slightly bigger room and invite somebody or somebodys from state departments of agriculture.

Leslie Wheelock: Good idea.

Sarah Wheelock: I made this suggestion at the last National Association of State Department of Agriculture. They invited former ag commissioners to come and speak. So that was my suggestion, is that all of the state departments of agriculture should have a tribal day and invite folks in the tribes to come in, walk around and meet the folks. I left my card with everybody. I have not gotten one inquiry. The room of probably close to 50 ag commissioners, they were all staring at me blankly like what is this lady talking about. It was sort of spooky. But I think if the Feds said we're all getting together and you should come, they might do it. That would be the start so go for it, get a bigger room.

Leslie Wheelock: Let's see what we can do. That \$40,000 is going to go away really quickly. I hope they get their budget.

Sarah Vogel: They'll come on their own dime.

Leslie Wheelock: There we go.

Sarah Vogel: Those state people will come on their own dime.

Leslie Wheelock: Any other questions?

Female Voice: I do, Leslie. Well, a comment too. As Indians, we really do need to have that relationship with the state com and with your state legislators because we need those programs. We need this EQIP program. We need all of these. But if they don't know you, then it's -- if they don't know me, it's my job to teach them who I am and what I'm about. We need to step up on some of this stuff, and I think we could get more resources from these programs. Thank you.

Leslie Wheelock: I have two more things: consultation. USDA has a policy out there that was issued very shortly after the Executive Order 13175 came out. When I arrived, there was going through our internal approval process the USDA's directive on consultation. A lot of that directive deals with how we internally keep track of things, work with tribes, and so on and so forth. There are a couple of things that we are going to need to talk to tribes about, one of which is delegation of authority so that when are reaching out to the folks who are actually doing the work but who are not the tribal leaders, we know that we've got a decision maker or at least somebody who's got the ear of the tribal leaders. We don't have that now. We don't have that process in place now.

Likewise, we do not have the delegation in place for our people. We're working on those in November as part of Heritage

Month activities. We rolled out education at the three different levels. There is an online training program. This has not been announced in USDA. So USDA folks' furloughs totally messed this up. But there's an online training program for all USDA staff. As you get higher up in the organization, there are actually three levels of training. So we have the online training available. There's an intermediary training that, in the case of our initial venture that lasted two full days - one day at the Indian Museum, and one day at the USDA - which had very good results that we got a very good feedback from the attendees.

The third was a two-hour executive level session with the tribal leader and our executive team. That one we also got some very good feedback, and we will be repeating elements of all of that training in order to get our staff fully up and going. A lot of this is cultural stuff. Why are we who we are? Why are we the way we are - we, as Indians? I have to tell you which I'm talking about. How do our governments operate that's different from how your government operates and so on and so forth? The people that we had trained, the executives got everything into a nutshell. It was, I thought, very well done. So that's our consultation piece. We will be rolling this out as we get ourselves reorganized around it. The combination of our heritage week with all that training was the same week that

they chose for the White House tribal leader session, and we are still recovering from that.

I wanted to give you a couple of announcements. As Rick mentioned this morning, the job description, the job is open for the ombudsperson. If people go on to USA Jobs, there are two different announcements. There's one announcement that's open to everybody, the general public; and then there's a special announcement that's open to special categories. Veterans is the one that comes to mind, but there's a whole list of people who qualify for the second announcement. Folks who are interested, the job is in Washington, D.C. The job is in the Office of General Counsel. The job runs concurrently with the term -- as close to concurrently as we could get with the term of this council with my goal to get both of those things re-upped prior to their expiration. The position is set up the way it is. If you read it, there are going to be probably some questions about why did they do it that way?

This is a new position that we're not sure - a lot of people worked on this - that we have it in the right place. We're not sure we have it doing exactly the right things. So as we get somebody into this position and we watch how they were and we support them in what it is they have to do, the job description itself is likely to change. Because all we had for job description was ombudsman, so we took it from there. If you

have any candidates that you'd like to put forward for this job -- I was reading this announcement, there's no travel, there's no relocation. I don't know if those are hard-and-fast rules. But if you know somebody, they don't have to be a lawyer. I'm looking for an economist to be quite honest. They don't have to be a lawyer. It's open. It's out there. It's usajobs.gov. You want to look for the word ombudsperson. The position closes by December 23rd. People have to have their applications in before Christmas.

Jerry McPeak: When did you say?

Leslie Wheelock: December 23. And it's all online. Is there a paper methodology to respond to this? It's all online?

Male Voice: It's all online.

Leslie Wheelock: Unfortunately. The other thing that I wanted to mention that we'll be telling you a little bit more about as we get more information on it, Forest Service is starting up or NRCS is starting up a 21st Century Conservation Service Corps. I know that a lot of our tribal leaders went through Conservation Corps at one point or another, and then I'm not sure what happened to the Conservation Corps, but they've got some good support organizations. I think we've got something like 93 partners out there who are willing to step up and support this new role out of the Conservation Corps. As it

gets closer to actually being ready for announcement, we'll get you more information on that too. That's all I have.

Mark Wadsworth: Before we break for lunch, I'd just like to say I guess when we were appointed to this council and stuff, there was so much of -- I think we finally came in not a very good workable opportune time to start this council because of the series of budget cuts, the staff cuts, the staff changes that occurred within you along with the sequester, along with the furlough. I just know that your program went through a lot within the past year. But I also would just like to say when I talked to you two or three times throughout this process, you were on a steep learning curve for what you had to do. I just wanted to say that I understand where you're coming from and we'll get there when -- we're getting there closer.

Leslie Wheelock: We'll get there. Thank you.

Mark Wadsworth: Thank you. Lunch until 1:30.

[Lunch break]

[End of Thursday morning session, December 12, 2013]

U.S. Department of Agriculture

Council for Native American Farming and Ranching

December 11 - 13, 2013

[Thursday Afternoon Session]

Mark Wadsworth: Mary Thompson had to leave the meeting. Everybody else is here. We'll just dive right into to this next agenda item. The Department of Interior Deputy Assistant Secretary for Indian Affairs Lawrence Roberts is here today. Lawrence is going to give us an update on situations and how we can better work together.

Lawrence Roberts: Thank you for inviting me here for this meeting today. I know that when you all got together in Washington, D.C. - I believe it was in September - that Kathryn Isom from our office came. I wanted to make sure that either me or Assistant Secretary Washburn attended this meeting. So I thank you for the invitation. Just so you know, I'm the principal deputy assistant secretary, so I report directly to Kevin Washburn, the assistant secretary with Indian Affairs. He reports directly to the secretary, Secretary Jewell. Then the Bureau of Indian Affairs, the Bureau of Indian Education and then other offices report to me. They report to me and then I report to the assistant secretary. I'm originally from the Oneida Nation of Wisconsin. So just a coincidence, I guess timing is everything, right?

Female Voice: We don't really run it. We just try to.

Lawrence Roberts: I started in this position last September. I just want to run through a few things, but I actually want to hear more from the council and hear more directly from you in terms of how we can work more closely together and hear about your concerns and what we can accomplish over the next three years because those three

years are going to go by quickly. I was able to sit in a little bit this morning and heard a little bit of your conversations about Leslie going over sequestration, and the shutdown, and the budget. I know sequestration hit Indian country really hard. It hit Indian Affairs hard, but I know it hit tribes particularly hard. I know that there is talk within the Congress right now of a resolution, and there's a bill moving through the House. If there is no resolution by January, there'll be another three percent on top of that sequestration. So there was a five percent cut. It looks like Congress is going to resolve things and they're moving forward. But if they don't, it would be another three percent on top of that. So that's been really tough.

I know there's a little bit of conversation this morning about it's a tough time to come into this council and having this council up and running over the last couple of years with budget cuts and turnover and that sort of thing. The Assistant Secretary and I have talked about how we both came in to the department at relatively the same time, and it's hard to come in to the department when you're getting sequestration and shutdown. It's not like the early parts of the administration where they had the ARRA funding and full budgets and budgets moving along quite well.

Just to provide a little bit of an update, like I said, it looks like there's going to be a deal. But it's still important for tribal leaders and all of you to be engaged with the process because even though it looks like they're going to have a deal, what will happen

then is they're setting the spending level but then all of the appropriation chairs will figure out how to allocate that \$1 trillion across all of the 12 appropriations bills and then the subcommittees will start doing their work. So even though we have an upper level, it's going to be important for tribes to be involved as those spending bills for each of the departments are being set.

This deal looks like it hits the midpoint between the President's budget and the House Republican budget. The differences between those two budgets are pretty stark for Indian country. I'll speak just for Indian Affairs, but the House budget would cut over \$200 million just from the Department of Interior Indian Affairs. The House budget would cut things like law enforcement and other programs within Indian Affairs. I don't think anybody argues it's overfunded. So the House needs to hear from tribal leadership on the issue and from tribal communities. I know Tom Cole has been a leading force on these budget negotiations and so that's always good, to have someone like Congressman Cole there who understands Indian country.

Leslie talked a little bit about the White House Council on Native American Affairs that's been kicked off, and we are starting to develop subcommittees and subgroups. The idea with the White House Council is, as Leslie was saying, there are so many agencies across the federal government and so many programs touching upon Indian country all with their own different requirements and different niches. What we're really trying to look at is as a federal family, how do we maximize resources and get those resources more efficiently

out to Indian country? So while it's sort of a federal family council, we'll certainly be looking to bring in tribal input because while Leslie and I and others can talk about what our different agencies are doing, we really need to hear from tribes on the ground as far as what are the hiccups and what are the issues that we need to address that you're running into on a day-to-day basis?

In the last Congress, the Congress passed the HEARTH Act, which we've been implementing and we've approved. The HEARTH Act essentially provides that for leases of Indian lands, the BIA approves those leases. Well, under the HEARTH Act, tribes can submit their leases to the Department of Interior. As long as those leases are consistent with Interior's regulations, they can have different parameters and different terms. But as long as they're consistent with the threshold level of Interior's regulations, tribes can basically implement their own regulations without us having to approve leases. There are about 10 to 15 tribes that have applied under the HEARTH Act, and we've approved approximately three to five tribe regulations so those leases no longer come to the Department of Interior for approval. Tribes are issuing their own leases under the HEARTH Act.

Buy-Back Program: We're in the middle of implementing that. We had a hearing yesterday before the Senate Committee on Indian Affairs. I testified at that hearing. We've gotten our first cooperative agreement with the Oglala Sioux Tribe to implement the program on the Pine Ridge Reservation. We're close within a couple of other tribes

in terms of cooperative agreements. We're trying to move as quickly as we can, working with Indian country to implement that program. The Assistant Secretary and I have been saying constantly that the program's only going to be successful through the leadership of tribal leaders and the support of tribal leaders, and so while the law forbids us from using 638 contracts or self-governance contracts, compacts for implementing that program, we are working with tribes to develop cooperative agreements that will fit the unique needs of each reservation.

We recently promulgated regulations on the Patchak Patch. The Patchak case was a Supreme Court decision that essentially said even when land is in trust, if it's within the statute of limitations, that trust decision can be challenged, which was a reversal over longstanding positions of not only the courts but the Department of Interior and the Department of Justice. We had taken that position for probably about 50 years that once land is in trust, if litigation is filed, it cannot be taken out of trust. It cannot be challenged. That decision is just unreviewable once it's actually in trust. What the court said is that, no, it can be reviewed under the APA, those decisions.

So what we've done is we've promulgated a regulation that tries to address that situation because what we've heard from tribes is that if somebody is able to challenge that trust decision within the statute of limitations which is six years essentially, that creates a lot of uncertainty. Investors don't want to invest in Indian country

if they don't know what the status of that land is going to be. That six-year timeframe is really going to hurt economic development. And so what we've done is we've promulgated rule that basically creates a process that says if you want to challenge this trust acquisition, speak now. And if you don't speak within 30 days, if you don't exhaust your administrative remedies within 30 days, we're going to take that land in the trust. And if you try to challenge that, we're going to assert that you've failed to exhaust your administrative remedies. The other component of this is that we are going to be providing broader notice to the local communities where we are taking land and the trust so that they're aware of proposed acquisitions.

The FTA [phonetic] Trust: I know I'm just saying hi to somebody before we started this afternoon. With FTA Trust, Secretary Jewell announced at the Tribal Nation's Conference that we have a goal of acquiring 500,000 of acres of land in the trust before the end of this administration. So that's our goal as we're moving forward. It's been a priority for the administration long before Assistant Secretary Washburn and I joined the department, and it continues to be a priority.

Lastly, I have a few questions actually for the council to consider. We would really like your feedback on this. In addition to the HEARTH Act passage where tribes can apply to basically administer those regulations without Department of Interior approval, the department undertook a process to update its leasing regulations over the last few years. What they didn't include in their updates - and

the leasing regulations hadn't been updated for decades - what the administration didn't update were the agricultural leasing and grazing regulations. So one of the questions that we have for the council is, is that something that we should be looking at? If it is something we should be looking at, what approach should we use? What things need to be fixed? What things don't need to be fixed? And if that's not really a priority for Indian country, are there other regulations at the department that we should be looking at that are of concern to you? Because like I said sort of starting off, we have three years of rule-making process. Under best case scenario, it takes a couple of years. So we're really eager for input in terms of what things are priorities for this group and how to move forward. So with that, I want to go into listening mode here and hear your concerns and see how we can work better together.

Gilbert Harrison: Thank you very much. We hear about BIA now. I know what BIA looks like. So Roberts, thank you very much for coming in to meet with us. I also want to say thanks for taking the attitude that you're going to work together on a resolution of many of the problems that we face on the reservation. I'm from the Navajo Reservation. I'm a producer. I have a ranch, and I have a farm. A couple of issues I wanted to bring up - I don't know where within the hierarchy of all of these the BIA structure is. One is that I also sit on the local farm board, and we oversee the farm operations within the San Juan River, and we recommend many things to the regional office within the BIA in the local area. That's what we've been instructed to do.

One of these was for idle farms and idle lands that currently are covered by grazing permit, by land-use permit because these have been idle for so long, we have recommended through appropriate procedures that these permits and land-use permits be terminated. It's a simple act of terminating those permits, and we're not getting any response from the local BIA office. As long as those permits are not terminated, the land sits idle. We have a lot of people, a lot of younger people that want access to lands, so somehow we need to get a little more response from the BIA. I know they have regulations to these kinds of issues, local issues.

