



**United States Department of Agriculture  
Council for Native American Farming and Ranching  
Monday, September 09, 2013 – Morning Session  
Washington DC**

Mark Wadsworth: Gentlemen, we kind of have a packed agenda and kind of an important one today. I'd like to introduce myself. My name is Mark Wadsworth, member of the Shoshone-Bannock Tribes, also chairman for the Council for Native American Farming and Ranching. I'd like to welcome everybody today to our meeting, starting Monday, September 9th, and concluding on the 10th of September. We'll go through formal roll call, and then we'll go through a blessing, and then, from that we'll do a briefing from John Lowery. So, for roll call, are you ready, Porter?

Porter Holder: I'm ready.

Mark Wadsworth: Porter Holder?

Porter Holder: Here.

Mark Wadsworth: Gilbert Harrison?

Gilbert Harrison: Here.

Mark Wadsworth: Michael Jandreau?

Michael Jandreau: Here.

Mark Wadsworth: Gerald Lunak? Gerald Lunak is not here?

Jerry McPeak?

Jerry McPeak: Here.

Mark Wadsworth: Lance Morgan? Lance Morgan is not here?  
Angela Sandstol? Angela Sandstol is not here? Edward Soza?

Edward Soza: Here.

Mark Wadsworth: Mary Thompson?

Mary Thompson: Here.

Mark Wadsworth: Sarah Vogel?

Sarah Vogel: Here.

Mark Wadsworth: Juan Garcia?

Juan Garcia: Here.

Mark Wadsworth: Dr. Joe Leonard?

Joe Leonard: Here.

Mark Wadsworth: Leslie Wheelock?

Leslie Wheelock: Here.

Mark Wadsworth: Chris Beyerhelm?

Chris Beyerhelm: Here.

Mark Wadsworth: And that concludes our roll call for  
today. And Mark Wadsworth, here.

If we could start with a blessing this morning from  
Chairman Jandreau Please stand.

Michael Jandreau: Good morning. [Native language] Our  
Lord Jesus, we ask You to be here with us, send Your power of  
Your spirit among us that our minds be clear and that our minds  
and our hearts be on doing things that are beneficial to our  
people. And I guess the other part of it is to do what we can

to help the government see things a little better. We ask all of this in the name of Jesus. Amen.

Mark Wadsworth: Thank you. John Lowery, the designated financial officer for USDA [audio glitch].

John Lowery: Thank you, sir. I just wanted to take the time to let the council members know the updated agenda can be found in front of you, different from the one inside of your package. The updated agenda will reflect Secretary Vilsack's meeting time with you guys, will be at 11:15 instead of 1:15, and also it will reflect that Director Carolyn Parker of the Office of Advocacy and Outreach at USDA will be speaking for about 15 minutes tomorrow. So, I just definitely wanted to let you guys know that. Also, I want to let the public know that that the agendas are available outside and there's also a binder, a public copy of the binder for people to review and to be able to see what all the different materials that the council members have received.

So, the council members, I also want to remind you that regarding your trip here and back home, to definitely keep any receipts that you guys have that you receive during your time here. I would definitely remind you at the end of the meeting as well.

So, I'm glad to see you all here and I hope you all have a good time, and we are able to be very productive of doing our meeting today and tomorrow. Thank you.

Mark Wadsworth: Thank you, John. Review of the agenda from this point, we'll go straight into our December 12 recommendations to Secretary Vilsack. Leslie Wheelock, USDA, Office of Travel Relations, will do the reply to the letter.

Then from that session, we'll go into the National Agricultural Statistics Service and they'll follow up on the recommendations for the letter that we wrote for Secretary Vilsack. Then we'll jump into the Natural Resources Conservation Service follow-up from our council recommendations. From that, the Office of Tribal Relations from Leslie Wheelock; we'd all like to greet her and get to know her better. Thank you, Leslie.

And then from that, we'll have another update from Rick Gibson, USDA, which we always appreciate. We'll have a 10- to 15-minute break from that time period. And then, Leslie we'll go into our current Farm Bill situation and kind of give us a one-on-one scenario of some ways that we could possibly still impact that Farm Bill in the ongoing legislation.

Then we will go to Farm Bill and Budget Update from Ann Wright from the U.S. Department of Agriculture. And we will be breaking throughout this whole meeting, if we do run over, for

Secretary Vilsack when he does, he's anticipated to be here at 11:15 and has promised to speak for 10 to 15 minutes, and then, we have an opportunity for a 30-minute conversation with him. Then we'll break for lunch. We'll have an hour, an hour and a half.

We'll come back after that and talk with the Farm Service Agency and Rural Development on the National Environmental Protection Act. I'm kind of interested to see where they're going on this. I know that we utilize that after NRCS constantly. Then we'll go through the federal advisory committees, from Ashlee Johnson, and she'll be giving us kind of a rundown of the other committees that USDA has and the structure how they work within the USDA.

From that, we'll go to the Natural Resources Conservation Service Regional Tribal Conservation Advisory Committee. This is a nationwide effort, I know, on tribal reservations across the United States. They'll probably be giving us kind of an update of actually how many tribes do have conservation districts and how they're working.

We'll have one hour of public comment period from 3:30 to 4:30, and then we will have a discussion and a wrap-up and a discussion of probably writing a congratulatory letter to the new chief of NRCS at that time. And then, we'll adjourn at 5 p.m. and get ready to head up hot and heavy the next day.

So, from that, we'll jump into Leslie, the recommendations and letter -- go ahead.

Gilbert Harrison.: Thank you, Mark. This is Gilbert Harrison. I wanted to maybe put before the panel here, the council, I'd like for some discussion as to what is the process or the protocol that we should follow when there is a comment submitted by an individual or an organization? You know, we have people that come before us that make their presentation, it's either written or verbally, what happens after that? Where does it go? Does it get analysis somewhere? Does it get analyzed? Is there some recommendations before we make a final recommendation? Because I know that some of the things that are being said are main concerns, others are small, but we still need to give them some due time, we'll say, "Okay, this looks like a regulatory issue, this looks like a policy issue," so that we have an idea how to respond to people that make a comment to us. I think I'd like to see some discussion on that. I don't know if we can squeeze it in or not, because I know that -- thank you very much, Mark.

Mark Wadsworth: I think during our own personal time, maybe tomorrow, Leslie, when we can go over and put that in [indiscernible].

Leslie Wheelock: Right. We do have a working session tomorrow at 3:15 and that is part of that session, is how do we

capture the things that people say to us, their requests, their concerns, and what do we do with that information. So, we will be talking about it. If that works at that time, that's when we have it slotted.

Gilbert Harrison: Thank you.

Leslie Wheelock: You're welcome. Okay. So, one of the things that we want to do is to read into the record the two letters, the recommendation letter that was sent over to Secretary Vilsack on February 4th of 2013 and his response.

Jerry McPeak: May I?

Leslie Wheelock: Yes.

Jerry McPeak: Can we just [indiscernible]? Mr. Chairman?

Mark Wadsworth: Yes, Jerry?

Jerry McPeak: Do I need to identify myself?

Mark Wadsworth: Go ahead. Jerry McPeak.

Jerry McPeak: Ma'am, I know you mean well. Would it be all right if we just all cover this and we just make a motion to accept those letters as written? Because we all had these things for a while and read them, why do you guys have to read them [sounds like]?

Leslie Wheelock: Is there a way to include them in the minutes without reading them?

Jerry McPeak: Yes, [indiscernible].

Leslie Wheelock: Okay. I'm happy with that.

Mark Wadsworth: You're happy with that, Leslie? Are you sure?

Leslie Wheelock: Absolutely.

Jerry McPeak: I'd like to make that motion those letters to be accepted as written.

Sarah Vogel: Second.

Mark Wadsworth: Okay. It's been moved and seconded to accept both the letter written to secretary of agriculture and the secretary's response letter to the Council for Native American Farming and Ranching due to the recommendations that we've made. All those in favor?

All: Aye.

Mark Wadsworth: Any opposed? The aye's have it.

Leslie Wheelock: Thank you. We should note that Sarah seconded that motion.

Mark Wadsworth: Okay. Sarah. Sorry about that, Sarah.

Jerry McPeak: Now, do we have to discuss this at this time or do we discuss it tomorrow afternoon?

Leslie Wheelock: No, this one you can discuss now. We actually have some follow-ups on the recommendations. So, our folks from NASS, would you like to come on up?

Christina Messer: Sure.

Leslie Wheelock: We have two sets of follow-up, short presentations.

Christina Messer: Well, good morning, everyone. My name is Chris Messer, and I'm with the National Agricultural Statistics Service, and my job is in the census planning branch. So, I work on the census of agriculture and the follow-on programs related to that. Thank you.

So, this morning, although Leslie didn't read the recommendations, I do have it in the PowerPoint presentation so that we know exactly what we are dealing with. This is on slide two on your paper.

"NASS be directed to include subsistence farmers and ranchers in the next census of agriculture." So, the next census of agriculture will be 2017. Right now, the 2012 census of agriculture, we are working on analysis of the data in preparation for publication. So, the census is done every five years. The reference year ends in a two or a seven, so the next one we're talking about then is 2017.

I wanted to give you a little bit of clarity about what's currently in the census of agriculture? Because sometimes this is confusing to people.

You know, we go after the formal farm definition of any entity that produces and sells or normally sells \$1000 worth of agricultural products in a year. But we do not exclude anyone because they don't meet those sales. We're really interested when we're building our census mail list that we get everyone

involved in agricultural activities. So, as an example, many farms in the census of agriculture do have potentials, and for particular reasons in a year, maybe a drought, disease condition, bad economic situation, the products would've been planted or the animals would've been in the process of being raised, but there is not going to be any sales that year, but we do include them in the publication.

This is just an example that shows Alaska, because I believe that is where this particular recommendation originated from. In Table 2, Chapter Two, which is the State Tables of the Volume One publication, and here is a publication for Alaska as an example. In this you can see the market value of agricultural product sold including direct sales, and in 2007 down toward the bottom here, right in this area, you can see the number of farms and the dollar amount that had less than \$1000 in sales. You see the number of farms there for the United States, that's 688,833 and the value of \$84 million, and then for Alaska, 143 farms and \$17,000. So, we are picking up some instances of farms where there are not sales. So, that's just a point of clarity I wanted you to be aware what is currently in your census of agriculture.

We met with John and we had several issues we wanted to bring to your attention of -- I don't know if you want to call them hurdles or topics that we needed to talk about and walk

through. One of them is to actually define "subsistence." I did some checking and I could not find a formal USDA definition of subsistence. There might be one; I did not find it. I also checked with the ERS because a lot of times we're working together to make sure we're talking the same language, and they did not have one either.

Why do we need a definition? Well, we need a definition to make sure that we're all using the same, the consistent framework, so that when we do the data collection, when we do the analysis, when we put the information out, when we disseminate it to the public, everyone knows exactly what's included in that. So, we need that as a starting point. And I have some ideas, but that's a conversation that needs to take place.

Another issue is location. Like I said, I believe this originated from Alaska, but is this only in Alaska? Are there other places in Indian country where this is important? Is this important to an entire United States? Those are questions that need to be addressed, that we need to have conversations on.

Something that would help us is to understand the goal. Anytime we partner for a survey or data collection on anything, we want to look at the end product -- what is it that you want to see come out of this? Give me an example of a table in a publication so I know what it is that you want to see. How do

you want to find it? What does it look like? What does it mean to you? Those are the kinds of things that we want to be able to talk about. And what's the advantage to the operators? What's the advantage of having this count?

There are always opportunities to get some information on the content for the census of agriculture, so I wanted to just give you an example. This was what was on our website when we sought input to the content for the 2012 Census of Agriculture. So, we put out a solicitation for people to make suggestions to change it, and we post it for particular date and period of time that will be open. We ask that those submissions be given to us in writing so that we can follow up with them. We like to have just go ahead and do it through the Internet but you could also submit it to us in letter form. Like we said, the written suggestions can be sent in as well.

What happens from there is -- the best way I know to think of it is right now, for 2012, the Census of Ag Report Form is 24 pages, and we call that valuable real estate. So, it's very difficult to remove anything from the census of ag, it's very difficult to add anything to the census of ag strictly because of the real estate. Yes, Mr. Jerry?

Jerry McPeak: You call it real estate?

Christina Messer: I just call it real estate. There's only so much space in a questionnaire. So, if we're going to

add something, right now it's really tight, something will have to come off. And because of the time series, we're very fortunate in the census of agriculture, we're very fortunate to have many years of data back to 1840. That's very valuable for a long time series, but it's very difficult for people to say, "Yes, that's all right. I really don't need that information." It's gotten on there because somebody needs need it.

So, we go through a process of trying to evaluate, and we look at things such as people that have given comments of support for particular use, we look at how often something is hit on the website, we look at what kind of problems that we may have incurred when we were actually doing the data collection. Could people tell us what we wanted to go after? And we tried that in test beforehand, but still sometimes we run across and go, oh, we thought that they were reporting this, but may have some problems. So, that could be something we could look at to either make better or we could look at to say maybe that's not the right place for. But we'd go through a process of trying to detail those things out as well as, are the data available someplace else? I mean, if this is the only place that it's ever going to show up, we'll probably need it.

Yes, Sir Chris?

Chris Beyerhelm: Chris Beyerhelm. So, the question I have is, if I'm answering the questionnaire and it asked me if I have

\$1000 of sales, are you saying it hinges on either I sold that or I intend to sell, or does it give me the opportunity if my job is to harvest \$3000 worth of meat and provide it to the tribe? If I have no intention of selling it, would I be able to answer yes to that question if that was my job?

Christina Messser: It would not be easily answered in the questionnaire the way it is now. It does not go into the specifics of did you exactly produce this and with the intention -- the farm definition is there. That's why we're saying that we pick up people all the time who have ag activity, and what we say is just report everything you can in here and let us determine if you fit that or not. Right now, in the questionnaire as it stands today, there are definitely places to pick up the agricultural program and like the EQIP or other federal program dollars. There's definitely sections to pick that up.

There is also another farm-related income. There is a section there that might be applicable. There is also individual commodity sections, say, crops, specialty livestock, et cetera, where things could be listed and designated as to what they are specified, written in. Does that help answer your question?

Chris Beyerhelm: Kind of yes, kind of no. The impression I got -- and I apologize because I haven't looked at that form

in a long time -- the impression I got was that there was some language in there that kind of told you if you were subsistence, you could not claim that.

Jerry McPeak: Yes.

Christina Messer: There is just language that says that if -- the farm definition but there's nowhere either in our screening form where we are building farm list or in the actual questionnaire itself that says, "If you do this, you cannot fill out the questionnaire." Mr. Jerry?

Jerry McPeak: Thank you. Jerry McPeak. Of course, I'm out in the country and I go thinking, "All of them are complicated in Washington, D.C.," but this doesn't look really complicated from where I'm sitting. That deal, what you have written in there says that sales of \$1000. What I'm just --

Christina Messer: Or normally sell.

Jerry McPeak: Why not just the production of? Because that's really what we're asking. And subsistence only has to be defined in Washington, D.C., ma'am, for the rest of us out there in the country know what it means. No offense, but we can understand what subsistence is. I think most everybody does understand subsistence. I understand the legality of you all defining it, but this really doesn't look that complicated. Just take the sales out and put production, because that's what they're doing. I mean, this doesn't look complicated, ma'am.