Item number two that I have seen and experienced is because of the trust status of the land -- and I know on Navajo, if you have a land-use permit or a grazing permit, right on the back of it it says you don't own anything. How that happens is because it's trust land, there is no investment initiative. In other words, if I have a little piece of land that I have a permit for and I make \$100,000 worth of improvements on that, when I want to get out of the business, I can't get my money back. In other words, there's no formal or easy way that I can sell the improvements or get a market for it so I can get my investment back. As long as we don't have those investment opportunities, there's not too much we can do. The tribal enterprises and all of that, there are different animals. I'm talking from a smaller mom and pop operation. So somehow I would like to see some effort to create some sort of investment opportunities on Indian Reservations, particularly those that are in trust status because that promotes growth and that promotes economic activity at least in a lot

of things. But as it is right now, that's almost impossible because of the regulations that we have to work with.

So I think those two at the micro level are some that needs some attention. I know you have a lot of things that are at the national level that you're talking about, but we have everyday problems that if we can get a little bit of help, it will make our communities grow. Thank you very much.

Lawrence Roberts: Thank you. I appreciate just the two issues. When Kevin and I started here, we took our first couple of meetings, and tribal leaders would come in and they would say, "All right, I have these issues." Tribal leaders would bring a host of issues, and Kevin would look at them and say, "I thought tribes are only bringing one issue here. You guys are bringing in five. What are you doing?" So I appreciate that.

The issue about idle farmlands and those not being used and those permits and those leases being terminated, it strikes me that that's similar to what happens with oil and gas development in some cases where basically, if you're going to have a lease, that developer has to develop that property within a certain period of time or they lose it sort of thing. It's something that we can take a look at. I'd be interested a little bit more on ideas in terms of how to address this situation where, your second point, about where you're getting a permit from the tribe to lease a particular property. You're investing in the property and trying to figure out how the department can help to facilitate that investment and see that you get something

back at the end of the term. I'm interested in specific ideas then we can talk more offline if that's helpful.

Gilbert Harrison: Thank you very much. Because where I come from, if you're off the reservation and you make an investment in land, you build up a business or whatever, and when you want to get out, you can sell and get your investment back. That's good for everybody. But, yet, those opportunities are not available on the reservations. So I think that's something that I would like to see addressed somewhere along the way. Thank you very much.

Mark Wadsworth: We have Gerald Lunak next.

Gerald Lunak: I've got three issues. I guess they're more reflective of just the days we've been here. One I guess is we've heard from numerous folks here the issue with Indian preference on ag and grazing leases on the reservation. We know at this point, at least on my reservation at Blackfeet, that that doesn't exist. There's a case of frustration for Indian producers that's been voiced here. We do know that the American Indian Resource Management Act that they had some policy in there that addressed Indian preference and we'd like that to be revisited. I know it's an unfunded mandate, but that's probably one source of policy that actually allows some of that discussion to develop. And then really, judging from folks that have come through here and actually at home as well, it is a voice of concern for us that as Indian producers we can't get our hands on the resource that we need to basically raise our quality of life. That would be one.

The other issue, I think, came up pretty loud and clear here is the issue of - we call them lease horses or fair horses. We have had programs at Blackfeet where we've tried to adjust that. I know the Bureau of Indian Affairs is really stuck right in the middle of that issue because they are the trustee for those lands. These horses aren't BLM horses where they're just running. They're actually bought or owned by people and allottees or by just the general population. It seems like with politics and everything else involved, there is really nobody stepping up to try to address that issue. I think the attempts that BIA has made, and they've made them, for whatever reason failed. I know it's an issue all over Indian country, especially on our allotted and I guess on tribal reservations as well. So that's something that's of concern for us.

The third thing, I know it's come along quite nicely. In just some of the discussion this week, I have done a lot of outreach with IAC years past. Me and Mark worked on that issue of outreach program. We seemed to have developed a lot of inroads. My concern with this one specifically, I guess, is that we continue to stay vigilant on that. That's the issue of BIA leases and USDA programs matching. We heard that from one of the folks here that he was trying to get a project on his place but his lease wasn't long enough to accommodate USDA or FSA's leasing policy. And on Montana, we worked really hard at making sure at minimum you get a 10-year lease if you were involved with FSA in putting an improvement on that property. So we'd like to make sure that that issue continues to be on the front and center

because it allows our Indian producers to access these programs as they come out.

Lawrence Roberts: So is the issue there that BIA is not acting fast enough to approve those leases?

Gerald Lunak: The leases a lot of times are one year to five years.

Lawrence Roberts: So too short of --

Gerald Lunak: They're asking for -- I think a minimum would be 10 years. And in some cases, like distributors [sounds like] or something, maybe 25 years. And we've been able to get 10 years at least at Blackfeet, so I know that the template is there. But other tribes or other people from other tribes would come up and say we only have a one-year lease. It's probably an internal issue. But that said, it's still denying those individuals access to USDA because the person, they're going to say, well, if you don't have a 10-year lease on this, we can't even --

Lawrence Roberts: Consider funding, right? Yes.

Gerald Lunak: Thank you.

Mark Wadsworth: Sarah Vogel.

Sarah Vogel: I would just like to add a little bit on to the concerns that both Gil and Gerald have mentioned. At least in North and South Dakota, I think the maximum term lease is five years. That might be a little obsolete, but I don't think that's changed, which

makes it extremely difficult for ranchers to do things like cross-fencing which can really increase the carrying capacity of the land. I believe in the AIRMA Act, the American Indian Resource Management Act, Congress did specify a very, very strong preference for longer-term leases which appears to be oftentimes disregarded out in the field.

Another factor that I think makes it difficult for Native American ranchers is the rates year to year might bounce around. They may have a five-year lease, but one year the rate will be whatever and then the next year it goes sky high. There are appeals, but the appeal process is brutally long and extraordinarily expensive. One thing that would be a nice change is to apply the Equal Access to Justice Act to BIA appeals. I think there might be a little more attention paid to following rules and regulations if the agency were held accountable by having to pay legal fees if its position is not substantially justified.

Another factor is that the land can just be bled because the deductions that are made from the rental, if it's to a private landlord, the landlord is going to take part of that money and apply it for those improvements like fencing and so forth and then basically rent the land with the fences and with the water and so forth. In Indian country, the landlord, the owners of the land put nothing in. They're absentee. They do nothing; yet, the 97 percent of the money from the lease goes to the owners. They bear none of the expenses under the formula set out in the regulations.

So if you are looking for amendments to the regulations, I think it would be possible to draw in from throughout the country because different regions are different. Knowledgeable farmers and ranchers who would be able to talk about tweaks that could make the land more productive, make ranchers more solid and overall improve the value of the underlying land for the owners. They may not see it right away because maybe their net rent that they get might go down. But if the land through cross-fencing and water improvements and so on could carry double in number of cattle, they're going to come out better in the long term. But there needs to be that dialogue because there might be resistance to some of those things. But I think many, many thoughtful people and economists have looked at it, and there's a lot of information out there. It could make it better for all concerned.

Mark Wadsworth: I'd like to ask. What is the current status of the Ramah Chapter Supreme Court case where BIA was sued because of indirect -- ?

Lawrence Roberts: Sure, I can talk a little bit about that. The litigation itself, Supreme Court ruled in favor of the tribes. The Supreme Court remanded it to the District Court. What's going on in that litigation now are the plaintiff class, and Interior, and Justice are looking at what's the value, what's the amount. So the liability has been set, but how much is the department liable for? That's what the next phase of the case is. We're in discussions with plaintiff class generally right now to figure out how to address that formula.

So that's sort of the litigation from when it was decided by the Supreme Court going back for the claims.

Going forward, what the administration had proposed in the budget was to put a cap on contract support cost, contract by contract cap on contract support cost. That was the administration's approach. Obviously the Congress is going a different way. Right now we've heard a lot from Indian country on that issue, and it's something that, as you know, at Tribal Nations Conference, tribal leaders raised directly with Cecilia Munoz, Secretary Jewell, a number of members of the Cabinet that were there. So we're looking at that internally as well going forward. So that's sort of where we are.

For Interior, the difference between, for example, for '13, the difference between what was owed and what we paid is very small compared to other agencies. I haven't seen the hard numbers on these but I have had folks within the department tell me that because of sequestration and that five percent cut, the actual contract support class went down as well. So I'm not really sure where we are on a funding level there, but we're pretty close to -- I've seen hard numbers that we're funding up to like 93 or 95 percent of those contract support costs right now.

Mark Wadsworth: Also, I got two other issues. I'd like to discuss one of the range concerns that now basically affects the nation, is wildland fires. Within the BIA, we have the Bear Programs currently, and they're funded separately within the BIA. That is set aside for tribes to apply for. What we're finding out in the

northwest regions is that generally fire start in the south and they move across until -- and generally in the northwest region, we're the last ones on the end of the line when our fires occur. And I ran into a situation recently in which we had a 16,000-acre fire on a reservation. We did our Bear plan and submitted it for funding. It was approved, but there was no funding left.

Now, I know when I went to training within the Forest Service-DOI-BLM Bear training and got my certificate as a Bear team leader, it was kind of like I ran into that same aspect that we ran into consistently when we were talking with USDA in the very beginning. I said, "I am from the Shoshone-Bannock Tribes Forest Service. What can you do for us?" "Oh, you're a tribe. You go to BIA. Go to DOI. Ask them about the funding." "No, you're BIA. You go to Rosa Peak." We need to open those doors for those funding opportunities that they have funding available for us to be able to apply also. Within the United States, they figure that the Indian land accounts for approximately 54 million acres. And a lot of that, the majority is rangeland. I just think that it's a concern of mine to get that rapport especially through USDA which we'll address on our end, but I'd also like to open that door to DOI and BLM on that portion.

Lawrence Roberts: Wildland fire and the funding for those is a very high priority for Secretary Jewell. She's heard a lot about it from tribes, but she's also heard a lot about it from Senator Tester who's made the point with her as well. I think that while the specific issue that you raised hasn't been a topic of conversation for

the White House Council, it's that type of issue that I think the White House Council is designed to address to get the different agencies talking and figuring out where different programs are, how they mesh together, and how they can work better together. So I'll definitely bring back wildland fire and figure out - Leslie and I will talk after this meeting - how we can engage in those conversations and what ideas or what opportunities are out there to make use of just that so that you're not getting ping-ponged back and forth between the different agencies.

Mark Wadsworth: Just another issue on BLM. Through the BLM allotments, it's unbeknownst to me because our tribe, actually through the treaty that we have, has the ability within our seeded lands to utilize any BLM or Forest Service allotments for our individual tribal members to use. The way we handle it is we have the tribe apply for those allotments and then we apportion them out to the interested tribal members. Now, what I've heard from these other sources is maybe their operation isn't operated under a treaty like ours so we might be different in that way. But what they're telling these individuals as they want to expand their herds to go into a BLM allotment that they have to have owned an existing permit.

Male Voice: Anchor.

Mark Wadsworth: Anchor is the term. So it's precluding them from even applying for or being in the arena to go out on to BLM allotments for cattle --

Leslie Wheelock: I'm trying to write down your point. When you say allotments, do you mean if there's an open lease for that area and you want to apply for that lease?

Mark Wadsworth: Yeah. USDA and, well, Forest Service and BLM use our language. They call them allotments or leasing for cattle operations. It sounds like --

Leslie Wheelock: [Cross-talking] might have allotments off the reservation that border --

Lawrence Roberts: Under your treaty, you're not really stuck in this. Is this an issue for other tribes?

Jerry McPeak: It's not just his tribe.

Lawrence Roberts: It's for Navajo?

Mark Wadsworth: Navajo, Acoma Indian. I know there's interest from all over basically.

Lawrence Roberts: Has anyone spoke with anyone at the bureau about this particular issue?

Gilbert Harrison: Gilbert Harrison here from Navajo. What I've been told, and I know this for a fact, is that there's BLM land or forestry land that is up for renewal to lease to interested parties. If a person living on the reservation applies for that particular property to lease, first thing they're asked: do you have an anchor or do you have your own deeded land somewhere because you need to have some land to be eligible? Because many people live on the

reservation, they don't have private land off the reservation. So right there, they're disqualified. And what we're saying is if you have a valid BIA grazing permit or some sort that authorizes you to use this trust land, that should be considered the same as having private land off reservation because as long as you're following the guidelines of the BIA and everybody else, you have a right to use that land. But right now, they're saying that's not good enough. You got to own land off the reservation, and that presents -- right there, you're disqualified. So I think that's something that we talked about this morning.

Lawrence Roberts: Do we know why they're saying that? Are they saying it's not good enough because that's what the statute says and they can't change the statute, or are they saying that is a matter of policy?

Gilbert Harrison: I'm not sure. We can look into that, but there needs to be some consideration.

Male Voice: Gilbert, are you talking about the recline -- I mean you're saying the allotments that you own don't even qualify or leases?

Gilbert Harrison: What I'm saying is I live on the Navajo Nation, the reservation trust land. On the Navajo Nation, through the BIA, I have a grazing permit which says I can use this traditional area of land here to graze. But right off the reservation, in Colorado, there is some prime land. Every so often that land becomes

available for people to apply to lease. When we went to inquire about it, we were told you're not qualified because you don't have land that's off reservation as your own land. So we're saying the fact that we do have a place on the reservation, that should qualify just as well as land that's off reservation. So that's one area, and I think that's been submitted to the council for recommendation.

Sarah Vogel: The BLM and the Forest Service have issued joint regulations, which sort of shows that they can work together. Under those regulations and their practices that have been going on for, I guess, it'll be about a hundred years now, the Forest Service, which is the one part I'm most familiar with, and the BLM land historically leads to grazing associations and people who'd be eligible to have leases have to have a parcel of land within or near where those grazing leases are. The difficulty that has been going on for a long time is that at the beginning Native Americans were not allowed in or didn't get in to the grazing associations. And then people inherit - I mean father, son, grandson. It goes like that. Now the ownership of the land is linked by tradition and possibly law regulation to those little parcels of land.

Where I'm from, they really cut Native Americans out of some of very affordable, very good grazing land, so we have two ranchers side by side operating on virtually identical land. The white rancher has the big break in terms of -- I mean, rates might be a tenth of what the Native Americans are paying. Well, who's going to be able to buy the cattle and get bigger and so on? So it's a big problem. But

yesterday, Zach Ducheneaux was speaking and he said the issue is the anchor land. One grazing regime has been going on, a hundred years prior to that that all belonged to the Indians. Is that sufficient anchor? But a lot of times, the Forest Service-BLM land is smack dab next to the reservation. People have certainly been looking over those fences and saying, "I wish I could get some of that, but it's thus far difficult."