Christina Messer: Well, I appreciate your comments, and I agree with you. When I looked at it, I may come up with something. But just saying in the process, you would like to have something to look at it, pull it out and go, "Yes, that's what we're after."

So, what's next from NASS' perspective? So, we're definitely willing, if requested, to partner with you on issues that we know of, and maybe some to be defined to figure out where we need to be looking to go next. So, like I mentioned, definitions, population. Right now, on our census mail list, to capture -- somewhere last time we were at 2.2-something-million farms. We have to build a larger mail list. So, we built our mail list at 3.1 million is what was built for 2012. So, we really over go after exactly to get to those people who are involved in ag. They may not think of themselves as a farm, but we want to capture them. Location or scope. Like we mentioned, is this in Alaska only? Is it for the entire U.S.?

I'd like to also point out, this was specifically requested to look at the census of agriculture, but perhaps there's a special project that could be looked at. This would be something maybe as a pilot to see what is needed or figure out and not go directly to the census of agriculture. We do reimbursable projects very frequently. We sit down and work with the client and figure out what the needs are, and then put

together a plan to go after and get that. So, maybe this is something that's not for the census of ag but can certainly be captured. Maybe there are other departments. This is just Chris now thinking. Maybe this is something [indiscernible] with the population census. Maybe there is something that can be determined when you're going to the whole U.S. that people are involved in subsistence farming that would give you the indication of what's needed. So, just thinking outside the box, maybe that's an option.

And certainly, there're cost implications. With every project, there is always -- you have to look at what the total cost would be and then what benefit is that compared to something else. Are there any other questions? Yes sir, Mark?

Mark Wadsworth: Yes. Chris, right?

Christina Messer: Yes.

Mark Wadsworth: Chris. Mark Wadsworth, Shoshone-Bannock Tribe. The word "subsistence" is vitally important to some reservations and some tribes. Actually, our treaty rights have that specific language, that we will be honored with our treaty right for subsistence for food and farming and situations like that. So, I think there'd probably be some legal precedents within looking for a definition of subsistence in that angle.

And also, you know, I was just kind of thinking in the back of my mind, as a part of our subsistence treaty right, we are

allowed to hunt on any unoccupied lands within the United States. As a part of that treaty right, we go to the Grand Teton National Refuge for the elk refuge, but on that elk refuge is a considerable buffalo herd. Every year, we exercise our right to hunt buffalo on that, and generally they then, inviting past veterans to do the hunt. Well, I was chosen this year to go do that hunt, and I shot a bull and I was thinking, it dressed out to be about 467 pounds and that was without the hide, it was a big, big animal. Well, that's over \$1000; within then, how would you value that? But then I also think on the other side, the possibility of those people like in the Southern states that deal with alligator skins and stuff like that. Are we missing that sort of natural resource within a protection kind of base scenario that we can justify if do you have NASS data in place for that? So, I think that we really would like to have to probably discuss this more from a definition standpoint.

Christina Messer: And we certainly can do special data tabulations. I mean, we have, at anyone's disposal, you can request at anytime a special tabulation from the Census of Agriculture data. So, you can, if you have comparison, say, of list, you know a camp -- let's just say you know a camp. Well, you can see if we have it in our publication or you can say, "Well, let's try to see how that might look with some other

variables and see if we can see what's in there." I think that it would be probably worth some time spending to just go back and take a real detailed look at the census itself and understand what we're getting now. Because when we do this screening to try to build that mail list, we really do try to get everyone that's involved in ag. So, if you count that as being involved in ag, we're not going to throw you out. We're going to keep you in. We're going to keep you in and let you tell us when the census comes.

There was another hand, maybe?

Mark Wadsworth: Yes. Gilbert Harrison, please.

Gilbert Harrison: Thank you very much. One of the last slides, willing to partner. I was thinking of that and I vaguely recall this document that you're talking about, [indiscernible] -- someplace that I didn't know where, I just clicked here and get to the next page. I think what I would like to see and I think the council here would be interested, I know I would be, but it looks to me like we may have to develop a subcommittee or somebody to really work on this because it doesn't -- that's a big issue for a small amount of time that we have right now, and so I would like to have a copy of that 24-pager [indiscernible].

Christian Messer: I have copies in my bag, a few, and I'll give them to the members if I have that many.

Gilbert Harrison: Thank you, Mark.

Mark Wadsworth: [Indiscernible]. Mary Thompson, did you have one comment?

Mary Thompson: I was just thinking that [indiscernible]. I was just thinking now that you mentioned that special project to include the value of any traditional or native foods that are gathered from the forest, not necessarily cultivated by an Indian individual but gathered as a traditional crop and food source. You mentioned the special project, I'm requesting that [indiscernible] one of the special projects.

Christina Messer: Okay. And maybe that's something from a subcommittee to be addressed. I'd like to ask Michelle Radice who is our outreach coordinator, and many of you know her and have worked with her -- if there's anything, Michelle, you can think of that I have left out or that you would like to bring to their attention.

Michelle Radice: No, I think you covered it very well. I just, again, want to go back to the point of the first slide where we talked about defining subsistence, and I guarantee you if we give each of you a piece of paper and said write down what you believe it is, that we would have 20 different definitions. As a statistician, part of our job is to be able to work with people. So, if we said we're collecting subsistence, what might be a subsistence in Billings, Montana might be different in

Cherokee, North Carolina. That's why we sort of need this -- this [indiscernible] and that's what Chris is talking about is its definition, and it is a further study, it's a lot of discussion. It's an issue that we are willing to talk about. And I wish that you could twitch your nose in and we can fix it, but it's not that easy. But we're here, we're willing to have a discussion, [indiscernible].

Christina Messer: Thank you, Michelle.

Mark Wadsworth: And Chris, if you may, we have another question from Sarah Vogel.

Sarah Vogel: Yes. Hi. Sarah Vogel. One of the questions that you raised is how -- what is the advantage for the operator if they're counted? And I think from the standpoint of FSA and the different USDA programs, there might be more outreach in areas where people are farming and ranching in a small scale, maybe using it for their own family or using it for relatives or for the community that they live in. And these are the folks, also, that have the basic skill set to increase production possibly for further cash income or as a cooperative or something like that.

And there are definitions, and I'm a little rusty on them, but sometimes in USDA they have the limited resource loans where people who are on a very small scale can move up, or certain loan programs are for people who farm on a comparable basis with

other people in their region. So, you know, like the acreage necessary in Eastern Montana would be a Rockefeller type of estate down in North Carolina, and so, the size of the operations would matter. But one of the goals, I think, of the committee and of the USDA is to enhance the capability of people who are out there doing on a small scale so that they could increase and so forth. So, that would be one very big advantage and it does tie in with the definitions that are also pretty thorny of family-sized farm and so on.

So, as this definition moves along, possibly there may be need for amendment or special projects, if you will, on the FSA loan side to qualify for services. Because I know over the years, I have encountered people who went to FSA but they were told, "You're too small. You're a rural resident. You're not a farmer/rancher." So, it can be a little bit circular. But obviously, if we have the data, then there can be outreach, there can be growth, there can be support offered by the agency and others.

Christina Messer: Good point.

Chris Beyerhelm: Mr. Chairman?

Mark Wadsworth: Yes, Chris?

Chris Beyerhelm: Chris Beyerhelm. Just to follow up on that. We actually started a microloan program in January, and our definition for family-sized farm is \$1000 of income. And

so, we rely heavily on the NASS data to help us do that and also our outreach. I would just support what Sarah was saying. So, I think, we're already there on the program side. And then, if we could just coordinate it with collection of that data so we can recognize and focus our end on the subsistence category as being eligible also, and then I think we've kind of closed that loop.

Sarah Vogel: Let me ask a question -- and I know you've talked about the microloan program before, which is fabulous, but you said \$1000 of sales.

Chris Beyerhelm: Right.

Sarah Vogel: But if a family had a humongous garden and raised like a lot of zucchini and so on and gave away \$1000 worth of zucchini or lambs or whatever in the course of a year, would they be not eligible because they didn't go to a market and sell it?

Chris Beyerhelm: They would be eligible with us.

Sarah Vogel: They would? Okay. So, it isn't truly sales.

Chris Beyerhelm: Correct.

Sarah Vogel: It's production of --

Mark Wadsworth: The harvested --

Leslie Wheelock: It's a sales value.

Sarah Vogel: The value is what you look at, not -- well, that's fabulous, and that's another thing that would be huge.

Because a microloan might provide a little better irrigation system or some mechanical equipment to support that operation to make it bigger. So, it's a pretty exciting.

Christina Messer: So, what we do, currently now, just to be clear -- so, let's say, someone fills out the census form and they put how many acres and they harvested of zucchini, and there's no sale. So, what we do is we assign point values to that commodity, and if those point values come up, then they get included. So, they're counted. They're in there. Either the under or the over. So, they're counted in there. Part of the issue is just getting people to respond. I mean, it still is an issue because people -- how many times do we say just put anything down you have in there and send it in and we'll assign the points if you don't meet that or whatever or fill out what you can, and still, we go back and we find people are, "I don't farm." Well, if you're involved in agriculture, please fill it out, and then we can get the points that way. I do think that ERS has come out with a new farm typology definitions.

Sarah Vogel: Typology?

Christina Messer: Typology definitions. And so, they would be a good resource to have a conversation with, yes, [indiscernible] family farms --

Sarah Vogel: [Indiscernible].

Christina Messer: And all those things, yes. But they've come out, they've redone that --

Jerry McPeak: I understand subsistence but I'm not sure I understand typology or whatever the hell it was. I don't think we've got one of those in Oklahoma.

Christina Messer: You've probably got two there. Well, thank you so much this morning. I really appreciate it.

Mark Wadsworth: We appreciate it, Chris.

Christina Messer: And I'm happy to be here and spend the day. If you have any questions, we'll be here, Michelle and I will be here and be happy to try and answer those for you and hopefully look forward to something in the future.

Sarah Vogel: Mark?

Mark Wadsworth: Yes, Sarah?

Sarah Vogel: I just want to say thank you so much, because this is an issue that we've certainly been wrestling with, and it's been an issue for as long as I've been around, and it's really nice to have the attention of NASS and you folks zeroed in on this. It's great. Thank you.

Christina Messer: Well, thank you. Thank you.

Joe Leonard: Chris?

Mark Wadsworth: Yes, Joe?

Joe Leonard: One more question.

Christina Messer: Yes?

Joe Leonard: What type of outreach is being done to make sure that people are sending their forms?

Christina Messer: So, you know, we have a schedule that we go through in terms of pre-notification of the census coming and then various mailings. We do auto-dialer reminders, we do postcards, all that. But we also work with our community-based organizations and our partners. We try to really reach out to them and try to get at the grassroots level. Because this really needs to be talked with at your local level, "Hey, this thing is coming out. It's important. It may look imposing. Fill out what you can." People speak on our behalf. And so, we've really tried to work very closely with our partners and want to continue doing that and get better and stronger at it.

Joe Leonard: So, you're working with the FSA county list as far as the postcards they send out or work with NRCS or working with community-based organizations?

Christina Messer: Yes.

Joe Leonard: Have you seen an increase of persons participating as far as the outreach from -- what was the last census made?

Christina Messer: I'm going to let Michelle maybe answer that.

Joe Leonard: Okay.

Michelle Radice: Back in [indiscernible] from '02 to '07, we had 124 percent increase in American Indians [indiscernible]. And we can thank actually the man sitting to my left, Mr. Racine, for his challenge to us starting it in '97 [indiscernible].

Male Voice: No. That was 23 years ago.

Female Voice: She wasn't born yet.

Michelle Radice: [Indiscernible]. No, true. We have been challenged by folks like Mr. Racine and [indiscernible] to go out and do a better job. And if you remember Carol Hourse and Marshall Dancer [sounds like] and from 23 years ago on where like this, the issue has been raised and NASS said, "Let's get out and get it done." So, we have truly -- and when we say we work with 50 CBOs, we just don't call them every once in a while. I mean, this man has -- I had talked to him from Disney World. I am on his speed dial. We are not just holding hands. We are truly, truly working together. And you've seen us, and we've been challenged to do a better job and we will continue to try and do a better job, realizing that we're not [indiscernible] from here. I was in New Mexico for three years to try to do a better job because of folks like Mr. Racine and [indiscernible]. So, when we say we are partnering, I mean, we are truly are and knowing that our grassroots folks can do a better job for us, can reach these hard-to-reach populations.

And we learn every day. We learn every day. So, we truly do believe what we say [indiscernible] partner. Mark, you and I were working together a long time as well.

Mark Wadsworth: I think 22 years.

Michelle Radice: Okay. I was 12 when we met.

Joe Leonard: I do think it's impressive that the amount, the additional outreach from the five year period. What are the goals for '17? What are the goals for '17 so we can continue building on that framework? And I absolutely believe in Michelle because I see how hard you work at USDA every day, absolutely, but what are the goals? And I want to also volunteer this council to help with the outreach as well. Because Alaskans, since it wasn't constructed, this thing doesn't exist. So, we can certainly reach out to the persons here [indiscernible].

Christina Messer: So, -- I'm glad, thank you for bringing up about 2017. I just worked on a slide presentation last night, it's just a starting point. So, yes, we have issues we want to be looking at. Our content, we want to be looking at the electronic data recordings, sir, when you were talking about that, we want that to be awesome. We are good but we're not awesome. We want to be awesome. We want to just make it easy, understandable, fast, appealing, all of those things. We want to be more cost effective. We want to increase our response

rate. We're not closed out yet. We're still taking in late receipts because we're still in the analysis, but we always push every year that our response rate goes up. Sometimes we may not make it, but we're striving to get there. Our coverage, we're looking at having better coverage by either type of operation or by minority groups or other characteristics that we see, "Oh, we had a gap here last time," we really want to target and try to get that going.

Those are just some high-level thoughts, just starting the conversation. And really, this whole intent about the content, what goes in here is really a serious conversation. Each question internally to NASS, we have to justify -- are the data available anywhere else? Okay. If not, then that's a tip, we may need to keep it. Is it important from an economic indicator standpoint? If it is, okay, that may be a check to keep it. Where else could it possibly be used? I mean, we know we're using it at USDA, but are there other uses for some place that ties into that? Are there other important partners that this is important to? But all of those conversations we have and then we try to document for people coming after me, "Why was this question on there? What good is it? Who uses it? Where does it go?" The census bureau before NASS took over the census of agriculture, they put out a whole internal document on all the uses and we're trying to get to that point of documenting by

section what are the uses so that we know what's good to keep and what is, okay, maybe it's outlived its usefulness and we need to be looking to something else.

We're also looking at potentially reduced form for a sample of the population, 24 pages is long, and we try to say, "Hey, there's a lot of skips in there. If you don't have any vegetables, okay, you just go on and go to the next section." But it's still 24 pages you still have to go through. So, we're trying to say, is there a way that we can get to a shorter form and not hurt anything by doing that. So, that's kind of a research thing that will be going on to help us get there. So, does that help in some instances where we're headed? Populations, I think, just in response rates and populations in general has been a struggle. Every federal statistical agency that I know of continues to talk about the difficulties. So, we're trying.