Lawrence Roberts: Part of the reason for some of my questions was just learning more about it, but, also, if BLM and Forest Service are saying that's a statutory requirement, that's obviously harder to deal with than if it's a regulatory or a policy issue.

Sarah Vogel: Every one of those leases, that's BLM or Forest Service leases, say it's a privilege.

Lawrence Roberts: Right. But the anchor question --

Gilbert Harrison: The thing that gets to us is what is advertised. The BLM or Forest Service advertises. It invites everybody to apply, which gives a false impression you have equal chance to get to that. But when they start going through the paperwork and the qualification, right away the thing gets you out of the system. So if it's advertised saying that you're already out because somebody's already got this, then I don't have to go through the paperwork of applying. It's advertised to the general public, and you're basically weeded out before you even have a chance. I think that's really unfair.

Lawrence Roberts: And you've spent a lot of time putting together your application.

Gilbert Harrison: Absolutely.

Chris Beyerhelm: Thank you, Mr. Roberts. Chris Beyerhelm with the Farm Service Agency. I think this is the fourth time the council has met face-to-face. I think we had one telephone conference. Every time we've met, issues come up about BIA either during the comment period or during our discussions. I think it might benefit both the council and perhaps BIA if somebody from BIA could be at our meeting from beginning to end and maybe listen to those conversations and interact with us. Is that a possibility at all?

Lawrence Roberts: Yes. I think it would be probably -- I guess I would ask the council, who would you like at the meeting to some extent? Unfortunately, I know everyone wants the assistant secretary. Everyone is disappointed when I show up. But someone like Kathryn and I, someone who's a counselor to the assistant secretary who came last time. She could come if you think --

Jerry McPeak: I must have missed this dude.

Leslie Wheelock: Girl.

Lawrence Roberts: Kathryn?

Jerry McPeak: Where, when?

Leslie Wheelock: She's in Washington the second day that we were there.

Jerry McPeak: What did she say?

Leslie Wheelock: She stood up and introduced herself and she sat pretty much in the front row of the --

Lawrence Roberts: Is she someone -- ?

Jerry McPeak: I'm pleased that Chris brought that up because I didn't know how to attack it. The elephant in the room is, Lawrence, we're quite impressed with what you have to say, but mostly, those of us who are here are just glad you're here. We don't know how the hell a council about Indians to be meeting and the BIA not being interested to have someone there, someone who is there and capable.

Lawrence Roberts: Jerry, I was trying to say it tactfully.

Jerry McPeak: No, no. And capable. I've cleaned this up quite a bit. I'm on the state legislature in Oklahoma. I wonder how the hell that happened there. I'm amazed too -- who has enough background to contribute something. I'm not sure how deep that goes because you could be in a group of people who -- you can go to the 33rd person, maybe that person has the background and knowledge to respond to something. Primarily though, sir, we've been disappointed that BIA just didn't show up. You were invited to the party. But how can you have Indians from all over America or representing Indians all over America and the BIA not being interested enough to show up? Now, that's the beginning of this. You're asking at what level. I can assure you, if you sent someone inept, we'd be pretty damn disappointed.

The fact that you're here, we're impressed. You obviously have some background. You have the ability to listen, and we think that you have the background to say something if you need to. But I think we also here feel like that if this guy is soaking some of this stuff up, it'll get somewhere. Thus far, it has been like pouring water on a duck's back. If we all said something, it can go anywhere. I mean, it's like smoke signal. We used the smoke signal a long time ago, especially on windy days. We met by using smoke signals. And that is my tactful side, by the way. But thank you for being here, and thank you for the approach you have taken and the obvious ability that you have to listen. We feel like, I think I was saying, hey, this dude is going to carry something back with him. We have not felt that at all. We're not talking about part of -- I don't know who the lady was. Hello for her. Zero. Be sure you get that written down just like I said it.

Leslie Wheelock: I think Kathryn would be good. But then maybe a regional director or somebody that has to oversee multiple parties of how the BIA functions in the field. Kathryn really didn't know when she came back, and she [indiscernible] and there was some communication. So I think having Kathryn and then maybe somebody that has more experience working in the region itself.

Lawrence Roberts: What we'll try to do is these council meetings are usually three days, is that right?

Male Voice: Yes.

Lawrence Roberts: Kathryn is definitely a point person, but I hear you in terms of wanting someone within the Bureau of Indian Affairs. The value that Kathryn brings is that she can dedicate her time to this, and she is able to talk to Kevin on a daily basis so she can raise the issue to the assistant secretary immediately and you have his ear to help move things along. I think off the top of my head, I'll have to talk with Director Mike Black about it, but I'm thinking someone from their Office of Trust Services like Bryan Rice who's familiar with land and land issues and funding issues. He's at a deputy director level so he's got oversight overall the different regions. I think depending where you guys are, where it's being held, if it's near an RD, I think an RD should show up. I think there's a lot of positives here in terms of engagement. I think that there's a lot of, obviously, overlap between Indian Affairs and USDA. So I'm here and I'm taking it right back tomorrow because it was important for me to be here -- right back tonight, I should say.

Angela: It's just short. I would suggest that even between departments needing to be here, that you have one person to keep the continuity, one person as a representative. Instead of shifting the person, have one person in.

Lawrence Roberts: Yes. I know that there's frustration in having to educate someone new every single time. There's a little bit of frustration on our end where we always feel like we're coming in to the movie when the credits are rolling at the end and trying to catch up speed. But yes, we want to work with the council and we think it's

important to do that. Again, thank you for the invitation. We will have someone at these council meetings that can engage with the council.

Male Voice: We can hold you to that?

Lawrence Roberts: You got it on the recording, I think.

Chris Beyerhelm: I actually have two issues, and Jerry shanghaied me. So at that level, that's great. That sounds wonderful. At kind of the day-to-day level, we just entered into an MOU with BIA and USDA. How do you see that communication working at that local level more effectively? With monthly or quarterly meetings between our local folks and your local folks, is that -- so we could -  
-?

Lawrence Roberts: Maybe. I don't have a good enough understanding of how USDA is structured, to tell you the truth, in terms of how that makes sense. One of the things - just so you guys are all aware - I'm going over to meet with Leslie, the assistant secretary, Director Mike Black, the director of BIE, our deputy assistant secretary for management. We're all going to go over the Department of Agriculture next week to get a download on all the different programs for USDA. So I think once we get a better understanding of how USDA is structured and operates, and I'm sure our field folks already know that, but I think that would be an opportunity then to figure out how can we work more closely together at the field level.

Chris Beyerhelm: We're guilty of it ourselves within USDA because even within USDA we don't talk enough, but we're starting to do what we call One USDA. I think that's part of this effort that Leslie has invited you to. One of the things we're trying to do is at least have our regional directors, our district directors or whatever level is comparable to at least meet once a month or once a quarter just to talk about what issues are and build relationships. That'd be great, and FDA is part of that. Thank you.

Lawrence Roberts: Sure.

Gerald Lunak: This is more of a success story I guess, and it has nothing to do with any high level activity. Blackfeet Tribe, my tribe, PL 638, to do our farm plans for our reservation so it's about maybe a quarter of a million acres. What we did, we've been looking for data that we can actually put in to this plan. We access the soils program for USDA, which was a very valuable part of our planning process so we included that. Then our mapping, we do the art [sounds like] map. So our maps along with the USDA soils information are attached. Actually, the producer takes them down to our local FSA office, and that's what they basically use for the planning process.

So really on a local basis, I'm sure there are other cases of this happening. That dialogue is already -- there's a pretty strong bond there between the BIA leasing staff, the local DC and the FSA director for the county. So there are a lot of things going on there at that level that nothing else should be supported. Obviously there's always room for improvement and it's a benefit to everybody.

The producer, FSA, their records are much more attuned with BIA's. Then there's just more of a teamwork approach to making sure that the producer has the best product. So that is taking place there.

Lawrence Roberts: Great. You can call me Larry.

Jerry McPeak: All right, Larry, Dr. Roberts or whatever. You go in Arkansas, by the way, you become a doc -- I got to be teaching college. I'll make you a doctor so you [indiscernible]. Part of my point was, and I made this statement yesterday so you'll have no doubt, I said that what someone does speaks much more louder than what they say. That's why I want to explain to you about why we're so excited and all of us act like lap dogs, like a great big old St. Bernard licking your face and just pawing all over. We're so flipping excited to see somebody from the BIA that seemed like they really are involved and wants to get involved.

Now having said that, in our situation, they said something today that I didn't bring up. It's amazing to me to have this anchor land. People actually sell their land and sell the right to your land with that. Oh, I have this 40-acre or how many acres they sell. They sell the rights. That's just amazing to me in Oklahoma. I probably I'll have a hard time grasping that, but you'll have to take that up with them.

The situation we have, I'm the tribes commissioner for the Creek Indians, the Muscogee, Indians in Oklahoma. We have small parcels. Like our tobacco, people who sell tobacco have to lease land from

them. The people that own the land will make the deal with the guy who wants to lease it and they will agree, and the BIA will kill it. I have one particular instance where a guy was paying \$35,000 a year for four acres. That ain't a bad deal. That ground, I don't know how much I'll get around Washington. D.C. That's pretty good where I'm from.

Male Voice: Lease?

Jerry McPeak: Yeah, lease. He lost money because they had tobacco come back. It didn't come in. They want to reduce the lease. We want to do that. BIA -- one, we're not allowed to reduce the lease; and two, then because the lease was so high, we want to increase its bonding, which, by the way, we did all of that. Now we're taking it back and asking the BIA, look, would you please approve this because the guy is paying all this big money and is going broke. It's doing no one any good. But that's a specific example of what I deal with, a real situation that you're wondering how the heck you can get there from where you start. How can you possibly want this guy to go away at all? I can't give you names. We have a Muskogee office there in the tribe, but that's a real situation. We'll have to listen to the real situations when they came. I'm the task [sounds like] commissioner. That's a real situation. I've been up to here. I'm like, jiminy Christmas, who can possibly -- what regulation could there possibly be that would do that?

Male Voice: We're trying to encourage tribes to implement the HEARTH Act. Muskogee sends in their regulations; they get approved. The Bureau no longer approves those leases.

Mark Wadsworth: Well, that's kind of one of the situations I'm a little bit confused here. Under 25 CFR-166, when you're dealing with permitting through range [sounds like] programs, an individual allottee who owns 100 percent or the majority of interest in that allotment can negotiate their own ways. That's right there inside regulations.

Lawrence Roberts: For the individual allotments?

Mark Wadsworth: Yeah. And our local BIA doesn't have him sign anything in the office. That's their own private deal. I just was wondering with the HEARTH Act, is this more in the concerns of like with tribes that are starting to build windmill projects and energy projects?

Lawrence Roberts: There have been some tribes who have applied under the HEARTH Act for those types of regulations, but it's leasing of any tribal lands. It's not mineral. It's all surface leasing, and it's for all different types of purposes, so it's pretty broad. Then what we've been doing over this, we've been implementing it over the last year. We've approved, like I said, about five tribes, regulations, and we're thinking about whether all of those applications should come to central office or whether they should go out to the regions for approval under the HEARTH Act. So those are

some of the things we're looking at, but we're really trying to encourage tribes to submit those regulations because it's basically what you're putting the responsibility, the control back in the tribal lands where it should be.

Mark Wadsworth: One more thing, Gilbert.

Gilbert Harrison: One final comment. Again, I agree with the council here. Thank you for coming by. It would really help if we can get somebody to sit in at our meetings and take part at this because we all have a stake in this. The question I have is sort of looking in the future. On the Navajo, we have a large young population, and the reservation can't support them under this concept of a grazing land. The whole of Navajo tribal trust land is considered one large grazing area, so if you're going to do something, you have to take it out of grazing for whatever: home site, lease business site, or whatever. That prohibits a lot of things.

We had talked about how Navajo is. Is there a way that this land can be taken out of the, quote, "grazing arena" and put it into more of an economic, I don't know what you would call it, but more economic development-friendly reservation? Because right now, back years ago, yes, there was a lot of grazing. That was basically subsistence and that's what brought us. But nowadays, there are very few people that actually graze and they make a living off of that. The tribal programs are different. I'm not worried about it but individually. My question is has it ever been considered by the bureau or anybody to say let's take this out of a grazing arena and put it into some other

arena where it's more friendly for development investment and those kinds of ideas? Thank you.

Lawrence Roberts: Just speaking off of personal experience, Oneida sets their land uses within the reservation. I take it the grazing designation is something that Navajo has set, and so Navajo would change that. What role would the department play in changing the designation?

Gilbert Harrison: Well, I'm not sure. But the question comes up: how do we make these trust lands available to more Navajos, the younger generations so that they can live and enjoy some of the conveniences of modern society of reservation? Because right now, the whole thing in grazing area, it's very difficult to change that status from a grazing to an economic-based society. That's what I'm saying. How do we make that transition? As long as we keep it in the status, we're not getting anywhere. For future generations, what can we do?

Lawrence Roberts: What sort of economic extenders?

Gilbert Harrison: That's where I'm coming from. Maybe that's something that needs to be considered by people at a higher level. Maybe couples worries about this, huh? But really, that's a serious issue. Thank you.

Lawrence Roberts: Thank you.

Mark Wadsworth: Thank you.

Lawrence Roberts: Thank you for inviting me.

Mark Wadsworth: I'll call Larry next time.

Lawrence Roberts: All right, we'll see you. Where is the next one?

Mark Wadsworth: We haven't decided that yet.

Male Voice: Okay, let us know. We'll definitely have someone there for the whole time. I'll try to come or we'll try -- the assistant secretary wanted to come to this one. He's in New Mexico right now. He's with the Secretary visiting the Laguna Pueblo and the BIE School at Laguna. He's on his way back to D.C. Thank you.

Male Voice: Thank you very much.

Mark Wadsworth: We're going to have a 15-minute break here.

Female Voice: I don't know about Oklahoma after what you told me.

[Break until 4:11:53]

[End of segment]

### [Thursday Evening Session]

Mark Wadsworth: Are you ready? Okay, we have a couple more hours left here to get business done. John Lowery will start us off, and Leslie will help with facilitating.

John Lowery: A lot of talk has been had concerning giving you guys enough time to have working sessions. Our friend Gil has asked

numerous times - let's have three-day sessions just so we can have time to talk and to work. What we did was we put together an agenda here that allows you guys that time from now until the end of the day, and then half a day tomorrow to do nothing but just work amongst yourselves, to brainstorm, and to find out how exactly you want to go forward with recommendations to the Secretary.

So what we put in the agenda for this time was I just placed these items there: formal process to respond to comments, so that can be something that you guys discuss now or you can wait until tomorrow; creation of subcommittees. There are all types of little areas that are just hanging out there. Just as Sarah has mentioned, there are definitely areas where subcommittees can be created. I think that this will be a good time to identify those areas. I don't think we should have 6, 7, 8, 9, 10 subcommittees, but I do think if we have three or four that that is something that's definitely feasible.

Also, a discussion of past and current recommendations. So what we've put in your binder, as we had in the past, is the recommendations from IAC, from Zach and his group. There are also past recommendations in there from the Diné Policy Institute. There are also the recommendations that you guys came up with back at the very beginning of this council. I put in the entire 40-some I think altogether, 45 overall ideas or issues, and then you guys dropped it down to the top 10 issues. Then, also, Toni [phonetic] went through the minutes from the September meeting. On Tab 7 there, she was able to identify 12 other recommendations that came out of the September

meetings. So there are tons of recommendations that had been brought to you guys, and I say recommendations as in ideas for recommendations. Then, on top of what all has been said here over the past two days. What we've done here is we've got some notepads here. We've got a whiteboard. What we want to do is sort of just --

Jerry McPeak: Time out.

John Lowery: Yes, sir?

Jerry McPeak: What if we don't want to do this that way?

John Lowery: Well, if you don't want to do this, that's fine with me.

Jerry McPeak: I'm not against that. I think that we've been playing defense for two years, and I would like to hear a summary of what people think they've heard in the last two days and get that digested while I still got it in my mouth and I have to spit that out and go back to that. I don't know for sure how you create subcommittees until we've talked about some of that stuff until we all get to talk about it or hear about. I want to hear what these folks have to say about what they've heard today or what they've heard when they got here before I get into creating a subcommittee that I may tomorrow think, well, what the hell is that thing for?

John Lowery: I totally agree. The reason I want to get up here was to get the ball rolling. So the ball is rolling and I'm ready to sit down. So you guys roll on.

Mark Wadsworth: Hold on one second. Leslie.

Leslie Wheelock: Okay. Before we get too far into this, to get you to sit down and talk about what we heard today, one of the things that I wanted to focus on at the last meeting actually was what's our vision and what's our purpose? How do we get before the Secretary as many things as we possibly can right here in the county? How do we get in front of the Secretary and to the Department of Agriculture as many things as we can that can be taken care of or managed within the next three years? So imagine that we only have until the end of this president to get done as much as we possibly can. What do we look at? How do we focus on it? How do we pick those things that we can do or send off to have done? There were a couple that came in today. One of them was to have Forest Service figure out the grazing issues. So we've got these things that are just essentially assignments. Mr. Secretary, could you please have so and so evaluate this? Thank you.

Gilbert Harrison: I have a question.

Mark Wadsworth: Gilbert.

Gilbert Harrison: I'm trying to make some sense out of this. I'd like to talk about some administrative things because Leslie brought up a good point. We've got limited time to get some of these things. I've put out email on several issues, and to me, they're sort of the important issues. They're administrative in nature, I think, when you get those out of the way. Then also, I also wanted to discuss a formal way of accepting these issues, tracking them, and

then separating them, what is that that's within our assignment in moving forward? I think we really haven't done that. We just take what's out there and we say, hey, what do we do about this? Then in the end, there's no really formal analysis and written documentations and say this is what we can do within the challenge that we've been given. I think to me, I'd like to have some discussion on that before we say we've got to attack these new sets of issues.

Angela Peter: Mark.

Mark Wadsworth: [Inaudible]

Angela Peter: Well, I just got a suggestion that I go throughout Alaska tribes and we have this problem, but we don't know what's long-term and short-term goals. So if you could take each of your priorities and decide whether it's a long term or short term, that might be one thing to do.

Mark Wadsworth: Yes, Jerry.

Jerry McPeak: Thank you, Mr. Chairman. I'd like to take one step back from that. I think before we start here and set our short-term and long-term goals, I think we have to assess where we've been. What have we done so far? I mean, let's evaluate or express we have accomplished this or we haven't accomplished this or this is where we are. It's like I tell folks a goal and no one really want to go. It's like I tell folks, a goal and knowing where you want to go is not worth a flip if you don't know where you are. If you don't know where you started from, it's pretty hard to map, make a map. So I'd like to

hear from you guys at some juncture where you think we are, what have we done, and what has been accomplished? Yeah, that's what I'd like. I'd like to hear what you think about that. We've been here for all this year-and-a-half and I haven't heard what folks think, these folks sitting here.

Female Voice: You want me to start?

Female Voice: I did want to say the only recommendations that went -- we didn't include them in here. My apologies, but it was just the three that went, it was including subsistence [indiscernible]. Jamie [phonetic] had issue with workers that need --

Male Voice: The WHIP [phonetic] program.

Female Voice: WHIP. Maybe it was with these three.

Male Voice: Subsistence.

Male Voice: It was funding of the council with subsistence and Jamie, yeah.

Leslie Wheelock: So four issues. That's all we want to send up [inaudible].

Mark Wadsworth: Go ahead. [Cross-talking]

Angela Peter: So what have we done?

Mark Wadsworth: Yeah. Go ahead, Ann.

Angela Peter: Well, I feel, and I was just kind of talking to others about this, I just feel like we've had to work on kind of like

I don't know if you want to call it the infrastructure of this council so much that we haven't really had time to focus on what to do for our respective states or areas, regions, whatever you want to call them. That's where I -- it's kind of confusing when you get down to it.

Gilbert Harrison: I sort of feel the same way with Ann is saying. I think we've had growing issues here, growing problems where we had Jamie for a while, we had Joanna [phonetic] for a while; they came and went. Leslie came up and worked in April, and we're starting to get back to what we really should do. We have a list of things that was on the Internet saying the Secretary's appointees, people to do these things. If you really ask me, we haven't done much of anything. That's all we've charged with in a way. Yes, we've made some recommendations on a few things, but I really feel that the answer we got was really, to me, it wasn't really a good solid answer. It was just a political answer.

But I think that we ought to get back to what we've been basically charged with, but we need to be a little more formal about it and come back from an administrative background. And when you tackle some important issues, you need to have a process where you meet these decisions and you issue formal recommendations. To me, I think we really haven't done that much. We've had some meetings. We've discussed some things. We listened to people. But I think we really need to say this is what we're going to do, this is what we need to do. Thank you.

Mark Wadsworth: Juan.

Juan Garcia: Well, it seems like -- I consider my role here is to listen and learn from you all. There are so many issues out there in Indian country, and I think we've spent a lot of our time listening to a hodgepodge of issues that we can't really get our hands around anything because they're all over the board. I think last time when we decided to take more time and pull these work sessions, and I appreciate Leslie and John and Toni doing this because I think now is the opportunity. I think we've spent some time getting to know each other. I think all of us may have our own issues that we bring from your own state that you're very passionate about. So I just hope that with this afternoon and tomorrow, we can pin this down into what our goals are for the next couple of years here.

As far as FSA and Chris here, I know Chris has his comments, but we've tried to do our best in the management of our programs - FSA loan programs, FSA foreign programs - to help the producers out in Indian country the best we can. But I think we've gained some ground though. I mean, we managed to get BIA here. We got her last time, so I think we're moving some ground. We need to have NRCS here because I hear a lot of issues regarding NRCS. I can answer the FSA issues, but NRCS has a lot of programs where they help producers out there too. So we've got to have these people on the table.

I think we really need to have -- the one thing that we heard last year when we were here was a lot of FRTEP, is to have NIFA here. Possibly next time, if we do meet, to have NIFA - the main guy is Sonny - Leslie here because they can provide a lot of support or

extension and this kind of thing. So it's not all lost. I think we've gained some ground. It's been slow, but hopefully this work session we can kind of structure ourselves. What are the main things we want to do here in the next year? Maybe just three things and get them done. That's just kind of a summary.

Mark Wadsworth: Chris.

Chris Beyerhelm: Yeah, I think that's well said. I can't remember exactly the saying, but I think it was saying at AA that [indiscernible] didn't know the difference between things they can do something about and things they can't do something about or something like that. We talked about a lot of things, and we got them all teed up, and we can't do something. Let's talk about some of these. I agree. We need to just pick out some -- you guys need to pick out some top issues, and we need to get a game plan for them and get them rolling.

NRCS is a great one. I wrote in my notes that not just BIA but we need Forest Service, NRCS. We need all of our partners; one, USDA, including BIA at these meetings. I don't know how they'll pay for those kinds of things. This thing started out as a settlement agreement with the loan program, but we don't hear much about loans from these folks anymore. It's about other things which is, I think, what we anticipated would happen. So we need to start bringing them in now and try to copy that success we have.

Male Voice: I can help, and of course Leslie can too. I've got association with all the administrators of all the agencies. I mean, I meet with them every other week and I work with them personally, especially NRCS and Rural Development that I work with really close. Rural Development, we had Patrice here last time. I think she's really good for that. So if I can help in any way in making contacts with the heads of the agencies --

Leslie Wheelock: Can you invite me to those meetings?

Juan Garcia: Sure, yeah. And, you know, we'll have our NFAC meetings. Next year, I'll be the lead for the National Food and Agricultural Council - this next year. So this is something we can work together to come in because we have all the USDA agencies there, including Forest Service. I mean all the USDA agencies. So Leslie, that's something you and I can work with and give you time to present information to them during that time. Let's try to do that this next year while I'm chairing the Food and Agricultural Council.

Juan Garcia: Maybe one way we institutionalize that is just to set up a subcommittee of USDA partners. Once there's a subcommittee, then they're almost -- doesn't commit them to come, but it increases the likelihood.

Juan Garcia: I'll just call them in the phone and tell them to be there. If not, I'll get the undersecretary -- the undersecretary for Marketing and Regulatory Programs, I know very well, Ed Avalos, who's head of APHIS -- I mean who APHIS is under them. Catherine

Woteki, I worked with her in other programs that I know I could talk to her. So I can help in that arena.

Toni Stanger: The reason that I'm here this time is that possibly by Friday before you leave, if you come up with three or four things that are really important - you can narrow that down today and tomorrow - I can draft those in my room at night. You can view them on Friday and then maybe a follow-up phone call to vote on it. We can send around edits, but just to get a work product before we leave, that was John --

Jerry McPeak: You'll get that done tomorrow.

Toni Stanger: Yeah, [inaudible]. Take your time. I don't want to [cross-talking]. That's what I'm here for. That's why I'm at your meeting, is to help you get a work product to actually send it off. Go ahead, Jerry.

Jerry McPeak: Nuh-uh.

Gilbert Harrison: Let's go around the room first. We've got Porter.

Porter Holder: I had a little bit to do with getting this council started. I'm real pleased with the federal people may have to take [indiscernible]. John and Toni did an excellent job of [indiscernible]. I think we didn't talk too much. We've not done enough talking for the last two years. I speak for myself here. We're getting educated. I'm getting educated on a lot of these programs, [indiscernible] programs, even a lot of stuff that's going

on out there. It doesn't really have to do with the loan part. I just partly feel like we've been talking too much and we hadn't done enough talk. I think we need to get a handle on that. I think this council -- I don't know if we really understood the strength that we have here. We're the only - correct me if I'm wrong here - we're the only federal advisory committee for USDA, right? [Cross-talking]

Female Voice: The tribal one [cross-talking].

Porter Holder: So you know, we got the power. Let's harness this power, and let's start doing some talking and not be doing so much damn [indiscernible]. That's just what I think.

Mark Wadsworth: I'll just go ahead and take my turn. I guess my issues are these. I think just in the context of my past experience with USDA, it's that we're dealing with probably the second largest agency besides the Department of Defense. I think in some aspects, well, I know at the very beginning when I started, I was overwhelmed with the amount of agencies and which every agency's responsibility was and which agency to go to for your specific problem. I think that we needed a lot of this knowledge. Basically, we can always refer back it to match up what we want to do with the appropriate agency. I'd also like to see - I guess now talking with John and just hearing your comments, Leslie - that we're looking at the council only to be in existence for the next three years.

Leslie Wheelock: Imagine that.

Mark Wadsworth: Imagine that.

Leslie Wheelock: The council does expire. We are planning on asking that it be continued. But imagine that it's not just the council, it's this administration. You got all the support you can muster right now with the administration.

Mark Wadsworth: And as I understand it too, there's going to be reapplication due by the coming of April of next year to have a member sit on in this council. Is that correct, John?

John Lowery: Yes, it would be to talk. Right. Yes, sir.

Mark Wadsworth: So every one of the councils, I guess, mainly on the Native American part up here are going to have to reapply. Maybe we'll get some new people because I do have an issue with attendance in some cases. I think that we're really dealing with important issues for our people and our family and our brothers and sisters and everything. If we don't have the interest from a fellow councilmember to at least show up - we're missing so many names consecutively - maybe we should have a change to our bylaws to say that they will be replaced. I just think that the more, the merrier. More people involved, the better it is for everyone.

I always look at -- I'm solution-oriented, so I will just sit back and listen. Hopefully we can develop our solutions, whether it'd be formal written documentation, whether it'd be taken verbal for us to act upon as a council. If we want to go in further and develop long-term and short-term goals, I'm all for it. But I would like to be more participatory rather than leading the meeting in those sorts

of decisions. So Leslie, if you could help facilitate that, I sure appreciate it. That's my comment. Jerry.

Jerry McPeak: Thank you. [Cross-talking] place I'm going to find to say this. Just a few weeks ago, a couple of months ago, I expressed to you, folks, that I was not aware of your reservation thinking of what happened. So on my own dollar, I went out to Blackfeet and Gerald hosted me out there and hosted my wife and I for two days where we got to experience the Blackfeet Reservation I think as closely as anyone could that's from the outside. He took us to some special places and showed us some situations. We got to see the real thing. I really, really appreciated that, Gerald. It was a big thing to us, my wife and I. I doubt anyone ever came to the country, the area that got to have the feeling that we had. Because of your hosting and because of the things that you've shown us, I left confused even more so and angry also.

We were removed, the people from our tribe removed, and we walk a long ways. A lot -- a thousand of people who died walking. Those folks were moved to a place that's a desert and told them to farm, and they weren't farmers. Jesus Christ is the only person I know that could raise a crop out there now. So we don't know where each other comes from. My college kid used to say, well, I know where you're coming from, and it did make a lot of difference because when I got on this thing and I -- you're talking about applying. I didn't apply. Someone called my office. I didn't know what was up. He said, "Jerry, would you want to do this?" I told my secretary, "Yeah, write

that down." The next thing I know, I am, so I don't know how that happens.