Mark Wadsworth: Chris, we'll have one more question and then we'll have to carry on with the next speaker. Go ahead, Mary.

Mary Thompson: Mary Thompson. And following up on the goals of NASS, on the issues and the definitions and everything that you have listed up there, what is your timeframe to get those issues resolved in order to have it in the next census?

Christina Messer: So, our print, I mean, the drop-dead -- you know, there's always a drop-dead date and that's the date where you want to have it done. So, the date that you want to have it done would be three years out. Okay? So, late '14, print contract is the drop-dead date. When it goes to print, we're printing millions of forms, whatever that looks like, that's it. We don't -- once it goes out the door, it's bye-bye. We don't add anything or change anything at that point. We get about six or eight months from the time that we say, "Okay, we're done," to the print contract, everything's signed, sealed, delivered, and it's shipped out the door. But we don't want to make those changes. I'm just being honest with you about -- we may see something at the last minute, we messed up, okay, we've got to go change it, but the goal is that we're done. Late '14, we'll be finished.

Joe Leonard: So, it has to be at OMB by late '14?

Christina Messer: So, we get a five-year approval on our OMB package. And so, when -- it depends on how much change there is. If it's a substantive change, the clock has to start over. If it's not a substantive change, then we can't ask for a change to go far. And that process is a little bit quick. But our track record working with OMB, minimum of nine months and more like a year.

Mark Wadsworth: All right. Thank you, Chris.

Our next speaker will be from the Natural Resources Conservation Service, changed to Tom Morgart. Could you introduce yourself, sir?

Thomas Morgart: Sure. I'm Tom Morgart, and I have been on a five-week detail acting for Mark Rose who is the National EQIP team lead. Mark was away at training for five weeks, so I filled in behind him, and rather than him jump into this meeting on his first day back on the job, I offered to come in and fill in for him. So, as you are aware -- I'm sorry.

Jerry McPeak: Let's start over again. Spell your last name.

Thomas Morgart: M-O-R-G-A-R-T.

Leslie Wheelock: And EQIP?

Thomas Morgart: EQIP team lead. Environmental Quality Incentives Program.

Jerry McPeak: Environmental --

Thomas Morgart: Incentives Program. So, I'll give you a little more background on my --

Jerry McPeak: [Indiscernible]. Jerry McPeak. I want to make this statement again, because I had a dose of it when I was at State Capital. I know all you folks in Washington, D.C. are speaking in acronyms all the time, but just so you'll know, the rest of the world does not understand that. The rest of the

world doesn't deal with it every day. So, when you guys go MRPC and PQST, it means not a damn thing to the rest of the world.

Thomas Morgart: Thank you for pointing that out. I will try and correct that.

Jerry McPeak: But it is our first meeting and we'll try it again.

Thomas Morgart: So, in my normal job, I am --

Sarah Vogel: Is there a written material?

Thomas Morgart: No. I was hoping this would be very brief, because I think we've addressed the secretary's comments in the actions we've taken.

But in my normal job, I am the Assistant State Conservationist for Programs in the Maryland State Office for Natural Resources Conservation Service. In that role, I run about seven conservation programs for the agency in the state of Maryland. I was brought in for the detail, and of course, I sat in on some meetings with OTR, Office of Tribal Relations.

So, this group wrote the Secretary a letter and I've been asked to respond on behalf of NRCS and how we've taken those recommendations and the Secretary's response. So, the Secretary asked OTR, Office of Tribal Relations, to work with NRCS to address their concerns. Specific work concerns were that in 2012, the agency had reduced budget, and in our Wildlife Habitat Improvement Program, the budget was cut significantly. Due to

this restrained budget, we fine tuned our focus and we put all of our efforts into working on increasing habitat for threatened and endangered species. We call that program Working Lands for Wildlife. So, all of our Wildlife Habitat Improvement money went into this focus on threatened and endangered species. In the past, many of the tribal governments, tribal entities, have utilized these funds for wildlife habitat on land they control. So, there was a big concern that there were no funds available.

So, I'm going to go to a specific example out of Alaska because I think this is where the concern came from. In 2012 what the agency did, Alaska got zero in their budget for Wildlife Habitat Improvement Program, a budget of zero dollars. At the same time, in the Environmental Quality Improvement Program, they normally would get about \$2 million; the agency increased their budget in that program to \$8 million. So, one program was zeroed out, another program was increased by a significant amount from \$2 million to \$8 million, so four times the fund went there. And the state allocated all those money within state. I looked at the numbers over the weekend, and about 90 percent of those funds, the \$8 million went to work with tribes. In 2013, we became aware this issue was ongoing, so we started looking and talking to the state conservationist in Alaska, and in talking to the state conservationist in Alaska, he made us aware that he had had -- we have a group

called the State Technical Committee, that is a group of ag constituents, tribes, nonprofits that give the state conservationist advice. In the meeting with them, he told them once again that his Wildlife Habitat Incentives Program budget had been zeroed out. It raised some concern with the tribal government and he is like, "We will continue to work with you in our existing programs."

About a month later, we got our final budget from Congress, our funding had increased, so the state of Alaska received \$5 million in WHIP money. So, the state already had a lot of applications for the EQIP program, so any place possible, they rolled over those applications into the Wildlife Habitat Improvement Program and funded them there. I looked at the funds. Of the \$5 million, \$4 million of those have now been locked in the contracts and they obligated about \$4.1 million -- of that \$5 million, \$4 million of that are with -- the only way I can search it is right now, because the year hasn't closed, is for socially disadvantaged producers, which include tribal governments, tribal entities, and other groups such as African Americans, Asian Americans, any under-represented, under-served group that we have.

So, as an agency, we feel -- actually, in 2012, we thought we were already implementing the secretary's new recommendations which he said to us, "Work with your constituents to use every

program at your disposal to treat the resource concerns that are out there." So, whether it be financial assistance or technical assistance, whether it be our financial assistance programs or easement programs, use the resources you have -- we like to call it a tool kit, tool box -- use whatever resources you have to work with your constituents to make sure that you are getting the needs out to your constituents and your states. In Africa's [sic] case, it's mostly tribes and tribal entities.

In that sense, we also have a new and interesting practice that is out there that the tribal governments in Alaska have used a lot. It's called the seasonal high tunnel. It's a -- I won't call it a greenhouse, but it's a plastic coop house structure where you plant your crops in the ground, and what it does across the country is it really extends the growing season for producers, so you can plant several months earlier and you can grow several months later. In the state of Alaska, we funded more than 100 of them every year. They are, by and large, used with our tribal partners. It's been an absolutely great practice. And we can see across the country that the states that are in the northern part of the country use this practice the most. So, the New England states really love it, and Alaska is the second state that has really loved this practice and it has been terrific through our EQIP program in helping really, really help producers that have short growing

seasons really grow additional food for themselves, for their neighbors, for their communities. So, I'm just going to leave it for questions.

Mark Wadsworth: Yes. Angela's concern was on the moose habitat. Was that particular project funded?

Thomas Morgart: I didn't get a particular project that was funded. We had just had a broad reference floated to us. I do know that they've used last year the EQIP funds, and this year the -- sorry, I used an acronym -- the Environmental Quality Incentives Program, and this year, the Wildlife Habitat Improvement Program, they've used those for a lot of habitat use. WHIP is really focused on -- the word says it -- "wildlife." It is really focused on wildlife and restoring that habitat area. So, I don't have a specific answer for your moose habitat question.

Mark Wadsworth: Yes. A point of clarification though -- didn't you just say though that WHIP was going into EQIP?

Thomas Morgart: WHIP will roll into EQIP. However, EQIP has a very broad focus. It is water quality, water quantity. It includes wildlife practices, air quality. It has a really broad range of resource concerns that it treats.

Mark Wadsworth: Are we just waiting for the new Farm Bill for this to officially happen or --?

Thomas Morgart: We already can use EQIP to treat moose habitat. So, the state is -- they're working with their client --

Mark Wadsworth: I'm trying to get to the point is, when will WHIP be gone?

Thomas Morgart: Oh, so you're right. If the new Farm Bill comes out the way it's written, WHIP will be rolled into EQIP. That is how the current language reads.

Mark Wadsworth: Okay. Yes, Chris?

Chris Beyerhelm: So, what I'm hearing you say is that it sounds like the immediate problem was perhaps mitigated because additional funds were provided. But I think one of the things that the recommendation asked for was regardless of the funding that's available, can subsistence projects be given a priority? More points or something in the selection process, regardless of whether there's money or not.

Thomas Morgart: So, the priorities in the state are set at the state level, that is through the State Technical Committee. And I know in the case of Alaska, what Alaska does for their State Technical Committee, because travel is so hard in the state of Alaska, that they actually have their meetings in person and by teleconference. So, any tribe that is interested in attending, and the state will present their ranking questions which is how applications are evaluated for funding, they can

comment on the ranking and give the state conservationist advice for language tweaks like you're saying. So, can you put a question in there for subsistence farmers so that they will receive higher points in the ranking system? And then that will mean their application will have a higher likelihood of being funded. So, that is developed at a state level.

Mark Wadsworth: Yes, Juan.

Juan Garcia: If I recall, Mr. Chairman -- this is Juan Garcia -- this issue was brought up in December when we were in Las Vegas at our meeting, and I had the e-mail communications with the state director and the state conservationist, and I believe we had the issue resolved or at least information regarding this issue. I can't find my e-mail, I can't pull it up, but I know we had communications during the meeting regarding the issues on the moose habitat at that time. I'll have to look back and find it. I just wanted to bring it up [cross-talking].

Mark Wadsworth: Yes. It's just a point of clarity on my portion, is because when we were having that discussion in Alaska, they said that WHIP was going to be gone.

Juan Garcia: Right.

Mark Wadsworth: Well, not but a month ago, you could still apply for WHIP in Idaho, and, you know, I just want to get that clear here when's it actually going to be gone, because we don't

want to miss out again. In our position, we were looking at sage grouse habitat and using WHIP under that program. But we see more benefits if it goes under the EQIP for cost share procedures and everything else.

Thomas Morgart: So, to answer your question, if somebody came into my state today and applied for WHIP, I would accept their application, enter into our tracking system, and we're out of money for this year in the state of Maryland for WHIP, but we'd roll that application over to 2014. We are in some doubt about the current Farm Bill, whether we'll have an extension or whether the new Farm Bill will be created in short order. So, if you have constituents who are interested in applying for any of our programs, we have year-round sign-up for every program. So, if you have an interest, you have a resource concern you'd like to treat, go to your nearest NRCS office and apply.

Mark Wadsworth: Gilbert? Yes, Gilbert Harrison.

Gilbert Harrison: Good morning.

Thomas Morgart: Good morning.

Gilbert Harrison: Gilbert Harrison from Navajo. You're with the NRCS, right?

Thomas Morgart: Right.

Gilbert Harrison: I would like to request, maybe hang around for some of the public input. Because we at Navajo, EQIP seems to be the hot topic when there's a meeting, a lot of

recommendations on that. I think from some people from Arizona, and New Mexico, they'll try to make it up here for public input. It'd be good to have you here on that. Thank you.

Thomas Morgart: Just a question. Can you tell me what time of -- is that today or tomorrow?

Male Voice: Today and tomorrow, four until 4:30, and then tomorrow 10 to 11.

Thomas Morgart: Okay. I will refer that back to you -- like I did say, I was just acting -- my acting detail ended on Friday. I just covered this so that the person in charge didn't have to come first day Monday morning. So, I will refer those times to him and see if he can send some staff over to your listening session.

Mark Wadsworth: Yes, Joe?

Joe Leonard: If you could also provide the percentage of Native Americans who received EQIP in 2012. You mentioned that the high tunnels were being utilized -- high tunnels were part of the Farm Bill in 2008, and I'm assuming it's going to be rolled into the new Farm Bill. Is that accurate?

Thomas Morgart: It wasn't part of -- it isn't spelled out in the Farm Bill.

Joe Leonard: It wasn't spelled out in the 2008 Farm Bill?

Thomas Morgart: No. So, we are actually looking right now at -- that practice is an interim conservation practice right

now, so our science and technology staff are looking at making that a permanent practice standard, so that it will be available just like every other practice standard that we have -- so, grassed waterway, any other practice we can fund through our financial assistance programs.

Joe Leonard: Okay. I'd like to know the percentage in the Great Plains states, most especially of the use of the high tunnels.

Thomas Morgart: I'm trying to give you all the data. We can certainly do that data pull. So, I think, what I'll ask is that they can break out practices, just so I can make sure I give you everything you want, all the practices that were funded through our financial assistance programs and a breakdown by state. Does that seem like that would work? I can talk to you afterwards if that would --

Joe Leonard: That would be fine. That would be fine.

Edward Soza: Good morning. Edward Soza, California. You have the data? Can you have that by, say, Tuesday, tomorrow? But if not, I'll give you my e-mail.

Thomas Morgart: So, what I'd --

Edward Soza: I'd like to see that for mainly the Western United States.

Thomas Morgart: What I was thinking is that I would send that to Leslie and that she could send it by e-mail out to the

group. In order to get certified data, it takes about a week to get the data back.

Edward Soza: Okay. That'd be good. Data for -- can you separate data for Indian country?

Thomas Morgart: So, we will be able -- our conservation tracking system will actually have a flag in there that will, if the producer identified themselves as Native American, we would be able to track that through our system. If they didn't identify themselves, then they will just count as general population.

Edward Soza: Okay.

Thomas Morgart: But I will specifically put in a request for contracts with tribes and Native Americans.

Edward Soza: Okay. Thank you.

Thomas Morgart: Any other questions? And I have business cards for Mark Rose who is the permanent EQIP team lead, which I'll leave with Leslie. If anybody has any questions, they could certainly contact Mark. His name is Mark Rose.

Mark Wadsworth: Just for the record, Mark is the EQIP lead for the United States?

Thomas Morgart: He is.

Mark Wadsworth: Okay. Thank you.

Thomas Morgart: Great. Thank you.

Sarah Vogel: Oh, I have another question.

Mark Wadsworth: Yes. Sarah.

Sarah Vogel: I apologize. I know -- like, I'm from North Dakota, and in working with ranchers in reservation communities, they have had some issues -- and I don't know that I'd get to the bottom of it, but some issues with the BIA. Does NRCS have a working relationship with the BIA to address some of those permissions, permits, different things? Are you familiar with that in your little detail?

Thomas Morgart: Yes, in five weeks, I'm not familiar with that. But I can forward that question to Mark Rose and he can get --

Sarah Vogel: Yes, I think that would be excellent. And I think somebody from the BIA is going to be here?

Jerry McPeak: We might have someone come by.

Sarah Vogel: We may have to go there one of these days.

Male Voice: [Indiscernible].

Leslie Wheelock: We did.

Sarah Vogel: I guess that was my question, but I think we should put that in the box as a follow-up because I think it can be rather significant. Or maybe it's resolved, I don't know.

Thomas Morgart: You could follow back with me, if it's a regional question or is it more of a nationwide question on working with BIA?

Leslie Wheelock: We'll do that. Yes.

Male Voice: [Indiscernible] nationwide.