I thought that we would make sure that the money was going to a place it's supposed to go and get what it's supposed to do. I think it was a surprise to both the government and negotiators thought there was so much money left over. I'm not sure that people had prepared for that and, obviously, sir, you may have a better idea. Maybe you thought you were getting a lot more you thought you're going to get. But I don't think people knew what to do with that. That's a concern for me. I was under the misconception, I guess, that we would know more about the dollars and where they're doing and how they're going to be spent and what was going to happen, and that doesn't seem to be part of what we're concerned about. I don't understand that exactly. I may not ever understand that. We spent all this time getting educated. It's going to look self-serving for us to want to be back on there. That's what it's going to appear like. It's like being against term limits. But truthfully, do you want a doctor working on you that's been doing heart surgery for 10 years or do you want a kid that's just got out of med school? We're just not learning enough to be effective without having to relearn it.

I agree totally with Mark about people not attending. There are some very intelligent and very good folks. But I'd rather have 100 percent of someone with the capability of 50 than to have 25 percent of someone with a capability of 100. I think we have a problem with us not being able to express ourselves. It's obviously not a great

problem of mine. But for you folks, a lot of folks, it's a problem with expressing ourselves and saying, "I feel like we've been force-fed quite a bit especially early." We've opened up a little bit more in the last couple where you've said, well, okay. I think we need to have more of that. We live out there. We're living in it. As I listen more about the anchor land and they get to do that thing, geez, really; or you can't fish in that river, we're not talking about it. In Oklahoma, you tell us we can't fish in the river. You better not send a game ranger down there because he won't come back.

So I've been frustrated. If I made a list of things we've accomplished, it wouldn't have anything on it. It just wouldn't have anything on it. So I think you can say, well, we've taken steps, but what have we accomplished? That reflects on -- huh?

Male Voice: BIA.

Jerry McPeak: Yeah. Well, BIA showed a hell of a deal. That sucker should have been here the first time. I don't understand that. So I've been disappointed and frustrated. Even though I'm a little accustomed to government, I was disappointed in the fact that this has been working like government. I guess I didn't want it to work like government. I want it to work like the individuals that we were that showed up which works a lot better.

Ms. Leslie, as a comment to you, by the way, because I feel like you're you and that's good. That's a good thing. I actually went through this book and went through the books we had before and made

notes on those things. It's all what-ifs and what happened and tell me something. I was going to ask you at the end of the deal today, I'd like for you to give me whatever you think you've done, what you think you've accomplished, but obviously we're doing this so that's not going to happen. But mine would have been nothing. Forest would have been nothing. So we've learned more as individuals, but that doesn't do our people any good because I have individually learned more in a better burst [sounds like]. So that's where we are. I agree with [indiscernible] it worked, but I've been frustrated and disappointed as I have been with the government that I served in Oklahoma as well.

Male Voice: I guess I was pretty excited to get on this. I wasn't quite sure what I'm charged with. I knew somewhat about Keepseagle. I didn't find -- I was not really directly -- I remember some of the early meetings I sat it in with Sarah and the folks at Dakota. It was a very exciting time that that was going to happen, and I was pretty elated that after all those years and I could see there were a lot of people very happy that they were able to accomplish that. I was initially really happy to be asked to do this, but I'm very frustrated. It's a lot more about me than it is probably about this. What I'm seeing is -- and unless I missed something because I've been out of this; I've been home working with my charge for 10 years. I was very involved in the day-to-day with tribes nationally, and I fought many battles with agencies to assure that tribal producers were getting their fair share. And they were battles obviously with Chris and these folks sitting here. Some of those

things have softened at least at the national level, and that's a good thing.

But for me, I'm still hearing the same complaints. Literally the same people coming in here yesterday. Our friend from Nevada, Jerry M., we set up a Tribal Technical Issues Committee in Nevada in the mid-'90s to deal with Indian earmarked money, making sure that tribes had their fair cut of the money coming into the state, making sure the fact committee included tribes and giving them a place at the table and making sure they got a cut of whatever resources were there and also having a voice in how those resources were going to be administered.

This ground has all been covered. It's all been covered. Then I talked to people throughout the week and are -- we don't do that anymore. So the policy changed at the national and state level. The state directors, for whatever reason, decided that tribes specifically, it wasn't that important to get the tribe there as to get everybody there. Our premise has always been - mine will always be - that we as tribes have a unique relationship with the federal government. We're not a state entity. We're not a department within any federal agency. There's a trust responsibility, and there's a treaty sitting there that you will adhere to. You can't look around it. It's real.

So to me, we're almost back to where we was. I'm somewhat frustrated, and I don't think I've been -- I've struggled with this group here. It's almost like I'm revisiting things we already got

bloody for, and I don't know how that happened. When individual tribes say we need more outreach, but you ask the state and there's nobody there. They've morphed them into some multi-ethnic position that's going to fix everybody's problem. So I struggle with that. I understand the issue of resources, and it's probably gully [sounds like] for tribes to say well, hire somebody just for us. But we are unique. We're unique to this country, and we're unique to your state. I think we deserve that, and I think there are funds that should be -- because we're a landholder. That has always been our argument setting these committees up. We're a landholder here, and we have the right as much as the folks off the reservation to be able to apply a certain amount of resources coming from the USDA for programs to apply those monies to our lands.

To me, we've lost ground here. The whole outreach thing, I know from traveling in Indian country how much it means for you to show up - these guys - at their home and say, you know, they'll bring one of the FSA boys or whoever wants to come along and spend two hours and talk about what's available. Does that mean they're going to get it? Maybe not. But a lot of people are just happy that you came there and you enlightened them. You looked at them as the entity, which they are, which is an Indian nation.

So I'm raving here. I guess for me, I'm not sure I want to continue. I'm just not sure. I think maybe somebody without as many scars can come in here and maybe take this thing and serve a better purpose. I don't know. So I'll just leave it at that. Everybody is

working hard here and have worked hard to get this here, and I commend everybody that's done that. And I hope for the best, and I hope we make -- that this entity can make some real change or at least get back some of what we've lost so that the Indian people out on our reservations can benefit. That's my hope.

Reid Strong: It's a little hard to follow that, I think. It's maybe a little late for introductions, but just for the record, I'm Reid Strong. I'm a special assistant at the Office of Civil Rights. Our role in this process is two or threefold. We generally are responsible for processing specific complaints of discrimination, and we can also act as a megaphone for issues within the department. We're here because of our involvement in Keepseagle. I think this has turned out to be an interesting exercise. I think just going around the table now, I hear a different level of frustration than I might have expected due to the processes [sounds like].

But I wanted to say that I think that there was always going to be a period of kind of chaotic back and forth just because the USDA is so big and complicated and the obstacles that I've heard about come in at the statutory level, the regulatory level, the level of individual attitude and individual relationships. I actually do -- just echoing what some other folks have said. I think there's been some ground gained in terms of just that education piece. For me, going into the agency and I hope kind of sorting out where the targets are for you guys, at this point, I would only recommend that the powers that are given to you guys, I think the John has highlighted a couple of times,

the most serious lever you have is the ability to make written recommendations to the Secretary that ask him to do something specific like give you a report.

I'll just give you an example. This issue with the Forest Service grazing permits, that's a hot issue. Here I'm going to go back and take it back to Civil Rights, and we're going to talk. I'm going to dig into it some more. We're going to see what we can do to understand it and maybe make some ground time. But a written request from the Council to the Secretary, a report on that issue would be a much, much bigger platform to actually get the agency to engage with it. It's something that you could track. It's something that would come back. It's a government kind of quirk that in writing to the person in charge really makes a difference even more than these conversations that we're having. That's all. I heard a number of issues today that I'm going to take that stuff. [Indiscernible] talked last night about some of them, and it's been [indiscernible] and I look forward to working with you.

Mark Wadsworth: Sarah Vogel.

Sarah Vogel: I would tend to agree that we've done less than we may have dreamt of doing when we started, but I think this is not easy work. I think it's not the type of work that can be done every six months for three days. We have to be working in between. We have to have subcommittees. We just have to be working on this. I think when the people were selected to be on the council - and that was drawn from a pool of people who expressed interest, people who were

recruited, but we have people from Alaska to North Carolina, Oklahoma, to Montana, Idaho, kind of around - the idea is that everybody is coming here with a rather deep background on Native American farming and ranching. We've got the federal folks here at the table who can help us on some of those issues.

I think the force-feeding that everybody has referred to, if we look back on it, we can kind of reflect and say this was good to know because the way I thought the Council would be working when we're talking about it during the settlement process is that it was going to be a council that was going to be focusing more or less on credit. The Secretary had a bigger vision for us. Thank goodness he did because when the Secretary issued the executive order, the announcement in the Federal Register, it gave us jurisdiction over all USDA programs. So having all those federal folks come in and give us brochures and so on, we may not remember all the details, but I think we gained a sense of the breadth of our potential authority.

After the first meeting, we had a list of 45 things that these people wanted to work on. We tried to select it down to the top 10. I think our top 10 may have shifted. I'm not saying that they have to remain the top 10, but I think that we're going to come back in six months and be just as frustrated if not more. So if we do not take it upon ourselves to do more heavy lifting and give discreet jobs say to Chris or to Juan or to Leslie or John, maybe you guys can get other people to give us the answers because the answers to some of these things - like is it regulatory, is it statutory - there are answers

out there. Somebody has got to go and look them up. Somebody's got to do a little bit of work so that we're not just wondering in between.

I think our little statistics subcommittee didn't take a lot of time, didn't take a lot of effort. We've had a couple of calls. We brought outside folks in like Christine Webber, and we've identified five states, and we've got a commitment from IAC to go look into those five states. For the record, they are the ones we hear about a lot - Arizona, New Mexico, Oregon, Utah, Colorado. Those are the states where disparity is the greatest. Hopefully, in six months when we come back, we're going to have a little report saying what's up or what's going on or what we're doing about it. But if we don't have work going on in the interim, we will remain frustrated.

I just wanted to share something. Many, many years ago I was an assistant attorney general. It was in the middle of the farm crisis which was pretty rough times. We had what was called the working group, and people were assigned; like somebody from Minnesota be assigned to work on something and then they would come in and report on that. But we would be working when we were away. Some of our meetings were only two hours long, but our work was done. It took hours and hours and hours but we were doing it while we're back in our homes or offices. And to the degree that people need resources, I think those resources are there just by calling on folks. I see Toni is nodding. Toni is a lawyer; she can look stuff up. Leslie. They're out there -- Rick. Rick has got armies of lawyers. Not that

they have to be lawyers, but they could be economists or procedures. So that's what I'd like to do, is I'd like to pick some jobs and get concrete and make specific recommendations.

Whether we can make recommendations today or whether we need to go back and do a little research, we don't want to give anything to the Secretary that's vague. We don't want to just have the Secretary, hey, look into this Forest Service thing. I think we want to be better informed so we can say you need to change such and such regulation of the Forest Service so that it recognizes whatever. That's kind of how I would assume, but first we've got to do some digging. We have to become more knowledgeable. We have a lot of knowledge in this room, but we need more. We have to take it on ourselves to do that. That's it.

Mark Wadsworth: Leslie.

Leslie Wheelock: I feel like the newbie here. I am. I came on the council having read all the paperwork and had an interesting expectation. Our first meeting that I participated was the conference call meeting or the Webinar meeting. I don't know if you remember at the end of that meeting I felt like I hadn't participated. Part of that was just being new, and part of it was just not quite knowing what my role was. I think that those of you who look at this council and say we haven't really done anything or we haven't done anything that we can point to, I think some of that is the result of our USDA people taking away things that they hear here and working on them.

You don't know that we're doing it. We don't report back that we did it. We just do it.

So instead of having something that shows up because it's in my notes that this needs to be taken care of and I know that I can do that or I know who to go to, to get it done, you're not seeing the results of some of the work that you are doing here. You aren't seeing the results on some of the things that people are identifying that we think we can take care of without going to the Secretary. Because we've been given enough of a mission by the Secretary, we just go and do it. So I think part of the federal responsibility back to the council is to report back to the council when we've done something that came out of what happened here. What stays in Vegas doesn't stay in Vegas. It needs to be reported back to the council.

The other thing that has annoyed me no end is the discussion about Keepseagle because I look at Keepseagle and the settlement as something that was done and that the work of this council and this council were the moving forward out of Keepseagle into the next world, into supporting our farmers and ranchers. Every time we go back and talk about Keepseagle, it's because it's not done the way everybody who worked on it expected it to be done by now. I get that, but it slows the work of this council down because the work of the council, from my perspective, it slows us down because the work of the council is fixing other things. That's been fixed. We're part of that fix. How do we take the role that we've been given to identify things to

the Secretary that he needs to know about or that we need help figuring out if we're still focusing on history?

We're all Indians and we all focus on history. That's what we do. That's part of our conversation. I go to meetings all the time and people complain about stuff that got fixed 20 years ago, and I'm used to it. But I think that if we're looking forward and looking at our youth and our land and our problems, there are two things. I think we need to do reports back, and I think that we need to figure out how to be as impactful as possible in what we ask the Secretary for. We've got a list of really low hanging fruit that came through the last couple of days, and it's not low hanging fruit necessarily in terms of getting it fixed. It's low hanging fruit in terms of finding out what it is and asking why. Why is this a problem? Here's this old tool that we used to use that's called the five whys. Once you get to the fifth one, you got your answer finally. But those first four whys, you're not going to get the answer out of them.

I'm very happy to be on this council. I think we've got some very strong people with good backgrounds to help broaden this out as much as possible. We've never talked about any of the food programs which I find interesting, but I think maybe that's because they're working okay. Farmers and ranchers, well, you know what? If our kids don't get fed or if our kids can have school gardens or community gardens or whatever, I don't want to take us there because I think there are other things out there that actually help the production side of things more than talking about our school gardens. But at the

same time, I just think that what I would like to see is a nice list of descriptive things to the Secretary that say we've identified these things; we need some help in figuring out what to do about these things, and we think you are the person who can help us with that.

I think we need to give him deadlines. He doesn't like deadlines, but none of us has enough time to get everything done that needs to get done without focusing on deadlines. I don't care if they're in two months and then we don't have a meeting for four months. I think that we need to give him deadlines because he will parcel the work out, but it's his responsibility to get it back in. If nobody is giving him a deadline, he doesn't have that to give out to people. So I'm just going to say I think we just need to keep up the good work and keep on moving.

Sarah Vogel: One more thing. I just like to echo one point that Leslie made about the impact that we've had. It's sort of unbeknownst to us. But I really feel that at that first meeting in Washington, D.C. when 21 agencies came in to talk to us about their work and their relationship to Native Americans, I would suspect that for a few of them, maybe more than a few of them, that's the first time they ever thought about Native Americans.

Male Voice: That was rather obvious.

Sarah Vogel: Yeah. But if they're going back and they're beginning to start thinking about Native Americans, that's going to reverberate. That's going to be thinking about it. Pretty much each

of these agencies now seems to have a tribal liaison which would be a fabulous network, and maybe they could tell us, too, what they're doing and then just having that on a tickler file might keep the attention up. This council has an expiration date because the case has an expiration date of five years from settlement, which is 2015, but we don't want the work or the benefit of this council to end so there is time pressure on us to get stuff done.

Mark Wadsworth: Yes, John.

John Lowery: Can I say something real quick? I also want to just remind everyone that this was entirely new when we started. We stood this thing up, laid the foundation. It isn't like we've had this council for 20 years and we're just putting and bringing in new people. I know that a lot of you guys have been frustrated, but you've got to also understand, we just built this house. It's not settled. We just built it and we're just getting into it now. So I understand the frustration, but at the same time - just like all of you guys have said - there had to be a learning curve. Everyone has to hear all these different agencies. When I think about Leslie or Porter, work that the public came here and [indiscernible] about FSA all day long but now it's supported, what about Forest Service?

Male Voice: [Indiscernible]

John Lowery: Exactly. I mean, USDA is a huge monster. But just like I said, I just want to just -- we just stood this up, guys. I mean, you guys were the first. I know you're frustrated, but we built

the house, we put furniture in, and we fix the stair our first night. So let's stay another year or two before we decide to sell this thing. Okay? Thank you.

Mark Wadsworth: Yes, Toni.

Toni Stanger: While you guys are making your recommendations, I'll just give a little bit of good news. This just in, breaking news: Congress passed a two-year budget. Current agricultural policy will extend, but in the meantime, they also promised that they would come back and vote on the new Farm Bill in early January. So whether it goes through or not, who knows, but at least they said they're going to put it to a vote in January.

Mark Wadsworth: I wanted to be kind of participatory in this portion because I had some ideas when I came in here of what I would like to see happen within the USDA. I was just riding in the plane and I was thinking, what is happening? How come we as tribes or individuals are losing our agricultural producers, ranchers and everything else? What's our biggest problem? The problem is, as I was thinking, was a lack of large amounts of capital. I mean not just the \$250,000 limit or \$400,000 limit. In some cases, if you look at a thousand-acre potato farm with inputs of \$2,500 to \$3,000 just to even put your land into production, you're talking about \$2 million to \$3 million. And then you have all the other situations in that.

So when Leslie invited me or when we got the invitation to go to the tribal leaders' deal, she also invited me to go the USDA Rural Development. I forgot the lady's name.

Leslie Wheelock: Krysta Harden, Deputy Secretary Harden.

Mark Wadsworth: My comment to them was, you know, and I explained exactly what I explained to you, is I'd like to see the USDA through the Rural Development and whoever it is that's available, readdress the empowerment zones, empowerment communities. In that way, when they did have that during the Gore-Clinton period, they had a \$20 million availability which the Pine Ridge Reservation was able to access. But I would like to do it more on just strictly agriculture as a recommendation and not just a short-term effort like one-time deal. Let's get this out there. I know I'm shooting for the stars here, but I think that we need to shoot for the stars if we're going to really give ourselves a leg up in some of these situations of becoming the number potato-producing tribe in the world or whatever. And then you're looking at cattle prices nowadays which are ungodly. Well, not ungodly. They're great. It depends on which side you're looking at the fence. Anyway, I would like to make that recommendation to the Secretary at some time.

Gilbert Harrison: Just for our group here, I've got a couple of recommendations. One is that every six months of not working - Sarah hit it right on - we're not going to get a bunch of things done. I think in my earlier email, I said we need to basically have maybe -- what happened to our quarterly conference calls? We don't get any

feedback from the front office saying this is what we've done here, this is what we need to take care of. I think that some of the administrative things that need to happen because if we don't do anything, tomorrow at noon we're going to go home and everybody is going to take off their hat, well, another meeting. What are we going to do? I think Sarah had a good idea. Let's get some workgroups together and give them some sort of administrative support. We don't have to have tons and tons of money. I wish we did, but we don't have to do that, but we can get some administrative funds to do something to put these things together because we have a lot of different issues. If we can get two or three on a group, that's fine.

Somebody said let's tackle things that we can change. We have a lot of discussions and a lot of people up there tell us things about tribal politics. We have no control over that. We ought to just cut that off at the pass and say, hey, we can't do nothing. There are issues that are congressional in nature. That's something that other tribal folks need to do those kinds of things, lobby to make those changes. What is it that we can do? I think what we can do is things that are in the regulations. How do we tweak them? How do we change them? I think maybe we need to focus on a small avenue and say, how do we make things better, and not only with NRCS and other programs but other departments? I think that we can be a little more effective that way. I agree with those comments, but I think the bottom line is we need to work more often and really get together.

And we're going to need administrative support because somebody has to do that analysis. Somebody has to look up the regulation and analysis. Somebody has to put that in the paperwork that we can say yes, we agree that's what we can do and then forward it. If we tell the Secretary we want you to do this and there's something that's not feasible -- we haven't done anything. Or if there's something - like you said, Leslie and these guys here - if there's something that can be done administratively by the agencies, those ought to be routed to them through the council, saying, there's an issue, can you address it? Give us back an answer. Only those things that we need to work with the Secretary, those should basically be something that we look at. So somebody needs to look at these issues ahead of time and say this can be taken care of administratively; this is something out there, we can't touch that. That way, most of these are weeded out so here it is. I like to see us tackle something like that, that we do more work than talking. Thank you.

Male Voice: I've got a couple of recommendations that I'd like to take to the Secretary. This council is in place for six years or five years.

Sarah Vogel: Well, wait. He did set it up for six, I think. Five years from the date it went down in the Federal Register which was awhile after the settlement.

Male Voice: But the terms are two years.

Sarah Vogel: Yeah. That might be due to the FACA law.

Male Voice: Yeah. But we can always ask that it be where you --

Male Voice: Yeah, that's what I don't get. I've been two years here. I'm just now starting to get a grip on some of these.

Male Voice: Really?

Male Voice: And now I'm telling you that. Can we not recommend to the Secretary that's in the two-year -- make it a four-year time for the council? There were Indians hundreds of years before the lobby [sounds like] was out here, and there are going to be Indians, we hope, hundreds of years to come. Why can't this council [indiscernible]? Why can't -- we need this go-between Native Americans and maybe -- we use the term Native American. I'm Indian. I don't know. I guess Native American is politically correct. I don't know. I mean, they're going to be Indians.

And my other recommendation is can we open a seat -- because what I'm hearing, there's a big gap between BIA and USDA, BIA and everybody. Can we open up a seat on this council? If it's not a permanent, maybe an honorary, and have a BIA member sitting at this table every time we have a meeting because I don't know about anybody else, but I'm not educated on these people asking BIA questions. Who knows about the BIA? So we need somebody from BIA sitting here to answer these questions. They can use this council as a mediator, as a go-between to knock down [indiscernible]. I agree BIA is part of the problem. I mean, maybe to come to this table and let's hash this out.

But two years is not -- I mean, I'm just now starting to -- all these acronyms and stuff. We all want to get it. Sometimes sitting there, what the hell? I'm finally getting a handle on that. So let's extend this from two years to four years if that's possible, and let's make this a permanent council. So there are Indians hundreds of years earlier and we'll have Indians a hundred years later. We're going to need this council to break down barriers. Who knows? Twenty years down the road, we may not need this council. Everything may be peaches and cream. But right now, we need it, and we need BIA here.

Mark Wadsworth: Yes, Leslie.

Leslie Wheelock: I heard Gilbert -- meeting as to split up a list according to what can be done and what can't be done, and I've reported saying here are the things that I would recommend. It's hard for us right now to say what can and can't be done quickly off of that really short list that Porter just gave us, but we can get an answer pretty quickly. Maybe not before tomorrow, but we can get an answer pretty quickly. I would recommend, Mr. Chairman and Gilbert, that we pick up all of our recommendations, that we go through our list, and that we have the ability to go back and figure out. Some of it will be easy. Some of these things don't need any kind of legislation because they're asking for analysis or they're asking for a report or they're asking for technical assistance in Nevada. But some of them would have to go back and do a little bit of working group to make sure that we got the right recommendation according to what we can do before we come back to the council and say we can't do that because or

here's how we do that despite the fact that we want to do it. One way we can do it --

Male Voice: So what list do we want to start on?

Male Voice: We've got 42, 10, and --

Leslie Wheelock: So Jerry did want to go over some of the things that we heard in the last couple of days. He left. I was trying to figure out some of the low hanging fruit, and one of the things -- John, did you ask them to do the top 10 and top 3?

John Lowery: Not at the recent. They did a top 2 back here.

Female Voice: Top 3, that's right.

Leslie Wheelock: What I think would be useful is to start by thinking about what happened here because there's homework that we can all do given all this material that we have without affecting the time that we have together. So what I would recommend is what did we hear yesterday and what have we heard today and what have we come up with by ourselves in the meantime that we would start with? We may end up with a really long laundry list. I don't have a problem with that. I will go through and categorize it and figure out what to do with it.

We also have these sheets that I know that Mary was filling out sheets. Are those Mary's?

Male Voice: Yeah.

Leslie Wheelock: This is a format that Toni, did you put these together? John is putting together? It's a recommended format. All it is, it's a recommendation, title, date, issue and/or a request action item. What we're trying to do with this is to take the letter that we wrote two, three meetings ago. You all know you asked the Secretary for three or four things, and it took forever to get the answers back. I think if my memory serves me right, that's because there was one item that took longer than the others. So instead of asking for a letter back, if we do something like this where we can put a response on the bottom or some sort of a mechanism that makes it really simple to respond without having to write a formal letter back to the council, then we might want to use this format. You might look at it and say this is too much; it's too hard; I don't need it; one line will do. In some cases, one line will do, but this is something that might be useful. Sarah is over here writing possible committees.

So we've got two things to do here. One is the administrative piece. How do we be as effective as possible in between in the six-month meetings? How do we make ourselves more effective? The other piece is what can we come up with in terms of recommendations to give to the Secretary? What I would suggest is that we talk about what we heard because we only got 45 minutes. We talk about what we heard in this session and then we go and everybody gets homework. We go back to our rooms and we flip through this. I don't care how long it'd take doing it, but we flip through the recommendations that are in here. Some of these are not recommendations to the Secretary. They're just kind of out there. They're statements. They're

questions. Go through and pick your top 10, first top 10, and then try to figure out from your perspective which three we can get done fast.

I'm going to take those. I'm going to ask you to give me those, those sheets from what you did. Go through and circle your top 10 and then we'll talk about each of your top 3 tomorrow. But I want the top 10 so that we can compile those and get them back out to you.

Male Voice: [Indiscernible]

Leslie Wheelock: Those are the top 10. My understanding is that's just from the first meeting.

Sarah Vogel: I can give a little background on that because I worked on it. We had a brainstorming session at the first meeting where everybody just sort of spun out different ideas and so on. We went back and we wrote - Janie and I over the phone - late one night, wrote up them all then we sent them back out, and we got people to list the top, each person list the top 10, their own top 10. Then we took each person's top 10 and we matched and we counted. We valued them like 9, 10, whatever. We counted them up, and the result was that the top issue was youth. The second issue was -- so on. Number 6 was -- yeah. But the top 10 were sort of the weighted average by what everybody wanted. Number one, involvement of youth; getting them active in Indian country, that was number one. Indian title and the Farm Bill, I'd say we put that off now because it's too late this time around. Credit issue's weighted goal [sounds like]. I think we've

heard credit desert again and again. I think that's still there. Communication methods is huge. So many people, their programs nobody knows a thing about. The word isn't getting out. [Cross-talking]

Male Voice: So the object is to go through all this list tonight and come back with our top 3.

Leslie Wheelock: Come back with your top 3.

Male Voice: Compile whatever is top 3.

Leslie Wheelock: I'd like to know the top 10, but I'd like to know the three that we can get done. If I may comment on what Sarah was just going through, the top one on here says it is essential that 4-H and FFA remain active in Indian country and become even more active to ensure the next generation of Native American farmers and ranchers receive key support on skills that they will need in the future. Okay, that's a desire. That's a goal. How do we get there? We get there by trying to make sure that there's funding in our schools for our FFA advisors because if you're sitting in one of these meetings this week, they said, "Oh, by the way, we're losing our FFA advisors because they're not getting funded anymore." So how do we -- Mr. Secretary, we want to make sure that we have sufficient support in our schools for our FFA kids. Can you tell us how you're going to do that?

Jerry McPeak: I apologize for just walking in. I'm going to make a statement that's somewhat self-serving I'd say upfront. It's not hard to figure out a Democrat. My relationship -- tomorrow, bill

deadline in Oklahoma, have our bills done. My relationship with our Republican governor's office is closer than it was with my Democrat governor's office. And that really was the governor's office that called about something. This deal here, I know where they came from, but who decides to list these? Where it these came from was we're giving a list to pick from. We're not allowed to --

Sarah Vogel: No, no, no. That's not the way it was.

Jerry McPeak: The one I got said rank them. It said pick five.

Sarah Vogel: That's because we did 50 at the meeting. We had 45 or 50 at the meeting and they were sent out and --

Jerry McPeak: I'm still not locked into this put me in a box. I'll only answer -- I have it in the box.

Sarah Vogel: Fine. But then you got to --

Jerry McPeak: And then when 4-H say -- although I'm a very big advocate of 4-H FFA. 4-H FFA was on that list five times in different ways. I'm for it, but it's rigged. Not only was it rigged, but it limited the number of thoughts you could -- it does not allow you to think. We're trying to do like a teacher school. All you can think about is what I tell you what you can think about, and that's exactly my problem with this whole goddamn process. We've been force-fed a certain amount of food and we got to go down this one too. We got to be force-fed that stuff. That's what's been happening. This is the one thing I have a problem with, is we've been force-fed this. You may like it. It's okay if you like it, but don't get [cross-talking].

Mark Wadsworth: I think we're a little bit off track because we had a discussion here of what we were looking at, and I think we need to kind of readdress that.

Leslie Wheelock: [Inaudible] you want me to take over?

Mark Wadsworth: Yes.

Leslie Wheelock: Okay. Chris, did you want to say something?