Leslie Wheelock: It's nationwide, pretty much.

Sarah Vogel: Nationwide and on a regional level.

Thomas Morgart: Okay. Very good.

Mark Wadsworth: And local.

Thomas Morgart: Very good. I was hoping I could narrow the scope a little bit. Okay. Thank you so much. No more questions?

Mark Wadsworth: Thank you, Tom. We appreciate it.

Leslie Wheelock: Good morning. With this computer set-up here, it's kind of hard to put notes up here, so I'm going to reach over here and tuck this down. Can I close it?

Jerry McPeak: And Mark?

Mark Wadsworth: Yes?

Jerry McPeak: Just to let you guys know, there is some coffee outside [indiscernible]. So, just an FYI.

Leslie Wheelock: Good timing. You all can go get it now while I'm talking.

Good morning. My name is Leslie Wheelock. I'm a member of the Oneida Nation of Wisconsin, and I am the Director of the Office of Tribal Relations. Janie Hipp tried to bring me into this office twice before, and the third time's a charm. And so, I'm very delighted to be in this role and working with our tribes and working here are the U.S. Department of Agriculture.

Those of you who don't know my background, I'm most recently working for the National Congress of American Indians as their Director of Economic Development, and in that role, one of the things that I did was to notice that we don't have a lot of -- NCAI didn't have a lot of focus on USDA in spite of the fact that USDA, if you combined all of its money and looked at it as a bank, it'd be the sixth largest bank in America. And so, typically, what we're doing now is trying to make sure that there is enough information going out into Indian country, that Indian country can take advantage of that funding. We don't have -- that's hard to do for a number of reasons, one of those being that we are a little bit Internet challenged, and as with all government agencies, USDA is trying to use its resources as economically as it possibly can which means moving a lot of the information onto the Internet. So, we'll see how that works. If you have any advice or suggestions about that, I'm going to take those offline, but please let me know if you're seeing things, if you're not seeing things, if you have some ideas about how we can get the word out better to our tribes, to our native Alaskans, to our communities. Thank you.

So, I'm going to give you a very quick and very speedy rundown on the Office of Tribal Relations. I have been -- this is my fourth month in USDA. So, in those four months, it's been kind of a whirlwind for me. And I think that the biggest part

of that whirl took place in July when the president announced the new White House Council on Native American Affairs. That council has five key areas that it is working in -- promoting sustainable economic development, supporting greater access to and control over nutrition and healthcare; the third one is improving the effectiveness and efficiency of tribal justice systems; the fourth is expanding and improving education opportunities for Native Americans; the fifth one is protecting and supporting the sustainable management of native lands and environments and natural resources, and sacred sites protection falls into there as well.

For any of the -- go ahead.

Jerry McPeak: Those five categories are what?

Leslie Wheelock: Very quickly: Economic development, nutrition --

Jerry McPeak: No, no, no.

Leslie Wheelock: Oh, sorry

Jerry McPeak: Those five categories?

Leslie Wheelock: Those are the five priority areas of the new White House Council on Native American Affairs.

Jerry McPeak: There you go.

Leslie Wheelock: Thanks, Jerry. So, what we -- the first things that that council will be looking at are the programs of the federal agencies. There are 28 federal organizations that

are part of that council, and there's a goal to try to figure out where the money is going from those organizations, where there's overlap where we can dovetail better in order to get programmatic funding across the life cycle of a plan, a program, a business, an opportunity that a tribe has initiated or has identified, and generally try to make federal government easier for tribes to work with. We'll see how that goes. No laughing. We'll see how that goes.

So, they're doing a data collection right now as well as asking each of the federal partners to establish plans and goals for the next two to four years. USDA completed its first draft of those plans and goals on Friday, and I'm sending them over to the secretary today before sending them over to the White House. So, that's where we are on our to-do list for now.

There are several memoranda of understanding that our office works on on a fairly daily basis. One of those is the memorandum of understanding on sacred sites. That memorandum is among the Department of Energy, the Department of the Interior, the National Council on Historic Preservation, the Department of Defense, and the USDA. And there is a substantial amount of work going on that is interdepartmental among ourselves. We are expecting to be moving out into Indian country for consultation, especially on the topic of confidentiality and a few of the other areas that have been identified as things that we'd like

to put together, some information or some proposal before taking it out and doing some roundtables, getting some advice, getting some consultation. Within the U.S. Department of Agriculture, we've recently gotten internal funding for a mapping project that would allow tribes to maintain the confidentiality of their information. And there's a lot of information that wraps around that; I'll have a better report on that at the next meeting, but we are expecting to take out the model of that out to NCAI, hopefully to AFN and possibly some other organizations. Connie Sanger [phonetic] who's out in the hall, I think, has been working on that project for a good year along with a geospatial support person within USDA. And we think that will not only work for sacred sites, it'll also work for some of our civil rights issues, it will also work for some of our FSA, land-based issues, and eventually it may become a tool that is used across not only USDA but that we can get all of our maps lined up with BIA and say that we're all working off with the same charts. That's the goal. We'll see if it works.

The other two MoUs, the memorandum of understanding, that we have are with the Department of the Interior, and they are between the Department of the Interior and our Farm Service Agency, our Natural Resources Conservation Service, and then the other one is an MoU between us and the Department of the Interior, specifically our rural development agency. Those MoUs

have been around for a while but they weren't being worked until I arrived. We've had one meeting on them and we have a follow-up meeting that we need to establish.

The first meeting established among the participants that what they really are missing is communication. We have federal people in the same city or on the same reservation or within the same building in some instances and they don't talk to each other. Within the U.S. Department of Agriculture, we've got a program called StrikeForce, and the goal of that StrikeForce agenda is to get our internal agencies working closer together, figuring out among themselves when talking to one customer who can actually put a program together instead of saying, "Well, I don't do that. Maybe you can try the guy down the hall." The guy down the hall is in the meeting with you. So, hopefully what we're trying to do is to pull our resources together, learn about what each other does and help people who are out there needing help, programming, funding, technical assistance, you name it.

Female Voice: [Indiscernible].

Leslie Wheelock: Thank you. It's going to take some mind bending, I think, in order to get it to actually work but we'll see how that goes. The other thing that we are at the Office of Tribal Relations are in the process of implementing is the USDA's directive on consultation and collaboration with American

Indian and Alaska Natives. That directive was, I think, the construct of one of our friends, Janie Hipp. It's rather long and legalistic, and my job is to pare it down and make it something that everybody in the organization knows about. So, we've been doing consultation minutes with our executive team. We've been -- I've got a little shoebox I walk around with everything you always wanted to know about Indians question on it in order just to try to tear down a barrier, I basically told them, I said, "You know, you go out and you consult and you talk to, you advise, you get advice from every organization that's out there. You talk to your farmers, you talk to your ranchers, you talk to the nut growers, you talk to water people, you talk to your fisheries. We are a group that is like that. We should be talked to as well."

All this does is give you the guidance. There's a lot that goes behind that. That we know we've got treaty rights. We know there's a lot behind the constitution requirements. But in order to break down the barriers and get people talking to each other, this is the way, probably best to do it within the organization.

So, the goal with the consultation and collaboration, a lot of it you may already be seeing. We have a lot of things that are going on that are labeled consultation, they're not technically leader-to-leader consultation but there's a lot of

collaboration going on with the early advanced notice of programs and policies and practices that are changing within USDA.

Very quickly, because I know we're kind of short on time, during -- one of the things that I wanted to let you all know is that as you may know, we have a funding challenge with our council, and one of the delightful things that happened shortly after I arrived was that John Lowery walked in with a letter and said, "We need to send this out and ask people for money." So, yearend funding is a thing where you're looking around the USDA for pockets of money that haven't been spent yet and we walked around with our hat out and we were happily given some funding by several of our agencies, risk-management agency, Food Safety and Inspection Service, the Animal And Plant Health Inspection Service -- sorry -- FSA, and the Office of Civil Rights. And as a result of that, we were hoping to keep that going for a while. Some of that's to your money, I think, we've got a couple to pony up for. We're trying to take some of the burden off of our FSA folks because we do work across the department, and I think that it's important for the department to understand that to help us do our work better.

I don't have a lot more to say. I'm very happy to be here. I'm very happy to have John Lowery and [indiscernible] working with me, and I'm happy to answer questions.

Mark Wadsworth: Mary's got a question.

Mary Thompson: Hi. Good morning. I'm Mary Thompson.

Leslie Wheelock: Good morning, Mary.

Mary Thompson: Do you have a specific designation for the funding that you receive [indiscernible] program?

Leslie Wheelock: John, is there a designation for that funding? It's simply council funding?

John Lowery: Council funds.

Mary Thompson: On the MoU you were talking about earlier, one was with the Rural Development

Leslie Wheelock: Right.

Mary Thompson: What was the other one?

Leslie Wheelock: The other one is with both Farm Service Agency and Natural Resources Conservation Service.

Mary Thompson: NRCS?

Leslie Wheelock: NRCS. I didn't say that.

Mary Thompson: I think there was one other question on my mind. Will Mark Rhode be here today or anytime in the next two days?

Jerry McPeak: Who's that? Which one?

Mary Thompson: Was it Mark Rhode?

Jerry McPeak: Rose?

Mary Thompson: Rose. Okay.

Jerry McPeak: Hopefully. He was actually here earlier. So, we will see if we can get him on back here during the public comment session.

Mary Thompson: Thank you.

Male Voice: You have a question?

Gilbert Harrison: Good morning, Leslie.

Leslie Wheelock: Good morning.

Gilbert Harrison: Gilbert Harrison from Navajo. I guess the question I have, every time we talk about economic development on Native, our trust lands in particular, trust lands, reservation lands, we have one big barrier. Unfortunately, it's called Bureau of Indian Affairs, because their regulations, it's so burdensome. It really makes economic development difficult at an individual level and also at the tribal level. And so, I think somehow, I would like to see a little more coordination between the bureau and the USDA and here because I know that on Navajo, I live on trust land, all my activities are on trust land, every time I turn around, the bureau says, "You need our approval." And, you know, it says -- I guess that trust status is good in one way, but it sure is not good in another sense.

So, somehow I'd like to see the bureau get a little more involved and understand what we have because every time we go to them, they bring out a book that thick called CFR and they say,

"Let me see what it says." Of course, it's difficult. And so, when you talk about rural development, economic development, I think it's important that we take a look at some of these things that prohibit that. Instead of enhancing, in fact it prohibits. Like, even the process of getting approval for business site lease on a reservation to do that, it takes years because of the bureaucratic implications and the steps you have to go through.

Somehow within the trust status that the bureau has and others, we need to do work on keeping it simple. And I think that to me that is really something that needs to be looked at seriously. Because I think sometimes I think we talk economic developments where probably more or less a job security issue, we're going to do it but it seems to never get done, you know? So, I would like to take -- I wish the bureau -- the head of BIA was here to say, "How can we work together?" Because it's nice we're up here, we'll say, we'll do it, but when you get back down to the field level, the manual still remains, policies still remain, and the problems remain. Leslie, when you talk about rural development, economic development, keep that in mind, okay?

Leslie Wheelock: Yes, sir. Thank you.

We have a couple of things that are forcing that issue, I think, on tribal lands. One of the programs that rural development has is a home financing option. And we are trying

to increase the number of financing mortgages that we do in Indian country, that we do on trust lands, and our lawyers and OGC actually work those land issues alongside BIA if they have to and independently if they don't. But you, I think, hit upon something that I wrote a paper about last year when I was at NCAI and we were asked to write something for the United Nations' directive on DRIP -- Indigenous People -- I can't remember what all the acronyms stand for either. But it's on DRIP, and they said, "Well, what's the one thing that you would do that would make things easier for your people," and I said, "Remove all of the restrictions," and I went through and listed statute by statute all of the restrictions that gave the control over to the BIA or the secretary of the interior, actually.

The other thing is that the HEARTH Act, I don't know the extent to which our tribes are taking advantage of that. I do know that its passage last year actually allows the tribes to take back some of that control over their land. But I also know that there are a couple of hoops to be jumped through as part of the requirements, and I think that only a handful of our tribes have jumped through those hoops so far. Not only do you have to have your real estate leasing regulations in place but you also have to have environmental assessment practices in place, so it's a bit of a challenge for many of our tribes to get there. I understand.

Gilbert Harrison: Leslie, one final comment. I wanted to -- this is a concern because when I say I live on the reservation, I have a farm permit, I have a grazing permit, we have a home on the reservation, we have a home site lease. We take a look at that lease, on the back it says that lease can be terminated anytime by the bureau for non-compliance, all that cropping goes to the government. So, in effect, it says it right on your lease, federal land, and to me, so I own nothing? I work like heck and I own nothing? So, it's -- and that's how businesses look at it. You invest something in the reservation yet you don't get anything back from it. The bureau can kick you off, and everything, all the improvements you've made, you don't get anything back. So, I think that's really a big, big challenge. That's why I'd like to see the bureau be a little more participative in how can we work that within the system so we have investment opportunities to get some money back. Thank you.

Leslie Wheelock: Thank you.

Male Voice: Actually, I believe Dr. Joe has a question. Lance, [indiscernible].

Joe Leonard: Real quick. [Indiscernible] to look at is because the secretary's administration has constructed StrikeForce to be able to work in targeted states. But if the area is under Bureau of Land Management, then that's going to

counter what we are attempting to do, so I think that's something our OGC lawyers have to do. Because I know the secretary absolutely wants us in those states, so we'll have to -- you know, I worry about things [indiscernible] but also look to the barriers to that, and that appears to be the barrier but we have to look and see. Because this is running counter what the secretary really wants as far as the [indiscernible].

Mark Wadsworth: Mr. Morgan?

Lance Morgan: I was going to agree with Mr. Harrison. I wrote a paper nine years ago called *The Curse of Trust Land*, and tribes have hung on to trust land because it's a jurisdictional protection. It's really all we've got to keep the states from sort of telling us, from ruining our lives, from totally controlling us, and so we hang on to it. But trust land, the economic side effect has been six generations of poverty. I mean, we can't tax it, you don't own it, you can't put a home on it, you can't build it. That's what's killed most farming in Indian country. Ranching sort of survives because you can collateralize cows when it comes down to it but you can't on farm land. So, you're talking about a major structural problem, and the answer probably lies somewhere in tribes taking control of their asset but having some guarantee of jurisdictional control. Because we will choose jurisdiction and poverty every time, but I don't think that tribes need to make that choice.

And so, there's been a lot of discussion in the last five or six years about how to adapt the trust land issue. But having somebody else control your assets is always probably a mistake.

Leslie Wheelock: Thank you.

Mark Wadsworth: Mr. Jandreau, go ahead.

Michael Jandreau: You know, I've listened to Lance's concerns, I've listened to Gilbert's concerns, and maybe from where you're at, that is a real thing. I guess we've kind of learned how to work the system a little bit, where we're at, and how we make these things work for us, and I really think it's more than a legal problem. I think it's a personality problem. I think that what happens with those administrators who come in, whether they may be native or non-native, if they're background is to help you, you can make everything work even with the trust land issue. We've been able to do a lot of different things, and we have neighbors across the river or different other areas that can accomplish the same thing, and it's more personality driven than it is legally driven. And I think that in all honesty, a real look has to be taken because the tribe taking control totally of its total jurisdictional process and things like that without the elements necessary and the dollars necessary to make the legal structure perfected, it's going to be very difficult for us to be able to handle the jurisdictional problem from the massive intrusion that comes from the

communities outside of the reservation or the population or the state itself.