Chris Beyerhelm: I think we're just getting back in the same thing that got us in this mess. We're just talking about all this stuff. We've got to get a game plan. We've got to start executing it. Let's get to it because if we don't, we're going to leave here tomorrow and not have anything done.

Leslie Wheelock: Jerry, before you walked out, you had suggestions, right, when we started talking, and that was to review what's in this [inaudible] to make sure that we understood what we've heard and to try to get some of that into recommendations for the Secretary. Whether those recommendations are voted or new, figure out why this happens. In the case of the grazing lands, because we have to tell him why, but it's a report, why has this happened? Does it need to continue to happen? Forest Service, does it need to continue to happen? Advisory in Nevada, it seems pretty clear that as a big state, it got 29 tribes. They need an advisor just for the tribes in Nevada. Maybe not all over, but they're all kind of split out.

So taking notes, Toni has been taking notes. What do we have on there? [Inaudible] so I'm not sure we got everything.

Female Voice: [Inaudible]

Leslie Wheelock: Well, you got [indiscernible] over here.

Toni Stanger: I know farmland with one of them. And then for the document that's stapled three or four times, started off that, those were from the minutes from last year at Vegas and the D.C. meetings. I read all of the minutes, word for word, and then came up with the key. So sorry if I didn't capture it right, but I was just trying to get an idea of the recommendations that you were making. Nobody got up and said I'm going to make this recommendation; here's my word. So sorry about that.

Male Voice: Was that on [indiscernible] book?

Toni Stanger: Yeah. The one that had us all [indiscernible].

John Lowery: You've got Tab 4, 5, 6, and 7. They're all recommendations from our very first meeting to the last one.

Mark Wadsworth: Yes, Gilbert.

Gilbert Harrison: As a board member, we're asking for recommendations. The number one recommendation, and I'm going to modify exactly what Porter said, was ask for a waiver of the two-year limit and say we want board members to be on there four years to make a significant difference in what we're doing. I would like to recommend that to the Secretary, number one, and all these other things we can then work on. As a board member, I'd like to recommend that to the board.

Mark Wadsworth: And Jerry, just for your FYI too, we're not just limiting ourselves to what was written down in the beginning. If you've heard something or other, we want to include that also.

Jerry McPeak: Thanks.

Sarah Vogel: Could I circulate a list of possible committees? I've started one.

Male Voice: Let's finish this. We've got something. Let's finish it.

Sarah Vogel: Yeah, that's fine. I just thought I could float around and people could add ideas if they want to.

Jerry McPeak: What does that have to do -- ?

Sarah Vogel: Well, it has to do with getting the work done. If we want to get into very, very complex issues like the Forest Service grazing leases and go to battle with all the white guys that have those leases, we can't just be doing it out of desire.

Male Voice: Sarah, I agree with you, but we got to finish one thing at a time.

Leslie Wheelock: Well, just to comment, [cross-talking] authority to create subcommittees. That's not a recommendation that has to go to the Secretary. We can talk about that later. John as the DFO has authority to create stuff.

Mark Wadsworth: Do we want to just shoot straight into voting on the first recommendation?

Female Voice: Yeah. I'm just writing --

Female Voice: Do we put it in a motion or no?

Leslie Wheelock: Go ahead.

Mark Wadsworth: Go right ahead. Sarah had a comment to me before that you wanted these resolutions or recommendations to be read by and printed out before -- not printed but just verbalized correctly or we're going to have to --

Sarah Vogel: Well, number one, right away, we want to waive the term limit for current council members, but there's been a discussion that we don't in fact want all current council members to be reappointed for another term. In fact, there has been discussion that some of the current council members should be taken off the council because they haven't been at the meetings. So I'd say the wording is kind of important. It may be better to say something. I don't know how to say it, but I would rather -- I'm not an oral person. I'm much more a written, I want to see something written out so that I can --

Jerry McPeak: [Indiscernible] all your work.

Leslie Wheelock: I think if we just narrow it down and you give us an assignment, or give me an assignment [cross-talking] then I'll go back and draft it, and then we can send it back to you. But as long as we narrowed it down and we have an idea, then you can

circulate it and word-change it, correct it. I'm not trying to say give it to me now, vote on it now, but just give us an idea.

John Lowery: Let me say this though. We do have a template in front that we just gave you. It has a place for a title. It has a place for a description. So if one of you guys wants to put out of mouth to paper, it's sitting there. It's just a way for someone to write it down and someone to pass it around.

Jerry McPeak: What we're doing right now is good. Just stay with that. You're on the right track.

Mark Wadsworth: Let's get our listing.

Jerry McPeak: Yeah, get your list. You can shake it up later on, refine it later. It's what she said, what Toni -- exactly. Get your list and sift later on.

Leslie Wheelock: These are all BIA --

Jerry McPeak: How many times are you going to do that? I'm going to watch this list up and down. I'm counting enough times.

[Cross-talking]

Leslie Wheelock: So this is what I've got so far. So what I've got, these are things that by the way some of these, we have to do some research on to figure out how we do it. And then before we can take it forward, one of them, we have the term limits of current council members; date of council permit; create a seat on the council for BIA representation; create a subcommittee, council subcommittee

consisting of USDA agency representatives. That was a comment. If you don't like any of these, just move right along. Create a Nevada technical NRCS assistant; dismiss absentee council members. What else did we hear that was raised in the meeting? I'm just going to keep writing.

Sarah Vogel: I have a question about that. When you say USDA agency representatives, whenever I think of that, I think of the four here under the settlement agreement. But I think there was a discussion about having a subcommittee that Juan was going to pull together about all of the agencies.

Male Voice: Right, it's for the ones that aren't here. But I think three of those can be taken care of if we just amend our charter. I don't think we need to go to the Secretary. I think that's self-inflicted - the term limits. I don't think that's in the Keepseagle agreement that it has to be two years.

Sarah Vogel: But I worry that it may be in the Federal Advisory Committee Act that I think that they have a two-year limit there.

Leslie Wheelock: Yeah. We need to check --

Sarah Vogel: They do? I mean, John is saying it is. [Cross-talking]

John Lowery: Okay, real quick. Every time there are two-year terms, but people are allowed to serve up to four years. That's the way it is. So you can be appointed a two-year term; you reapply; you'd be reappointed. So altogether, you're serving for two terms.

Male Voice: Just go ahead and reapply.

Leslie Wheelock: So we can't waive the term limits, right?

Sarah Vogel: Yeah.

Leslie Wheelock: Can we make the council permanent? It's in the settlement agreement that it's got a term. We can ask the Secretary to do that. All the other councils that I'm aware of are permanent.

Male Voice: Even those that do not work.

Leslie Wheelock: Create a seat on the council for BIA representation. In fact, we'll prevent them from doing that. Is there a reason why we have this number on the council?

John Lowery: The reason we have this number is because it's what is in the --

Male Voice: That's in the settlement agreement.

Jerry McPeak: I'm not a lawyer, but around that, I know from my own work, we can make that a de facto first [cross-talking].

Male Voice: Right. Either the advisor --

Leslie Wheelock: We've got an advisory seat on the council. How's that? Create a council subcommittee consisting of USDA agency representatives for folks? This is not written in stone.

Sarah Vogel: No, no. I'm just saying as long as that number of people that was required, which is here, it's here, then if there's

one extra person, compliance with the settlement agreement -- I don't see a problem.

Leslie Wheelock: I think it's making a more formal thing for BIA. Create a council subcommittee consisting of USDA agency representatives. [Indiscernible] just a quick hand.

Mark Wadsworth: I think that's fine. We can collaborate on that later.

Leslie Wheelock: Okay. This is to the Secretary, to create a Nevada technical -- it's actually to [cross-talking].

Jerry McPeak: Why Nevada? Alaska --

Leslie Wheelock: Well, exactly. That was my point to them, because they said, well, we've got 29 tribes and [cross-talking].

Female Voice: Two hundred and twenty-nine.

Leslie Wheelock: Two hundred and twenty-nine, and 200 more in Alaska.

Male Voice: Hey, Leslie, why couldn't we write that to where NRCS should evaluate [cross-talking] state and see what areas would need bona fide technical assistance.

Male Voice: Why don't you just say technical committee and then the tribes figure out who wants to sit on them? You must have organizations within the 229 that --

Sarah Vogel: Oh yeah, there are lots of organizations.

Gilbert Harrison: I have a question related to number one. This group here was formed not on behest of the government. It was formed because it's partly settled. Are we subject to the same laws and regulations as the advisory committee?

Sarah Vogel: Oh, yes, absolutely. That's also part of the settlement agreement, and that's the only way that during the negotiation, they did say that we'll have a committee, but all advisory committees anywhere in the government, any time, any place have to follow this Federal Advisory Committee Act. Remember that we had a big, boring briefing by that lady from the White House who cracked the whip and said this is the way it is? That is the way it is.

Male Voice: She told us we couldn't talk about it at lunch. Do you remember that? She said we couldn't talk about it unless we're in -- we could not discuss any --

Sarah Vogel: She was a nutcase, and we don't want her to come back.

Leslie Wheelock: [Cross-talking] as council members?

Male Voice: No.

Leslie Wheelock: Do you know if there's a way to get non-performing council members off the council?

Male Voice: Change our charter.

John Lowery: I'm not sure. I think there is a number of meetings that you have to miss, I think, but I'll have to check.

Jerry McPeak: [Indiscernible]

Gilbert Harrison: I think the council can write a short letter and have Mark sign it to these people saying, "Are you still interested? You haven't attended. Please let us know. There is a concern."

Male Voice: Yeah, that would be the first step.

Gilbert Harrison: Yeah, that would be a first step, and maybe some of them will say I'll resign.

Sarah Vogel: It's more gracious if the person who doesn't come simply resigns. That would be ideal. It's not that we think Chairman Jandreau isn't a very good person [indiscernible].

Leslie Wheelock: You mean the people who aren't here. Okay, so I want you to think for a minute. This is brainstorming. What do we want to ask the Secretary to do? Given what you've heard, given what you know, how do we improve farming and ranching at USDA? How do we improve tribal farming and ranching?

Jerry McPeak: You're not going to like what I'm going to say, but I'll be brief in what I'm going to say. A year already took place that past sometime [indiscernible]. I'm gathering that the IAC is the entity that's going to be delving out whatever. It's going to be put in charge with this because it appears they're the only one that

really existed when it all occurred. For those of us who are east of New Mexico, we don't know what the IAC is even if it was before we got started. I don't know what it was before we got started. We don't know who it is. It doesn't exist east of us. We don't know. I don't know. She indicated North Carolina that they didn't know and we don't know. [Indiscernible]

Female Voice: Because it's CFRA [sounds like], we can't do anything about it.

Jerry McPeak: Why am I saying that? I'm saying that because there appears to be that they're the ones who are going to be given the authority to do things, and we don't know who those folks are.

Male Voice: Are you talking about money? Are you talking about the CFRA money?

Jerry McPeak: Yeah, that or other --

Leslie Wheelock: Technical assistance.

Jerry McPeak: Yeah, the money thing, yes, but whatever. Since the things that float through them -- don't get me wrong. I like the organization. I work at being involved in it. I work at it to get involved in it. It's very difficult where we are.

Leslie Wheelock: So one of the things that IAC does is to provide technical assistance in Indian country.

Jerry McPeak: That's right, if you live west of Texas.

Leslie Wheelock: Right now, that's what they do. No, we've got them around other places, not just west of Texas.

Male Voice: But you also have state directors and others that have an obligation. They don't all fall on IAC's shoulders. They have a specific task that you guys are paying them to do. But federal employees, federal state directors, national directors, they all have an obligation, a trust obligation to assure that tribes and tribal producers get a fair shot at the program. That falls back on you guys. It actually falls back on them to assure that. So that's almost like direct relation. We need to ask the Secretary to make sure that every able-bodied federal employee that works on a reservation provides - how do we word it - to where these people are actually considering the tribal membership be closer to job [indiscernible].

Male Voice: Leslie, if I can make a comment regarding your request on what we want to let the Secretary know, just a comment for consideration, knowing how I guess I'll call it the bureaucracy works in D.C. You have the Secretary up here, okay, and then you have all these undersecretaries that are responsible for all 27 agencies within USDA. Then we have around 17 other parts of USDA, including the civil rights office, et cetera. What I want the council to consider is that before we go up to the secretary level that there should be a discussion with the undersecretary's office regarding some of these issues, because the last thing that the undersecretaries want is something going to the Secretary and then the Secretary pinging them

and say, hey, why haven't you been looking at these particular issues? So I guess out of courtesy or out of protocol that some of these issues could go to the undersecretary first and they can do a lot of things, a lot of policy changes when they talk to their agency head. It's just a consideration.

Leslie Wheelock: That's actually one of the things that we've been doing [indiscernible].

Jerry McPeak: That's a nice thing if you all did it. It ain't worth a damn. I talked to the governor's office because that's the person who runs the steps. If I want to go talk to the Secretary of Agriculture, I could talk to the Secretary of Agriculture. If I want to get it done, I'd go talk to the governor because then I'd have -- one of the problems with government is they spend so much time talking around it instead of talking to it. We could talk to, talk back instead of just [indiscernible]. That's nice. That's great. I understand what you're saying. I suppose you don't want to make them mad. I guess it's kind of like [indiscernible] I was like I don't care. Tell the guy if he's got folks who aren't doing it, don't they need to be told they're not doing it?

Male Voice: I understand that, Jerry. I fully understand that. It's just that I think a lot of these issues and some of them are policy issues that can be taken care of at the undersecretary level without going to the Secretary himself.

Jerry McPeak: Doesn't that slow the process down? [Cross-talking]

Male Voice: Actually, it speeds it up.

Male Voice: I mean they'll get it done.

Leslie Wheelock: It actually speeds it up because if that letter is sent out, it went to the Secretary, even if it went down --

Jerry McPeak: So we send the undersecretary the letter and send a carbon --

Leslie Wheelock: No. Actually, what we do is I walk the issues into the assistant secretary's offices and I say, "We have this issue that came up. I need to report this to the Secretary. Can you tell me what the facts are behind this?"

Male Voice: I guarantee they're going to get it done because they don't want to get called on the carpet by the Secretary all of a sudden about, hey, wait a minute. Why don't you know about this issue? I know because I've been called on the carpet.

Jerry McPeak: My experience has been I go to that guy, he waters it around, waters it around, waters it around until it smells dead, nothing happens to it, and then I have to go back and go to the guy that can make the decision when I could have gone to him to start off with. I understand your point, but it's been a bad experience for me.