I mean, we're constantly being driven to try to enter the tax agreements and things of that nature which we feel would be an impediment to our own sovereignty, and so we don't have tax agreements. And, you know, we operate off of our own income and governmental contractual income. And as far as being able to develop houses and things like that under Section 184 and things like that and utilizing limited waivers, we've been able to do that. So, while I understand and I empathize with what is happening both at the level that you're talking about, Lance, and at the level that Gilbert's on, I think it's more personality driven than legally driven, because that ability to really work with the tribes is there if those administrative people who are in those functions who work with you and your own legal counsel to get it done. We've been able to do it. And I guess my reason for speaking up more than anything else, when you give the responsibility back to the government to help you correct this problem and alleviate this thing, a lot of times they go too damn far. And termination is not a reality that we want to deal with at this particular time because we're not economically prepared to face that reality. So, I say this apologetically because I don't want to disagree with you guys.

Lance Morgan: I agree with what you're saying, Chairman. I think that the government has done a decent job of coming up with programs that challenge or that try to address the trust land problems -- there's the 184 loans, the loan guarantee programs, all that sort of stuff. But I just, sort of, have the opinion that why do we have to do that. The problem is you get rid of trust land without jurisdictional protections and it's termination. So, it is a dangerous thing to ask for.

Edward Soza: Edward Soza. You had mentioned that you had an MoU with the Department of the Interior?

Leslie Wheelock: That's right.

Edward Soza: Does it -- is there anything in it -- well, what is it a MoU on? Indian country?

Leslie Wheelock: It's an MoU on working with Indian country. So, it's something that if it were fully implemented -- as I said before, the biggest hurdle that we discovered in our first meeting was communication, the need for us to talk to the person down the hall or the next block or whatever. Fully implemented, it could, I won't say alleviate or break down, but it could help with this kind of -- with the land issues. In fact, that's what our Office of General Counsel folks do, they pick up the phone and they call BIA and they say, "We've got this. This is what we're working on," and they tend to work

together to try to get these housing loans approved. As you all know, it takes some time still.

Edward Soza: So, BIA is included in that MoU?

Leslie Wheelock: They're included in that MoU. It's an MoU between the Department of the Interior, BIA, and USDA. So, it's specifically held by BIA. It's not department-wide.

Edward Soza: But nothing to do with the 184 program?

Leslie Wheelock: No.

Edward Soza: It's another housing project?

Leslie Wheelock: It's both for independent housing and with multiple family housing. And there's also a housing renovation and weatherization program.

Edward Soza: Thank you.

Leslie Wheelock: Thank you.

Mark Wadsworth: Okay, Leslie. Thank --

Leslie Wheelock: Sarah? Sorry.

Sarah Vogel: You mentioned that you've done a report that's gone to the secretary. Is that going to become public? Was it a list of restrictions with the BIA?

Leslie Wheelock: No, no, no. There were two reports that I mentioned. One was a list of the statutes that had been passed in order to give all of the tribal land rights over to the Bureau of Indian Affairs, to the secretary of the interior. That's actually publicly available on NCAI's website.

Sarah Vogel: Okay.

Leslie Wheelock: The other one is a report that consolidates the plans for the next two to four years of the USDA in conjunction with this new White House Council. And those plans of all of the respective council members are supposed to be made public but I don't know when. Thank you.

Mark Wadsworth: Would we want to go to break before --

Male Voice: Yes.

Mark Wadsworth: Okay. We'll have -- well, right now, it's five minutes to 10. If we could be back 10 after 10, work for everybody?

[Break]

Mark Wadsworth: Well, it looks like we're almost on a track to stay within schedule. Our next speaker is going to be Rick Gibson on the Keepseagle Update. Rick's been here at every one of our meetings, and I think everybody's met him before and knows --

Rick Gibson: Yes. Thank you very much, Chairman Wadsworth, for the opportunity to provide an update for the Keepseagle litigation.

Jerry McPeak: Just time out just a minute.

[Break]

Sarah Vogel: Is this your handout.

Rick Gibson: I know John was supposed to include all the status reports in there.

Sarah Vogel: It was just sitting here.

Rick Gibson: They're supposed to provide you with the August and everything else as well. Yes, the August one is supposed to be in there as well. We'll add it.

Sarah Vogel: Okay.

Mark Wadsworth: Rick, we'll start again.

Rick Gibson: Okay. My name is Rick Gibson. I work for the USDA Office of the General Counsel. I was the lead agency attorney on the Keepseagle litigation. I want to start out today a really quick overview of the programmatic items, talk about the money and how it's been distributed, and then talk about a little bit about where the litigation is going and the schedule for the next two months.

The programmatic items that are not yet fulfilled are the ombudsman and the needs assessment. The USDA general counsel has been meeting with FSA agency heads, Office of Advocacy and Outreach, Office of the Assistant Secretary of Civil Rights, and other agency heads to talk about the ombudsman position. We almost have a position description finalized and that will be posted, and we will begin the hiring process soon.

Needs assessment, as I've mentioned in past meeting, is done but we don't have the authorization right now of either FSA

or really any other USDA office to open new offices. So, we've been waiting on that one, hoping for some kind of Farm Bill authorities, some kind of flexibilities that'll allow us to open new offices before we can make the recommendation to do so.

As Leslie mentioned, we were able to find more money for more meetings due to the tireless work of John Lowery and help from all our agencies. OGC has also been looking into gift authority to the secretary in the event that we can get gifts from outside sources to hold additional meetings.

Settlement agreement requires two meetings per year. I think everyone would rather have three to four meetings per year and have those meetings be in person. So, we're trying to find ways to get the money to do so.

OGC is also beginning work on building out the guide to farm loans and is interested in targeting more towards BIA issues, trust issues, more localized issues, and starting work with our technical assistance providers to do that so that we can provide better technical assistance for the problems that people are really facing.

Class counsel, on August 30th, provided a status report to the court that indicates disposition of funds. As of this date \$299 million has been provided to prevailing class members, to class counsel for their attorney's fees and to the class representatives. Farm Service Agency has forgiven all the data

identified by prevailing class members, and EPIC systems, the claims administrator, has provided the tax consequences payment on that debt relief. So, as far as USDA knows, I think we're done with debt relief and all items associated with debt relief in the agreement.

There was a programmatic item that provided for an additional round of loan servicing for any prevailing claimant who still had delinquent debt. As a result of the debt relief provisions and the \$80 million cap, we don't have any prevailing claimant with existing delinquent debt, so that provision was never triggered. And I think the final total debt relief provided to prevailing claimants was approximately \$61 million. That leaves around \$380 million in the settlement account. According to the terms of settlement agreement, those funds will revert to a cy-près fund.

Mark Wadsworth: What's cy-près?

Rick Gibson: Cy-près is a legal term for the benefit of. It's a trust account, basically. It's the next best use if funds remain that don't go to claimants.

Under the terms of agreement right now, class counsel provides a recommendation to the court and the court either approves or disapproves incentive act for further discussion. In their August 30th report, class counsel provided a

recommendation that all \$380 million should be dedicated to a new standalone foundation.

Jerry McPeak: Say that again?

Rick Gibson: All \$380 million should be provided to a new standalone foundation. This foundation is not in existence yet, to be created by class counsel and its partners.

Male Voice: Is there are reason that that money wouldn't go to the tribes?

Rick Gibson: Right now, the definition of cy-près beneficiary is limited to non-profit organizations. So, to the extent that 501(c)(3) organizations exist within or created by tribes, those could go to those organizations but they wouldn't go to the tribes themselves unless they were a non-profit.

Mary Thompson: So, the counsel, and who is going to be determiner?

Rick Gibson: Class counsel and court.

Mary Thompson: The class counsel and the court?

Rick Gibson: Correct.

Mary Thompson: [Indiscernible]?

Rick Gibson: No, class counsel. Cohen Milstein, yes.  
Cohen Milstein and his team.

As a result of the August 30th filing, the court has asked the government to respond to that filing. That filing is due on September 17th, and class counsel must respond to that filing on

September 24th. Status hearing will be held on October 3rd, and we'll discuss the cy-près issue then.

Right now, the government's --

Male Voice: And will there be a timeframe you're going to be looking at to create this foundation?

Rick Gibson: Right now, I think class counsel's timeframe that they articulated was around six months if approved by the court.

Male Voice: Who creates the foundation? I'm sorry.

Male Voice: Go ahead.

Rick Gibson: Class counsel will create the foundation. Cohen Milstein Sellers & Toll.

Male Voice: Is it solely up to them how do they do this?

Rick Gibson: Well, right now, it requires a change to the settlement, so --

Jerry McPeak: Requires what?

Rick Gibson: A change to the settlement agreement.

Jerry McPeak: If you change it from the class counsel, you mean?

Rick Gibson: We'll have to change it to create something because this foundation is not in existence, and the money is supposed to go to organizations that are already in existence.

Male Voice: So, how much money was disbursed?

Rick Gibson: Like I said, approximately \$300 million.

Male Voice: So, there's more money that's not disbursed than what's disbursed?

Rick Gibson: Correct. Correct.

Male Voice: So, it seems to me how that money is spent seems to be a big deal.

Rick Gibson: It's a very big deal.

Male Voice: And I guess I don't necessarily trust leaving it up to some lawyers when we're sitting here.

Jerry McPeak: You know you are one, right?

Male Voice: Yes, I'm not much of a one, that's why I switched [indiscernible].

Male Voice: Along with the class counsel, will be there be public input from any organizations to suggest?

Rick Gibson: I think that's left to the court's discretion right now. I mean, currently we have one motion to intervene from Choctaw Nation who was just intervened to speak on behalf of the nation to articulate their interest. They have a 501(c)(3) foundation, the Jones Academy Foundation that's already in existence and they qualify for funding under the current definition.

Mark Wadsworth: Mr. Chairman?

Jerry McPeak: Rick, specifically where is this \$380 million now? I mean, I know you say, well, it's an --

Rick Gibson: That's a good question. Let me tell you how the money worked in Keepseagle. After the settlement was approved by the judge in April 2011, Department of Justice transmitted a payment of \$680 million into the bank accounts designated by class counsel for the settlement fund, and those funds are being held in a number of banks including some Indian-owned banks. So, it's not in the Department of Treasury now. Class counsel has control of that account. They provided payments to the claims administrator, so claims administrator could provide payments to prevailing claimants. But the rest of that money is being held by class counsel right now.

Mark Wadsworth: Yes, Mary.

Mary Thompson: Rick, [indiscernible] -- okay, I'm not an attorney. What's it's called?

Male Voice: Cy-près fund.

Rick Gibson: The status report?

Mary Thompson: Well, that's the case, the report here.

Rick Gibson: Yes.

Mary Thompson: The attorneys that are listed here or the groups here, is that the committee?

Rick Gibson: That is the class counsel.

Mary Thompson: That is class counsel?

Rick Gibson: Correct.

Mary Thompson: And that is the committee that will be making the decisions?

Rick Gibson: They're the ones making the recommendation right now for the foundation. They'll make the decision in coordination with others about who to appoint to the foundation if it goes forward.

Mary Thompson: Okay. Right. 501(c)(3) has to have a board of directors, right?

Rick Gibson: Correct.

Mary Thompson: Okay. And where are you receiving your input from?

Rick Gibson: Well, right now, class counsel has received input from a number of organizations that they attach to their status report, including Intertribal Agriculture Council, Council of Large Tribes, and other organizations.

Mary Thompson: Are those available?

Rick Gibson: They are. It's attached to their filing. We have their report as well as the motion to intervene that should've been in your packet, but we'll provide it to you by the end of the day.

Mary Thompson: Okay. Thank you.

Mark Wadsworth: Yes, Sarah?

Sarah Vogel: I think our status by way of background, I know Jerry had asked for a presentation on the cy-près fund.

However, the decision by OGC was because this was still in litigation, it was not appropriate for class counsel to appear at this meeting. An invitation had been extended by John to Joe Sellers to come here to speak. But then, Rick pointed out that this is in litigation so the concept was not appropriate for Mr. Sellers to appear, so he is not here, Rick is. Anyway, --

Rick Gibson: And I'm taking no position on anything.

Sarah Vogel: The status report that Rick is going to distribute spells out our position. It's a longish legal document, but I just want to bring out one basic point, and that is when the settlement agreement was negotiated, we did not know how many people would file claims. We did not know how many successful claims there would be. In fact, we anticipated that -- we had a big -- we were at a point that if there was an insufficient money in the fund for all of the people who filed claims, that the funds would be paid off pro rata, so I and all the other counsel for the team went around the country and everywhere we went we said, "You're to get \$50,000 for a Track A, but if there's a lot of claims, it would be pro-rata less." But we thought it's going to be \$40,000 or above or something like that, but that's how we saw. So, the cy-près provisions, we always talked about the cy-près provisions, and I think that was in all the notices, the long and short forms that went out to our class for comment. This was all proposed for public

comment before the judge finalized the settlement agreement. And the cy-près provisions defined beneficiaries and so on, and they say that it's the class counsel who decides with the approval of the judge.

Jerry McPeak: Say it again? Say it again, ma'am?

Sarah Vogel: The class counsel decides who are the cy-près recipients. And at that time, it was the expectation there would be minimal money, and now we know that there is a lot of money, as you said, this is a very big deal. And the proposal that the class counsel has made is that if there were a foundation and the foundation would be composed of Native American leaders -- in other words, we now have the authority, the exclusive authority with the permission of the judge, we don't want it. We want it to go to the Native American leaders. Obviously, we have no list of potential board directors because we don't have approval. We need approval to set up a foundation because it would have to be changed.

Right now, the settlement agreement says that it must go to organizations, non-profit organizations, that were in existence between '81 and, I think, October 2010, and it must go out -- and those organizations had provided services to Native American farmers and ranchers during that time span. And the payments cannot go to tribal colleges or any educational institution, they cannot go to any law firm, and they must be distributed in

equal shares, which is a real problem, because you've got big national organizations, IAC is one of them, that did work throughout this entire time span and then you also have smaller organizations that maybe worked just in one pueblo and maybe only for several years.

But under the settlement agreement, as written, because we thought there was going to be \$5 million, \$10 million, a couple of million -- I mean, Porter was one of the lead plaintiffs, so we thought it would be a small amount and we could handle it. But we do not feel that we are the right people to decide how this money would go. We would like to see a Native American-led foundation dedicated to the purpose of helping Native American farmers and ranchers now and into the future. It's a sum of money that is so huge, it would be the biggest philanthropy ever for Native Americans, and the interest on it alone could provide services, not just now but for seven generations to come. It could be pretty wonderful. And this is what we are seeking, and that's a summary of a rather long and complex status report. So, -- and this is not the place probably, and I think because it is in litigation.

Rick Gibson: Because, yes, we do have motions to intervene pending that the judge haven't granted yet from exterior parties.

Sarah Vogel: Right. But right now, it is the case that it's up to class counsel, but we as class counsel are trying to divest ourselves of that responsibility by assembling with input of Native American leaders who would run this philanthropy on a professional basis and receive grant applications and handle it from that point forward.

Male Voice: I see the logic behind what you are doing with the anticipation that most of the money would be sent out. But since it's not, I think it makes sense to at least figure out some way to also logically visit how that money is going to be disbursed so that we don't have a strange set of -- we don't tie our hands in a way that doesn't make sense. I mean, I think the whole point of this entire effort is to do what's smart, logical and fair to Indian country. I think that should be the preeminent focus.

Mark Wadsworth: I agree.

Male Voice: Not some rule made in passing.

Sarah Vogel: No, no. We're not making any rules at this point. And you know, you have to cross -- first of all, we have to hear from the judge. I mean, that's --. And so, until after -- and we have not heard officially from the Department of Justice. So, we have -- if you take this step by step by step, there will be opportunities, but ultimately we are anticipating that the decisions on precisely where the money should be

expended -- like it should be on projects on Choctaw project in the West California. Everybody has good ideas and there are many out there where funds could be expended, but we do not want to be making those decisions. We are lawyers. We are not Native American farmers and ranchers. We don't have the insight. We don't have the procedures in place to do this. So, this is our goal, and we would sure appreciate support or feedback as the case may be, and feedback is coming.

Mark Wadsworth: Chris Beyerhelm, please?

Chris Beyerhelm: Thank you. And I'm an outsider looking in just like the rest of you, but I understand there's perhaps a big debate over whether it should be a foundation or a trust. Can you talk about the pros and cons of those two? A foundation being one that would go to different --

Sarah Vogel: Well, it's sort of like some entities get money in and they spend it all. What we are really talking about is something more along the lines of an endowment, that this could be an endowment for now and into the future. But it would be ultimately up to the board if they want to spend into the principal or just expend the interest, but that would not be our choice. But the concept is that we have this once-in-a-millennia opportunity where there's \$380 million that could be spent on Native American farming and ranching now and into the future. It could benefit people today, it could benefit --

everybody I've ever talked to is so concerned about the next generation of kids. We had a presentation that brought me to tears at the first meeting by the National FFA Council with all the young kids coming. This could be for them too. So, this is part of the motivation. And we're not to the point where we can say, by any means, like, this would be the board, but -- I mean, we want to have input from everybody in terms of the board, and then, once there is a board, then the board would hire folks, the board would set policies, but we do not see ourselves as being that board.

The legal steps to create the foundation, we'll probably help with that, but not the mission statement. All of that would be done by others, the strategic direction and so forth. And this is the concept that we have -- we first brought it up at the IAC meeting in December a year -- well, formally, and there's a lot of discussion there, and IAC endorsed the concept of a foundation, so there may be differences in terms of exactly how it's implemented, and we haven't gathered all the data, we haven't gotten all the input, but the concept of a foundation. So, I don't really know what you meant by trust versus foundation because --

Chris Beyerhelm: Well, my understanding is -- again, I'm outside looking in, I'm just kind of hearing things is that one of DOJ's concerns is that there's an end to this, and if a

foundation is set up, the case just continues, so [indiscernible]. But if you do a trust, then the money is all disbursed in a certain period of time, say, five years or whatever, there is an end to it.

Sarah Vogel: Well, we would -- the thing is, as we see it, -- and I'm looking up at the [indiscernible].

Mark Wadsworth: Mary had a question but --

Sarah Vogel: Could I respond?

Mark Wadsworth: You may.

Sarah Vogel: The money would leave our hands as class counsel, and the settlement agreement has a five-year limit. And so, once the money leaves our hands, then maybe the judge would want some sort of reports or something -- I have no idea [indiscernible] five years.

Jerry McPeak: [Indiscernible].

Sarah Vogel: But we are not thinking that this would extend -- we do not think that creating foundation would extend the role of the court, the involvement of the court. This would be just as though the money is to be given away, we would give it away, boom, gone, but we would like to do it via a foundation in accordance with what we are hearing from the new plaintiffs and other interested parties.

Mark Wadsworth: Mary Thompson?

Mary Thompson: Mary Thompson. Thank you. Okay. So, I guess I'll look up foundation and trust and endowment and see what the difference is. But I have a question as far as the funds themselves and the interest since it has been invested. I have questions on investments, long and short term of the funds, and I also had questions on how you're looking at the accountability of the management of those funds.

Rick Gibson: Yes. I think that's a really important question for USDA about --

Mary Thompson: [Indiscernible].

Rick Gibson: Really the question for USDA.

Mary Thompson: I'm sorry. Strike that from the record. But seriously, when you're talking about \$380 million and the interest that comes off of it and the management fees and the money managers and the investments, and those would be decisions to make too while you're in the process of deciding whether it's going to be an endowment or whatever is going to happen.

Realizing that you've got some folks making decision -- well, we are dependent on judges and the -- what is it, Department of --

Jerry McPeak: Justice.

Mary Thompson: DOJ, yes. Or, I don't know. I can't get into that discussion because I don't know enough about it. But I do know that when you're talking about that much money, that there's got to be a lot of checks and balances, because we as

Indian tribes sit up here and have all of our issues and all of our questions, all of our needs whenever it comes to funding of anything, whether it's Congressional funding or grant funding, there's just a lot of that that needs to be resolved. I wish that this board as a board could be privy to a lot more of that information just so we would know. Thank you.

Sarah Vogel: Yes. Actually, as Rick said, the funds left the Department of Justice were transferred to class counsel for administrative purposes, they are in banks, they are earning interest, minimal interest.

Mary Thompson: Minimal? With that much money?

Sarah Vogel: Yes, minimal. Because we can't put it in the stock market. It has to be available. And under the terms of the settlement agreement which govern how we operate, the money does not go into a specific cy-près fund until the last estate, and we've got about 50 estates out there that are waiting for probates or representatives to be named, they've been approved claims, but the funds haven't left, so that's all we're waiting for. But that date, that trigger date where the money goes into a separate cy-près fund is somewhere between late August and October, that is the estimate.

Male Voice: [Cross-talking].

Sarah Vogel: Could I -- but this is -- it is waiting for feedback from the court.

Mary Thompson: Right. I understand that. But, Rick, I guess my point is that those funds, as they are invested now in a bank, and I don't know a whole lot about investing but I do know that banks only guarantee so much money, so you've got to separate the accounts out and everything, it's just that with that dollar amount and accountability for it, and that's my main thing, because as a person who was part of this suit, and which I was not, but they're not going to understand and, well, I know that they're not going to have any part of it now, the leftover from the settlement agreement, the cy-près, but I'm sure they have a personal and vested interest to make sure that those funds are secured too.

Rick Gibson: Oh, absolutely.

Mary Thompson: Thank you.

Rick Gibson: And to answer Jerry's question, that's why the judge is still involved. This was a litigation matter, there were people injured from 1981 to 1999, and beyond for the beneficiaries of this case, and this money is truly for them, first and foremost. Sarah [Indiscernible] difficulties of establishing an amount or a number, it's extremely difficult, over that period of time with the limited records we had. But now the judge has to decide what's the next best use for this money, that's what cy-près is all about. And the courts under cy-près law are kind of the ultimate decider, I mean, it's their

responsibility to decide, "Okay, this is going to the injured parties in one form or another."

Jerry McPeak: Okay. So, to clarify that. So, the judge gets to decide?

Rick Gibson: If the judge thinks the foundation is a horrible idea, he'll say the foundation is a horrible idea, if he thinks the USDA's ideas are bad, he'll say the USDA's ideas are bad. Yes, the judge has the veto here I would say.

Male Voice: No matter the counsel's suggestions [cross-talking]?

Rick Gibson: No matter anyone -- class counsel, USDA --

Sarah Vogel: No, no. Judges do not necessarily agree with plaintiff's counsel all the time

Rick Gibson: Or defense counsel.

Sarah Vogel: So, yes. We have an excellent judge. He's Judge Sullivan [phonetic].

Rick Gibson: He's fair. He's very tuned in to this case and this class.

Sarah Vogel: And this is -- like, I happened not to be there, but he had tears in his eyes on the day that the settlement agreement, when he accepted the settlement agreement and --

Rick Gibson: And he made sure the settlement funds were invested in Indian banks as well as --

Sarah Vogel: Yes, he's been deeply involved. The funds are safe.

Rick Gibson: Yes.

Sarah Vogel: So, this is where we sit, and it's October 3rd.

Rick Gibson: It's a public hearing, so anyone who's in D.C.

Mark Wadsworth: With my limited -- well, I used to work with an investment firm, Waddell & Reed, and under these fiduciary responsibilities that the judge and the court is carrying, you have to have the most liquid sure asset available at any time to liquidate those assets if there is a settlement. So, in some cases, they won't even be able to go into CDs, they cannot even do that. So, what you're getting right now is probably the lowest possible interest rate at this time which may be we're at a very historic low period [cross-talking], and it's not growing leaps and bounds but it still is growing with that amount of money.

Rick Gibson: A little bit. Yes.

Mark Wadsworth: It's not as tremendous [cross-talking].

Sarah Vogel: And by the way, the anticipated expenses of setting up a foundation would be paid by any interest. So, the fund in total, the principal of the fund in total will completely go over to cy-près recipients.

Gilbert Harrison: Give it to the Council.

Sarah Vogel: Council is not a non-profit organization but  
a --

Mark Wadsworth: Also, Rick, could you kind of -- I got a  
little confused here. So, what's your -- the last timeframe I  
heard was the status report was going to be coming out here real  
shortly?

Rick Gibson: That's right. I mean, plaintiffs issue their  
status report August 30th, DOJ needs to respond to that by  
September 17th.

Mark Wadsworth: So, we should know some more --

Rick Gibson: On September 17th, right. And they have  
their response to our response on the 24th, and I'll provide all  
those to John Lowery as they're filed.

Mark Wadsworth: Okay.

Rick Gibson: Sarah, right? You'll have the complete  
record that the judge has?

Sarah Vogel: Yes. And by the end of the day, you'll have  
our status report here.

Mark Wadsworth: And from that report, is it maybe going to  
come out that it's accepting recommendations for the settlement  
of how it's used possibly? Or is it going to be decided,  
decided that it will go to an endowment fund or trust or  
whatever?

Sarah Vogel: You mean out of the status conference?

Mark Wadsworth: Yes, the status.

Sarah Vogel: Our recommendation is that a new standalone foundation be created. That's our recommendation. Whether that recommendation is accepted by the court, we don't know, but that's a recommendation we made. And we're not privy to what the Department of Justice is going to be filing, so October 3rd will be -- and then, the judge will take it under advisement. He may set up a -- he could take it any number of directions from that point. We'll just have to see.

Rick Gibson: And I did want to correct something on the public record in regard to the Choctaw filing. I learned from the former council member, Janie Hipp, that she was listed as a potential board member in that filing but the nation never contacted her for her permission to do so, and they corrected it internally with us, but I think they filed the same thing on the court record?

Male Voice: Same with me. I was never contacted and they said that I'm endorsing the Jones Academy Foundation; I have yet to be contacted.

Rick Gibson: Okay. That was my understanding.

Male Voice: And to clarify for this council, I am, as most of you know, [indiscernible] on this, I guess I could say maybe I straddled the fence here, whether it goes to a foundation,

which I think would put out money for years to come, whether it goes to cy-près, my scope on this I want it to go to the Native American farming and ranching, period. What worries me is if it gets too much confusion, the government say, "Well, you know what, let's just have that money back." That's what I don't want. Any other way it goes, as long as it's for the Native American farmer and rancher, I'm with you.

Rick Gibson: Thank you very much.

Gilbert Harrison: One final comment. Gilbert Harrison, Navajo. I sort favor the foundation because it's going to be there for a long time, as long as the government doesn't take it back, and we can use it for scholarships, it can be used for all these things that will be able to assist the future generations. Thank you.

Mark Wadsworth: All right. And with that, we'll go on to our next --

Leslie Wheelock: That's me. All right. Folks have asked for a Farm Bill 101, and this is going to be a really quick 101 because the secretary is arriving a bit early, and so what I want to do is to just tell you what I'm going to hand you and then I'll sit down as soon as they introduce him, as soon as he arrives and go [cross-talking].

So, what I've handed out, folks had asked for a Farm Bill 101, and we may not have time to get through this today, but it

gives you some material to read. And what I had given you is it's the Farm Bill from 2008 breakdown title by title. And what we did was to tell you what the title is about and then in the next paragraph, tell you what's important to Indian country about that specific title. And you'll notice that some of those what's important in Indian country are shorter than others because it's hard when Indian country isn't actively participating in Farm Bill activity to understand what is important in Indian country.

We didn't realize until we started working on it that we have a lot of folks in Indian -- a lot of tribes that are interested in the commodities programs, and we hadn't realize that. We have a lot of tribes interested in the risk management programs; we hadn't realized that. And so, it's been a bit of an education over the last couple of years trying to identify those areas where tribes are different from other farming organizations. So, I think that it's a document that's put together, it is based on 2008 and not the current Senate and House Farm Bills, and there is a couple of reasons for that. We have a Senate Farm Bill that evolved out of 2012 and has remained pretty much the same. There have been some changes in the 2013 version, but if you want a little bit of a breakout on the Senate Committee on Agriculture, Nutrition, and Forestry, there is an Ag Reform, Food and Jobs Act of 2013 summary. And I

can give you the website for this so that you can go pull it up yourselves. It's a really, really nicely done summary of the programs that are in the Senate version of the Farm Bill.

The House Farm Bill, we were supposed to have somebody from our Office of Congressional Relations here today to speak, and I am not sure where they are, but to give you a little bit better update than I'm going to give you right now. But the House version of the Farm Bill, they split out the nutrition section and passed a Farm Bill that is not as robust as the Senate version and certainly doesn't have the nutrition elements. So, we're missing SNAP, we're missing the FDPIR, the Food Distribution Program on Indian Reservations Program, WIC, seniors' food and nutrition programs, and a few others. And that's a great concern that most of the budget that goes to USDA is out of the nutrition program and it's one of the programs that very much benefits our tribes and our communities. So, it's one of the high concerns to us.

A lot of folks have asked what they can do right now with the Farm Bill. The Farm Bill exists, in the House version, as I said, it's this kind of split problem, and from my perspective, the Senate version is pretty well baked. There is not a lot that can be done there. What might be able to be nudged a little bit is to get the House to get their Farm Bill passed, because we can't do anything until there is a Farm Bill in

place. I mean, we can do a lot, but in terms of moving forward, in terms of possibly getting some of the offices authorized and opened that we talked about earlier, that Rick talked about and mentioned, in terms of getting the Office of Tribal Relations put in place permanently, that's all in the Farm Bill. This office is in place as a result of our president and our secretary. And when our president changes, regardless of whether we continue with the Democratic administration, there's a possibility that there will not be the same emphasis on minority issues, there may not be the same emphasis on tribal issues. And so, to the extent that we've had some good folks in Congress who have seen it to make our office permanent, we're looking for a new Farm Bill too.