Male Voice: Jerry, if I could just give you a real life example of what happened. I was responsible for shepherding both the

subsistence and the WHIP issue the last time that we made recommendations. Before I wrote up those recommendations, I went to both NRCS and I went to NASS and told them what the concerns of the committee were and asked them if they could deal with it. In both those cases, they asked me to actually go ahead and make the recommendations because it would give them leverage, but I gave them the courtesy of asking them first. Now, either one of them could have said, "No, we already got someone working on that. We're going to take care of it." So Juan is right. This is the way we got to do it, and it does not slow it down. Just like Leslie is going to walk in their office and say, "Here's an issue. Are you working on it already? Are you going to take care of it?"

Jerry McPeak: Most of us sat in here and said we've been here for a year-and-a-half and not a damn thing has happened. So you're going to tell us that we're going to go do this and now then we're going to be able to call you guys back in six weeks and something is going to happen.

Male Voice: I don't know about six weeks.

Leslie Wheelock: We actually might have the recommendation for the Secretary done sooner than six weeks with full facts so that they don't have to go back out to the agencies to get it done. The agencies can say it's statutory. It requires an amendment to our handbook. It requires a change to the regulation. Gilbert, you have a comment?

Gilbert Harrison: I want to put something that's sort of technical in nature that we can say, okay, either to the agencies or something. One is I would like to recommend to USDA that the 10 percent required, as mentioned, funds from producers on trust land be waived. Number two, again --

Sarah Vogel: What program is this, Gil?

Gilbert Harrison: This would be the EQIP program because any time they say you have that 10 percent, so that shouldn't be on trust land. Number two, I would like to recommend to the Secretary or his whoever that basically, the cost of a project should be determined upfront so that if you have a thing where the design costs are very high -- we have all heard that the engineers like to do everything and it ends up -- because right now, what happens: you get a grant for X number of dollars. It goes to design. By the time it's finished, that could have increased to 50 percent. I think the engineers or USDA or whoever puts the money forth should design at what that actually cost to do that project. That way you don't have a shortcoming. Those are two very clearly defined needs.

Male Voice: And Leslie, I think we're going to have to do a statutory search on both of those to see if it's statutory regulatory.

Gilbert Harrison: So that means we look at it, and that's something that can be really -- I mean it's right to the point of issues that occur. The third thing is this issue of forestry lease where people that now graze or have livestock on trust land is

eliminated by these criteria that you have to have a private land somewhere else. I think those are some that we can say these things occur, we need to do something. These are all programmatic issues.

Sarah Vogel: I could be wrong in this, Gil, but I think it's not just any private land somewhere else. I think it has to be specific private land which is at or near within that Forest Service area or BLM land. That's what I think it is which is why I'm thinking that when we do this kind of stuff, we've got to do a little bit of legwork.

Gilbert Harrison: Absolutely. That's why I'm going to ask USDA and other people to make an analysis, where does this come from? Why is it there? Then we go from there.

Male Voice: [Cross-talking] this is where we go to the agency and find out, okay, is that statutory? Is it regulatory? They wrote the regs on this. Sometimes when you have a statute, then they can add additional regs to it, or then is it policy? So if it's policy, it's easier to change. If it's regulatory, then you have to change the regs. That takes time, but that has to be researched.

Gilbert Harrison: Absolutely.

Leslie Wheelock: Is this ownership or lease, or is it specifically ownership?

Male Voice: We have to check. We didn't actually have a relevant case that came through [indiscernible]. I know that [indiscernible] supports but it has to be ownership, and lease won't

do it in most cases. Also, of course, forest [sounds like] was there, four different kinds, some have to be adjacent to the forest and there are some that are not.

Leslie Wheelock: One of the [indiscernible] things that I heard [indiscernible] the requirement on the irrigation systems.

Male Voice: Yeah, the two out of five years.

Jerry McPeak: While you're writing that, I have a question for Gerald and Mark and Gilbert. This is not going to be a very popular question either. We don't understand.

Male Voice: You could stop saying that, Jerry. That's just a given.

Jerry McPeak: You guys are talking about -- I just got here yesterday talking about being a rancher and he said he had 10 cows. Well, in Oklahoma or anywhere, that's a dabbler. I mean to expect to make a living, any portion of your living off 10 cows is not very realistic. To make \$100 --

Male Voice: It ain't about making a living.

Jerry McPeak: That's what I want to hear about.

Male Voice: He should be looking. At USDA, it's \$1,000, right? You've got to make \$1,000 to be considered a rancher. How many cows has he got?

Jerry McPeak: That guy's at 10.

Male Voice: He's got 10. At \$5,000 a year, he's doing all right.

Jerry McPeak: He's making \$5,000 a year? He's going to make \$500 a cow. He needs to run my cows.

Mark Wadsworth: Angela has to step out, but she has a comment.

Angela: The one thing that I heard pretty consistently yesterday was outreach, the lack of. One of the programs that has benefited Alaska and I've heard that the funding has dried up or they put the program at the Office of Outreach and Advocacy. I just want to throw that out there. I know that outreach has been lacking in Alaska, considering we're 50 years behind you guys.

Male Voice: I've heard the outreach thing once too. [Inaudible]

Angela: So anyway, that's just -- it's funding?

Leslie Wheelock: So if can comment on that, one of the things from my perspective that would be very helpful would be some recommendations on how to make the outreach better because I keep talking in radio. I talk to radio because you all are not sitting behind a computer when you're out there on your tractors, tending to your farms or you're in your car and doing whatever. You are listening to the radio. The radio has [indiscernible] a lot of information. But having said that, we have a problem because consultation is government-to-government, which means the documentation and the communication doesn't have the leaders and you all are likely [inaudible] if that's the only methodology. So maybe

we don't call it consultation just for the general announcement that would go out. But how do we ensure that they get to where they're supposed to be going?

Juan, I remember you said you had a list of folks that you have who have applied for and gotten loans through FSA. I'd like to be able to go throughout USDA and find those lists. This is true brainstorming. How do we do this? This is not easy. Five hundred and sixty-six tribes and we're trying to dig down to the folks who have \$1,000 of products or less or more in order to get them information.

Angela: I got all 229 tribal addresses, but I don't know everybody in each tribe. But I can work within the regional area in Alaska and find that out only because of the fishing. We're trying to get that.

Leslie Wheelock: So one of the things that would be useful for us is to have a spreadsheet with those addresses.

Angela: I could give them to you.

Leslie Wheelock: A spreadsheet with addresses and emails. John's got -- you have all of them?

John Lowery: That would be nice.

Angela: How much?

Male Voice: Leslie, I don't know exactly how to say this, but we've heard this a couple of times at meetings, the FRTEP issue and

the funding. I heard somehow that the formula is not very transparent, so I guess part of it is to make the formula transparent. I guess the second thing is to reevaluate the formula and provide more money and then maybe reevaluate how it's dispersed. I know that's a lot of things in one, but --

Jerry McPeak: That's a yearly basis. I want to say something about the yearly basis too and them being able -- they don't one year to the next --

Male Voice: Yeah, there's no consistency.

Leslie Wheelock: It wasn't their thing?

Male Voice: Well, it's the transparency of the formula, maybe redesigning the formula if it is old. What the guy said was that it was developed a hundred years ago that they need to redesign the formula for today's economic conditions.

Sarah Vogel: And the 2007 census.

Gilbert Harrison: Let me ask a question here. How much should the council get involved when it comes to advocacy for programs, funding and all of this? Is that something that's basically administrative?

Female Voice: Yeah.

Leslie Wheelock: If that's what it takes to make recommendations to the Secretary on how to make farming and ranching better, go for it. The worst they can say is, no, we don't have enough money. But

the best they could say is, well, we've got this bucket of -- can we move some of that over here? Can we redesign this program? People are being very creative at these programs. They need to be creative in our direction. So if we could give them that kind of guidance, just go for it. The sky is the limit [indiscernible]. You don't imagine that we can't do stuff just because nobody has ever done it before. I love these colored shirts anyway.

Female Voice: I'm glad you said it.

Jerry McPeak: I think she said you're gay.

Leslie Wheelock: I didn't.

Male Voice: You have way too many kids for that.

Leslie Wheelock: I don't know how to make this comment back to NRCS about what I call their Cadillac design that keeps people. People come in and they ask for something simple. They're just trying to get a little bit of extra funding to fix something and NRCS comes in and says rebuild the whole damn thing into a gold plate [sounds like].

Male Voice: You know, Leslie, maybe what we do is implement the microloan issue, micro project issue that for projects under a certain amount of dollars, maybe they don't have to do this major engineering. [Cross-talking]

Male Voice: Before we put to them to \$3,500 a year. Remember the \$3,500 tax that we give anyone a year which is 50 percent or 75 percent maybe to set that rate.

Male Voice: So what would the dollar figure be, like 10,000 or -  
- ?

Male Voice: I mean you could get 3,500 [indiscernible]. Yeah, they maxed it at 3,400. That used to be a small budget.

Leslie Wheelock: Well, it makes sense in today's economy.

Male Voice: Now you're into a five-year long-range plan with transportation, grazing and fixing irrigation over here, I mean environmental [indiscernible]. Hey, I want a stream developed or I need to get this stuff. Well, [indiscernible]. To an engineer plan it, it's kind of like Neanderthal. But to us, it's like this is exactly what I need.

Male Voice: So let me ask you guys a follow-up question because I know one of the concerns because I talked to one of the NRCS guys. It is somehow liability. If they don't overdesign and then it fails, then you're going to come back and say, well, you screwed this up. I mean, what if it was a combination of a small amount of a project and you sign some sort of waiver saying --

Female Voice: A disclaimer?

Male Voice: A disclaimer or something. That might be something that we [cross-talking].

Gilbert Harrison: Mark and Leslie, I think we have a good start for tomorrow. I think maybe that's something we can sleep on and discuss tomorrow. Otherwise, we'll just start and build up all over again.

Leslie Wheelock: So in a world that I once inhabited, this is how we start. It was the dream. Just reach for the sky. Unless you have it figured out whether it makes sense then you cross out half of it. And that is Native [sounds like] work. You all have all of these recommendations that have been made [cross-talking]. It would be really good if you could take the time to go through. I don't care how careful you read them. But Zach wanted to put together tons of recommendations. [Indiscernible] tell me what the real background [cross-talking]. If you could just go back and take a look at those, and let's come in and talk about your top two or three. I would like to know what the other ones are that people think are really important, but I think that we need to get some focus here or we're going to have too many to deal with. Some of these will come off as we find out what the problem is or what's causing them, and we'll have to turn them into a different kind of recommendation.

Just lay your recommendations and then we'll write a letter and say these are our legislative recommendations and some of them not expect any answer for a while. Others of them, if we could fix them with a change in regulation, they'll say it's a regulation. You need to fix this. That's the reason for that because of legislative [indiscernible]. No, we just wrote it up that way. Well, we can fix

that. It's in our handbook [indiscernible] handbooks and manuals. One of them right now is ready to go to [indiscernible], so I'm not sure how we're going to deal with that. Our [indiscernible] just through interpretation. Read it this way, not that way.

So there's a lot of creative work going on, and I know Angela yesterday or two days ago I know was sitting in the Alaska Caucus room. People were talking about, oh my gosh, what happens when Bob leaves, because Bob has been creatively managing NRCS regulations in order to make sure that the Alaska natives are taken care, of for the care [sounds like] that they take with their land for their subsistence.

Female Voice: Bob ain't leaving.

Leslie Wheelock: Bob ain't leaving, so we're going to figure out how to do that. So we need to finish this tomorrow, at least finish our list so that can take the list back. We can go through and sort through stuff, get it back out to you all, and we can proof and have a conference call and talk about it. We need to do the administrative stuff to make that this doesn't just die and go why quiet while we wait for our next meeting.

Jerry McPeak: Where did you get that list? Tear it down. Like we tend to do with a question deal when I was -- like saying I have a certain limit amount of questions. Yeah, there are some -- prioritize.

Leslie Wheelock: We need to figure out where our next meeting is.

Sarah Vogel: Honest to God, I don't see us getting very far at all unless we do a deeper dive and getting through some of these subject matters much more deeply. If we want to do recommendations tomorrow, my hypothesis is it's going to be so shallow, with the exception of a few things like everybody wants to be reappointed that it's going to be Leslie is going to be walking around and people say, well, there's a whole lot of data. I don't know what will happen, but I just wish we were more focused in recommendations like FRTEP, for example. I've got seven potential subcommittees that if we could meet and then have in a month's time or have phone calls or subcommittee meetings. I think our recommendations could be much more impressive.

Gilbert Harrison: I think some of these we're getting a list on, some of them we're not going to recommend to the Secretary. Some of them we're going to recommend to the USDA and their lieutenants. Thank you.

Female Voice: Are we going to get subcommittees this time? The chair appoints, right?

Sarah Vogel: [Cross-talking] since the first meeting.

Male Voice: Before we leave, we need to [cross-talking].

Female Voice: Yeah, the chair and vice-chair.

Sarah Vogel: Are we going to make the recommendations based on all this work we've done before we have the subcommittees?

Jerry McPeak: Yes.

Sarah Vogel: That's interesting.

Jerry McPeak: I think you have a small entity. Again, it's what the government -- no offense, we're getting treated just like Indians have been treated their whole life. The government is telling you what you're going to do and you're sitting there taking that crap. That's what's happening, boys and girls. You haven't had any input cracked yet. That's what's happening, just like it has been done for a thousand years. When you do that, you're giving a smaller number of people control over your lives. This thing is good. And then you can put those into subcommittees, but when you let the subcommittees start out with it then you lose control of your lives.

Male Voice: Sarah, I think we can do both. I think there are some things on this list that we can -- they're clear enough that I think we can make room. Then we do the subcommittees and if additional things come out of the subcommittees, we can make a second volley [sounds like]. I don't think we're limited to one set of recommendations.

Male Voice: Tomorrow's meeting is at 8:30 in the morning. We're cutting it off right now at 5:00 or you got your --

John Lowery: Just my thought. I don't want to run your lives as the man who is in the state government. But maybe you would like to

just say, hey guys, these are the seven that I have come up with. So tonight, as everyone is looking at the recommendations, you also look over those -- there are tons.

Sarah Vogel: Do we have a copy machine? John, why don't I just give them to you? You've got everybody's email. Could you email them all to people?

John Lowery: Oh yes, of course.

Sarah Vogel: Okay. I think that if there are subcommittees, people should say this is where my interest lies. This is what I want to work on, or John can just make people do it.

Leslie Wheelock: I'm going to do a Word document and email it to my iPad and do it on the iPad. [Cross-talking]

[End of file]

[End of Thursday afternoon session, December 12, 2013]