The other piece that you might be able to affect at home with your Congressional representatives is appropriations. The reason that the nutrition element has been split out of the House Bill is because of the expense and the high cost. And what that does, however, is to allowing the place in financing gains, both with the nutrition elements and with all of the other elements of the Farm Bill, and I think that you will see some -- we're trying to move the Farm Bill. You'll see ads, you'll see Twitter things, all kinds of communications going out trying to tell people why the Farm Bill is so important. And we hope that one of the things that we will see is the secretary

coming through the door pretty soon -- but in appropriations rather than continuing resolution. Continuing resolution gets us into the new year but it doesn't get us all the way through to the level that we want to.

Mr. Secretary, come on up. I think we've got a seat for you. You can speak up here, we've got a seat for you right over there.

So, without further ado, ladies and gentlemen, I'd like to introduce Secretary Tom Vilsack. As I mentioned earlier, the secretary has been greatly supportive of our tribal initiatives and our Office of Tribal Relations and is -- I'm not going to stand up here and talk. So, go ahead, Mr. Secretary.

Tom Vilsack: All right. Thanks, Leslie. Well, thank you very much. I appreciate the opportunity to spend a few minutes with you this morning. And first of all, I want to thank all of you for your willingness to work on this council. This is an important opportunity for all of us at USDA to do a better job of reaching out to Native Americans, and we need your assistance and help in knowing how best to do that.

I also appreciate the challenges that are presented when budgets are tight. Travel budgets are extremely tight which makes it hard for councils like this to operate in the way councils used to operate where travel expenses were provided and meetings could take place in a variety of different locations.

And so, we're trying to use technology as effectively as we can, knowing that it may not be the best way to approach it but it's at least better than not meeting at all, and we understand and appreciate your willingness and appreciate the fact that you understand that we're dealing with budget constraints that really require us to be a bit more creative and innovative in terms of how we meet our responsibilities. I don't think it's any accident that I'm sitting right across from Juan Garcia who has had some very serious challenges as administrator of FSA in terms of staffing and in terms of dealing with offices that are under significant constraints, so, he understands precisely what I'm talking about in terms of budget difficulties and challenges.

Having said that, we are committed in this administration to improving the relationship between this government and the governments it represent and care about, Native Americans throughout the United States. I want you to know that we take very seriously our consultation responsibilities and I think we've spent a lot of time over the course of the last couple of years better understanding what our responsibility is and what consultation truly and honestly means, and going through a process of training our teams at USDA to understand what a true consultation consists of. I'm sure there are circumstances where we still have work to do, but I hope that you have begun

to see in the over thousand opportunities we've had in the last four years that we are taking that responsibility very seriously and looking for ways in which we can continue to improve efforts there.

We also, as you all know, the Forest Service has been very much involved in working on a sacred sites document which we are in the process now of implementing. And using our sacred sites report is a way of spawning a larger conversation with the federal family about our responsibility in the federal government of attempting to protect as best we can these sacred sites. It obviously creates a challenge because many of these sites by the nature of them need to be not as public, and the result of course is that it creates some challenges for us, but we appreciate the need for us to preserve these sites and the importance to Native Americans of having these sites protected, and I hope that the MoU and the implementation of MoU will allow us to do a better job over time.

You know, we are proud of the fact that we were able to complete the claims period in the Keepseagle matter and that we are in the process of completing that work. The claims have been paid, the debt relief that has been provided and required under the settlement agreement has been provided. And we know that there are ongoing responsibilities yet to be determined with reference to the remaining portion of the settlement fund.

I wish I could tell you that we have a great deal of control over those resources; we do not. I wish I could tell you that we could partner with the plaintiff's counsel and others to formulate the most appropriate use of those resources; we can't because of the nature of the settlement agreement. But we stand ready to work with plaintiff's counsel and anyone else in the court to make sure that those cy-près resources are used as effectively as they can in terms of providing as much help and assistance and particularly focusing on outreach and making sure that we do a good job.

Joe Leonard is here, and I appreciate Dr. Leonard's counsel and his assistance and help. He takes the issue of civil rights very seriously, and I can tell you that he has probably spent a significant amount of his time recently in areas that impact and directly involve Native Americans and Native American concerns, especially as it relates to our Forest Service. We are in the process of completing the work that we are required to do under the settlement agreement to have an ombudsman and we've been discussing the work of that ombudsman, but I can assure you that that work is going to get -- that selection process will be moved expeditiously and we will comply with that part of the settlement agreement.

We also, I think, are doing a better job of seeking out investment opportunities in Indian country. To date, I think

the number is somewhere between \$1.7 billion, \$1.8 billion that have been invested in a variety of projects: water projects, broadband expansion, energy projects, housing. I think there are still additional opportunities, and that's one of the reasons why I'm excited about the opportunities that the StrikeForce initiative provides. We made a specific effort to try to address Native American issues, especially in the southwest and also now in the Dakotas, realizing that there is significant poverty in some of the Native American areas of Dakotas. We have designated both South and North Dakota and the reservations there as a StrikeForce area, and we've instructed our teams to begin working collaboratively with tribes to try to figure out what we can do to ensure that resources that are available are utilized to improve life on and near the reservations.

We've got work to do in this area but I'm excited about the possibilities of StrikeForce. We've seen it work in other states where it's been up and going for a couple of years. I was recently at a location in New Mexico with new conservation opportunities that I think are going to open up new opportunities for irrigation and for agricultural production. And so, I think we're beginning to see some of the benefits of those programs. But we're going to continue to work with our rural development folks to make sure that we make those

resources available. It begins by knowing what the programs and having the confidence that good projects are actually going to be listened to and focused on and paid attention to.

I know that you've got some concerns with some of our programs. The census, I believe that, either you had or will have today a presentation from NASS, and hopefully that addresses some of those concerns. I know that you are very much involved and interested in the conservation programs, and we are anxious to get those programs, the availability of those programs out to you.

And I know that the issue of horse slaughter is an issue that you care deeply about. It is an issue that's complex and is currently tied up in the courts. There were three entities that expressed an interest in resuming horse slaughter after Congress lifted the ban. We went through the process of developing the safety rules and regulations for proper horse slaughter and we are prepared to authorize all three entities.

The New Mexico facility is now embroiled in litigation. As you probably know, there was an injunction. There was also a bit of a tragedy at the facility in terms of a fire that has some suspicious connections and suspicious circumstances. That facility, I think, is still focused on horse slaughter. The Missouri plant has sort of been in and out; initially they were in, then they asked for a change in their classification, and

now they've decided that maybe they want to re-think that. And the question then becomes whether or not the injunction in the New Mexico suit is nationwide or just simply related to that specific location. That may be an issue the courts will have to work out. And then, the Iowa facility I think finally made the decision not to proceed with their operation. So, there's at least one for sure and potentially two facilities that absent court direction or absent Congressional action will at some point in time be involved in horse slaughter.

It's a controversial issue. And the unfortunate circumstance is that as with all controversial issues, a lot of folks are not focusing on trying to figure out if not horse slaughter, then what do we do with these horses. It's not like there's a -- you know, if you don't do horse slaughter, the problem goes away. It just simply falls disproportionately on a small number of folks. And that's been my concern about this issue, is that there hasn't been a discussion of what happens next or nor was there a discussion when Congress instituted the ban about, "Okay. You don't like horse slaughter. Fair enough. What are you going to do with these horses?" And that still is not part of the -- we tried to stimulate that discussion and debate but there wasn't a great deal of interest in having it. Maybe at some point in time, people will become a bit more interested in it. But we stand ready to provide help and

assistance if we can, but we're going to do what the law requires us to do until the courts or Congress says not to.

I want to thank Leslie for her willingness to take over for Janie Hipp, and we've had several meetings already, and I can tell you that she is very, very focused on her work and I think is doing a good job of reaching out to other parts of USDA to make them sensitive and aware of their responsibilities in terms of Native Americans, and I look forward to continue working with Leslie.

So, with that, I'm happy to spend the rest of the time, if I can respond to questions, responding to your questions. And if there really are, I'm going to have one. Jerry?

Jerry McPeak: Maybe I should know this definition here [indiscernible] thing, but this ombudsman we keep talking about, what's his or her responsibility going to be? I've heard that used several times but --

Tom Vilsack: Well, the settlement requires there be a person. And to a certain extent, it's a little bit superfluous but, you know, too much is better than not enough, I think, in one sentence.

The ombudsman's job is to make sure that we at USDA don't fall back into a pattern of ignoring populations or ignoring minorities in terms of credit programs, in terms of our development programs, rural development programs, in terms of

decisions that are made. The reality is that we had tens of thousands of claims against the USDA as a result of discrimination that took place years ago. And I think that the theory behind this was that this individual would help ensure that outreach was taking place, there was awareness of programs, there was participation in programs, and that people were not being denied the benefits of programs simply because they came from one part of the country or were a minority.

I say it's a bit superfluous because, to a certain extent, Joe's job at civil rights is to keep an eye on those things, and he's done a good job of that, and the reason I know that he's done a good job is we meet regularly. Joe keeps data and statistics on claims, and we've seen a downward trend in claims on the program side and within our employment, the EOC side. You wouldn't see that downward trend if things hadn't changed. So, I think the ombudsman is extra insurance that after Joe leaves, after I leave, after Leslie leaves, that the next Joe Leonard, the next Leslie Wheelock, the next Tom Vilsack will be as focused on this as we have been. And if not, that ombudsman could blow the whistle, and that may prevent people having to go to court to sue the USDA for discrimination.

Jerry McPeak: Follow-up.

Mark Wadsworth: Go ahead, Jerry.

Jerry McPeak: Thank you. I heard you use the term too, so it has nothing to do with him overseeing any of that cy-près funds?

Sarah Vogel: No.

Tom Vilsack: No, no, no. No.

Jerry McPeak: All right.

Tom Vilsack: The cy-près thing is a complicated situation. I don't know that anybody knew for sure how much money was going to be required to pay claims. You know, you had an estimate, you had a range of claims. It turned out that there were several hundred million dollars left after the claims were paid in full. Then the question is, what do you do with it? And the way it's set up in the settlement agreement, plaintiff's counsel has quite a bit of say, as I understand it, in how that money is to be used. We have some thoughts but our thoughts aren't necessarily persuasive or even relevant.

If I were in the shoes of the plaintiff's counsel, I would want to make sure that the structure of those resources was something that would hold people accountable for the appropriate use of the resources and that you wouldn't have a circumstance five years from now or 10 years from now, somebody comes back and say, "Look at all how much this money was wasted or not used properly," and that you had a legal structure and an accounting structure and a formal structure that would ensure that every

dollar that was being spent was wisely spent to encourage better understanding and better utilization of programs by Native Americans within USDA, and for that matter, other agencies that are involved with Native American.

Mark Wadsworth: If I may, Mr. Secretary, I'd kind of just mention an issue that I think affects tribes with major land masses, especially in agricultural and the range land portion of it. My reservation, we manage close to 330,000 acres a year, we have about 9000 heads of cattle out there. We had a fire not this year but the year before, and the funding is very limited within the Department of the Interior for BAER or burned area reclamation funding and actually set aside a portion of that through the BIA BAER program which is even smaller than the DOI. Now, the Forest Service also has BAER funding. And actually, the way the forest situation usually runs is that in the southwest, fires occur a lot sooner than they do in the northwest region. So, by the time that fires occur within the northwest regions, the money is pretty much dished out on a first-come, first-serve basis in order of priority. And by the time my funding last year, we had another serious fire season, we're going to have another one this year, there was no funding left over for the burned area reclamation for tribes to apply to through the Bureau of Indian Affairs.

When I went to the Forest Service BAER training back in 2009 and I went through the Forest Service and DOI training, I think I got the same answer that we used to get with our farm lending program. I said, you know, "Hey, would it be all right if we applied through Forest Service for this BAER funding?" And he says, "Well, I don't know. You talk to DOI." Well, then, when I talked ahead at DOI, they said, "No. You talk to BIA." So, I think that if we could open up this funding aspect in this area, we would go to address this issue. Maybe it's been solved since 2009, I'm unaware of that.

Tom Vilsack: Well, I think your question raises two issues, and that is -- well, actually three issues: one, the equitable distribution of resources; two, when one department has resources and one department doesn't but they have the same mission, is there any opportunity; and then three, the adequacy of funding generally. And so, let me try to address as best as I can all three issues.

Let me start with the adequacy of funding, because at the end of the day that drives the first two concerns. Because if you had adequate funding, you might not have the situation where money's been utilized before the fire season hits the northwest or wherever, and if you had adequate funding, you would likely have sufficient resources in all departments so that you

wouldn't have this situation where one's out of money, one has excess money.

The reason that we are challenged is two-fold. One is the nature of what's happening in Congress, which I think all of you know. Congress is very much focused on reducing the overall federal budget method. They've used sequester, they've used the Budget Control Act, they've basically substantially reduced some budgets. Within the overall federal government, Congress has a willingness to put more resources in, say, the Defense Department and in Veterans Affairs, and I certainly don't dispute Congress' decision especially as it relates to Veterans Affairs. But when they do that and their overall goal is to reduce funding, it puts a disproportionate challenge on the rest of the federal government to absorb those funding cuts. So, those funding cuts are not equitably distributed among all agencies.

Now, with sequester, they are and there is a lot of angst about that. So, one thing would be for Congress to understand that they're not going to balance the budget or reduce the deficit by simply ratcheting down discretionary spending. They really do have to get serious about entitlements and they have to get serious about revenue. And if they got serious about both revenue and entitlements, it would take the pressure off

the discretionary budget and you wouldn't have as many cuts or you might actually have increases in certain areas.

The second issue with budgets is within the USDA budget, that same situation occurs, because 50 percent of the USDA budget, discretionary budget, is in four-lined items. It's in Women, Infants, and Children Funding, nutrition assistance; it's in food safety; it's in research; and it's in fire suppression. Not remediation or prevention but suppression. The more intense these fires become, the more expensive they are to put out and the more money we use and the more money we take from other parts of the Forest Service budget and from other parts of the USDA budget to basically pay for these four times.

So, 50 percent of the budget is in those items. When I started as secretary, it was 45 percent. So, we've seen increases in those line items. Our overall discretionary budget is \$1 billion below what it was when I became secretary. So, that means the other 50 percent which includes the BAER account and Forest Service accounts, one is Farm Service Agency account. Those other 50 percent have to bear a disproportionate reduction. So, you've got a problem with the overall federal budget and you've got a problem within the USDA budget. Now, we're going to try over time to correct that. And one of the things we're going to do and one of the things that I'm confident we're going to correct it is that I've sent a letter

to the president and I've said, "Look, fires are handled within our discretionary budget. Why are fires, especially those that are started by lightning strikes, why are those fires treated differently than every other natural disaster that we have in this country? If you've got a tornado or you've got a flood or you've got some kind of huge storm, FEMA comes in, emergency money is available, supplemental appropriations are passed, people get taken care of. But fires get fought within the existing discretionary budget. You can't do that." And he agreed. And so, I think you're going to see us basically propose a different way of funding at least a portion of those fires which will take the pressure off the overall budget.

Now, secondly, when you take that pressure off, you should be doing two things with it, within the Forest Service. One, you should preserve and increase the amount of prevention resources taking wood out of -- the fuel mix out of out of the forest so these fires aren't as intense and, therefore, isn't as expensive to fight. And two, you ought to make sure that you've got adequate resources in the BAER account to be able to deal with the fire season in its entirety and not put some folks at greater risk that their streams are going to be contaminated or their villages or towns or settlements are going to be hit hard with a flood that occurs after a forest fire.

So, within the Forest Service budget, I can assure you that we're going to try to take some pressure and try to maintain adequate resources in that BAER account, and we are now quite conscious of the importance of that account, especially given some of the fires that we've had this year and some of the water supplies that are absolutely now threatened by virtue of these intense forest fires.

I can't offer you as much hope in the issue of being able to transfer resources from the Forest Service to the BIA or to the Department of the Interior because we can't do that. I mean, Congress does that. I can transfer money inside USDA inside the Forest Service budget, I don't have the power to transfer money to a sister agency. Only Congress can do that. So, the goal here would be for us to deal with that first issue of entitlements versus discretionary funding to make sure the Department of the Interior has adequate resources in their BAER account and that they're conscious of the need to more equitably distribute those resources. And if Congress gets serious about both entitlements and revenue, that should take some pressure off the discretionary budget.

The last thing I would say is when they take on entitlements, they take on a large universe of citizens that are impacted by Medicare, Medicaid, Social Security. When they take money out of the BAER account, they affect a small -- I mean, in

comparison, a small group of people, right? So, if you're in politics and you're a politician, you go, "I can make a whole bunch of people mad or I can make a small number of people mad." So, all those constantly are saying, "Well, make a small group of people mad." But they've gotten to the point where they can't continue to put pressure on the discretionary budget because now they've made so many small groups of people mad they've got a whole lot of people mad. So, hopefully, we will see some change. But that's a great question and you're right to focus on the BAER account because a lot of people do not realize that forest fires are two natural disasters. There's the fire and then there's the aftermath if you don't do a proper job of conservation and prevention of flooding. It can be very devastating.

Mark Wadsworth: Yes, Gilbert Harrison?

Gilbert Harrison: Thank you very much, Mark. Mr. Secretary, I have got a couple of comments and one question.

As I -- we're from the Navajo Reservation and we have a small farm, I mean, we're mom-and-pop operation, very small individual operations. One of the things we see is a lack of what I call next generation of farmers and ranchers. Many of our younger kids on the reservation prefer to go off reservation and brain drain, and they prefer to text and do all those things, because farming and ranching is really hard work. But

we need to take care of the land. And, who takes care of the land? The farmers and the ranchers. So, the question is, how can we make farming and ranching attractive to younger generation? How do we get them back to take care of the land? I think that's one question that not only a Navajo Nation, my own community, but overall. I guess that's a question that sometimes I say, "How do we do that?" I think, because -- well, farmers and ranchers provide most of the food for the rest of the nation, but I think that's one area that -- I'd like to see USDA address this, how do we make farming attractive, not only at the corporate level but at the mom-and-pop level.

So, the second one is we talk about horse slaughter. When you say slaughter, people think you're just going to go out and shoot. No. But I think maybe the thing to say is horse harvest or something. That's the same thing but a little less traumatic. And my wife is here and I'm here. We are directly affected by the wild horse population, because under reservation, we have open range; during the summer, we'd go up the mountain and we take our livestock up the mountain. Guess what? Down below, open range, all wild horses come and decimate our vegetation. When come back off the mountains, there's no vegetation for our livestock. In the meantime, the horses go back up the mountain. Now, they're decimating the vegetation up there. So, I think this horse harvest or horse slaughter is a

serious business to people that are trying to utilize the land in an efficient way. And I think, I for one do support it in a sense that we have to do something, and I wanted to let you know that that is a serious question, it is controversial, but I think the horse factories are maybe one solution, because I understand the United States government spends millions and millions of dollars in holding pens for these horses. So, to me, I think those are some serious questions. I just wanted to make those comments, maybe share my feelings with you. Thank you very much.

Tom Vilsack: I appreciate both your comments and your question. You've asked also a very, very important question as it relates to the next generation of farmers. And it isn't just limited to your young men and women. It's basically America's young men and women as well. We have an issue with trying to attract the next generation to farming.

I'm going to give you a long answer to your question because it's a very complicated question and I apologize if this is too long for anybody but I hope that you will get the idea that I thought about this.

First of all -- and these aren't necessarily aren't in priority but they're all part of the issue. Part of the problem is how we message and how we talk about agriculture. When I talk to farmers, here is what I hear almost invariably: Number

one, it's really hard work. Really hard work. Number two, farmers are overregulated by the government. Too many regulations make it hard for us to make a living. And number three, we're also taxed extensively and unfairly. So, when you're talking to your young people, you mean farmers, and you say to them, "I want you to be part of an opportunity where you're going to work like hell, you're going to be regulated to hell, and you're going to be taxed as if you were in hell," what do you expect? You would expect people to go, "Well, you know what, I think I'm going to be an accountant, or whatever."

So, I think, first and foremost, we have got to talk about agriculture, farming, ranching, tending the land, caring for the land in different terms that emphasizes the significance of it to the country as a whole. So, when I talk about farming, I talk about the fact that we're a food secure nation. There is virtually no other nation on earth that has the capacity to produce everything it needs to feed its own people. People talk about China and the rising economy in China; they have 60 million farmers, we have 2.3 million farmers. They can't anywhere near produce what they need for their people with 60 million farmers. We produce everything we need and 25 to 30 percent of what they need from our small group of farmers. And when you realize that of that 2.3 million farmers, 33,000

farming operations produce 50 percent of what we grow, we've become an extraordinarily efficient operation here.

So, A, we make America safer by what we do on the land because we don't have to worry at the end of the day if all heck breaks loose where our food's going to come from. China does not have that security, and virtually no other nation on earth has that security.

Secondly, we walk out of the grocery store and we've got a heck of a lot more in our pocket from our paychecks than anybody else in the world because of the way in which we can process and package and sell food. So, now, we have great diversity and access to everything we need, but we only spend depending upon the year anywhere from six to 10 percent of our paychecks for food. That means we have, compared to other developed countries, we have a 15 to 20 percent more of our paycheck than other people have of their paychecks when they get out of their grocery stores, which means we can go buy a whole bunch of other stuff. And as we buy a whole bunch of other stuff, we employ a lot of people. So, agriculture is critical to the economy of the country and creates enormous capacity for you to have a nicer and better life, a nicer car, a bigger home, a nicer vacation, money for college, retirement, because you spend less on food. We don't talk about that.

And then, third, as we deal with the changing climate and we have all of these storms and rising sea levels and this and that, most of what's going to happen, both proactively and reactively, to deal with that is going to happen in the rural areas of this country, from renewable energy generation to carbon sequestration that takes place in the land. So, if you are a young person and you want to have an impact and you're concerned about the environment, there's no better place, no better place and no better opportunity than farming. That should be part of the message.

And then the last thing, if you are someone who cares about humankind, then you should be someone who's deeply concerned about what's going to take place in the next 50 years as world populations increase and agricultural production, if it doesn't increase dramatically, we're going to have food wars, we're going to have water wars. And I'll tell you, if we think the world's dangerous today and it is, it's going to be more far more dangerous in the future. So, you as a farmer and a rancher in this country have a chance to make the world a safer place and have a chance to make sure that children all over the world are fed, not just in America. That's a moral call. So, you start selling agriculture that way, that's part of it.

Second part is that USDA needs to continue to do a better job of supporting beginning farmer and rancher programs that

really do the job of showing people how they can get into the business, that that it doesn't necessarily always have to be some kid who was raised on a farm for them to be attracted to the farm. There are probably a lot of kids in small towns and on reservations whose parents aren't farmers but who, for any one of those reasons I just articulated, could be drawn to farming but they go, "How do I do this? If I want to be a lawyer, I know I go to law school. If I want to be a doctor, I go to medical school. I want to be an accountant, I take accounting class. I want to be a farmer, what do I do?" So, the beginning farmer-rancher program to the extent we can make them more effective, we'll sit down with that young person and say, "You know, it's not hard as you might think. Here is what you need to have. What do you want to grow? Why do you want to grow it? Where do you think you can sell it? Here is how you grow it. Here is what you need. Here is the amount of money that you're going to have to have. And here is a source to obtain that money to be able to put that crop in the ground, and here is the technical assistance at that university, that land-grant university, that tribal college that will help you." We need more of that.

The third thing we need is we need new market opportunities. We can't have these beginning farmers always competing in a commodity market orientation. You talked about

large-scale agriculture; you know what, they compete in the Chicago Board of Trade, in a commodity environment where it is all about quantity. The more you grow, the better off you're going to be theoretically, because you can sell more and whatever the price is, you're going to be okay.

Many beginning farmers don't have the capacity to be that large that quickly, so we have got to develop smaller market opportunities where you're not selling to a large elevator or to a commodity-based system but you're selling directly to your consumer. You're looking your consumer in the eyeball and saying, "Here is what I've produced for you and here is the price I'm going to charge you." And it's a direct relationship, no third, fourth, fifth middle man, no cost associated with all of that, no real transportation expense. I'm dealing directly with you and you're not too far from where I grow wherever I'm growing. That's why we've put a lot of time and effort in the Know Your Farmer effort to help create programs that will help generate these new market opportunities, expansion of farmers markets, 50 percent increase in farmers markets since I've been secretary. Food hubs, the ability of those who locally grow to aggregate what they grow so they can sell directly to a grocery store or an institutional purchaser. We've helped to finance 220 of those food hubs, dramatic increase from when I became secretary.

Going out to schools and institutional purchasers and saying, "Hey, are you even aware when you're purchasing food for your students, are you even aware of what is grown and raised in your region? Well, if you were, would you be interested in doing direct sales with your farmers to keep the wealth that's generated in the community in the community as opposed to writing that check from the school board that goes a thousand miles away that brings processed food into your kitchen? Why not write that check to a local farmer who takes it, comes down, puts it in his checking account, writes a check to the local hardware store, local hardware store writes a check to the local restaurant, local restaurant owner writes a check to the clothing store, the clothing store operator goes -- all of sudden just circulates around the economy." And that's why we've really put a large emphasis on Know Your Farmer. Now, we have 107,000 farming operations that are selling either directly to a consumer or to a grocery store that sells regionally and markets regional or local production. That's 107,000 operations, \$4 billion to \$5 billion in sales; it's one of the fastest growing aspects of agriculture. That seems to me to be the way in which these young people can enter.

We created a microloan program that Juan's team operates. I'm proud to say that two-thirds of the over 3300 loans that we've done in that program since the beginning of the year have

gone to beginning farmers and socially disadvantaged producers. That's going to continue, and we're going to continue to have a major emphasis. And we're also going to emphasize more assistance directly for women. Because one of the fastest growing aspects of agriculture, the way that you might be able to attract that next generation may not always be guys, it may be young women.

So, we are focused on this issue. We are doing everything we can to create markets, to create credit opportunities, to create beginning farmer program that's relevant, and also to encourage a different messaging about agriculture.

Gilbert Harrison: Thank you.

Mark Wadsworth: And I believe Mary and then Michael?

Mary Thompson: Okay. Thank you, Secretary Vilsack, for coming and talking with us about your priorities and some of the programs that have been evolved in your administration. And I really like that you've looked to invest some of that money in Indian country, focusing on outreach, that's been a major concern of ours. Consultation is always an issue or something that we can work better on and get the word out. Because as you were talking about marketing and branding agriculture to the public that would help beginning farmers, youth, and women in agriculture, we need that so bad, because -- and then get the public aware of everything. I'm glad that Mark touched on

equitable distribution and adequate funding because that's always a major issue with us in Indian country. And Gilbert touched on the small farmers and their issues and hardships. And I'm from Cherokee North Carolina, from southeast, we're small farmers, we're not big ranchers, and so, it's good to know that we're remembered in all this process too, the small farmers, because that's where you're going to get your beginning farmers and your youth and your women, but they really need that push.

My concern and hope that you might be able to help us with some of these things, because even with the large farms, the ranchers, and the small farms, we seem to have issues with a program outside of the USDA, and maybe you could assist us with better communication so that we can resolve issues such as land leases, contracts, jurisdiction, and I'm talking about the BIA. We would like to have a better collaborative relationship with the BIA. We would like to have better communications with the BIA. We invite them to participate but they are a component of an issue that we all deal with: small farmers, [indiscernible] ranchers. And I don't know where you can assist us with this, but any way that you can help us better communicate and collaborate with the BIA, the Department of the Interior, that would help us, I think. So, hopefully we can get more funding, more programs down to, I guess, grassroots, the little farmer,

even and including your FRTEP agents and your cooperative extension. Because I feel like that is a major resource in our area, and we have problems. Yes, they all relate back to the funding and the legislation and issues up here in Congress and in the House, but it affects us on the lower level, and any assistance and attention that you can give us there will be appreciated. Thank you.

Tom Vilsack: Well, you've raised a couple of really important issues. Let me start with the equitable distribution comment. You know, one of the purposes of StrikeForce was a recognition that we weren't equitably distributing resources, that we were only distributing resources to people who knew how to play the game. And the people who knew how to play the game are not often those areas of persistent poverty. The folks who live in areas of persistent poverty have tried to play the game and they probably didn't succeed, got discouraged or weren't encouraged and basically have sort of given up. And that is perfectly understandable. So, StrikeForce basically says we are going to put together a team within USDA of all agencies that we have relevance. In other words, Juan's agency is part of StrikeForce, NRCS is part of StrikeForce, rural development is part of StrikeForce, and maybe to a certain extent, Forest Service is part of StrikeForce. We put a team of our people,

interdepartmental team together and we have them basically commit to these persistently poor areas.

Now, the last thing those persistently poor areas need is for a team of USDA people to come in and say, "We're from the government and we're here to help," because frankly people are going to go, "Sure. Heard that before. Been there, done that." So, our effort is to suggest, "No, you need to align yourself with someone who has credibility in the community." It could be a tribe, it could be a cooperative, it could be a non-profit organization. And we work collaboratively with that entity to identify major challenges that a community has and then try to line up projects that would address some of those challenges and ensure success. With that, people learn how to play the game, they develop relationships with folks who are making decisions, and it becomes a little easier. And our people are forced out of their comfort zone of doing business with people they've always done business with where it's easy to really focusing on some of the more challenging areas and frankly some of the more creative opportunities.

And we've seen in the states that we've had StrikeForce an increase in farm loans, an increase in conservation, an increase in rural development assistance. So, we know it works. So, that's number one. Number two -- and that will, basically over time, ensure that resources are going equitably.

The second thing we did was to say we want to keep track of this. We don't just want Juan to come in and say, "Trust me, Mr. Secretary. We're on this. We're doing what you asked us to do." And particularly in rural development, because they have a lot of opportunities to help. So, we've created a program we call "20 by 20 by 2016," and that's basically ensuring that 20 percent of all of our rural development resources are invested annually in 20 percent of the counties that have a census track where the poverty rate is 20 percent or more. So, in other words, it's guaranteeing a certain minimum level of investment in those areas that are persistently poor, and we want to accomplish that by 2016. Now, we did have -- when we started this, it was "15 by 15 by '45" -- 15 percent in 15 percent of the counties that had school lunch participation rates of 45 percent free and reduced rates of 45 percent. But we actually accomplished that goal in the first year, so it was obviously too easy, so we set the "20 by 20 by 2016" goal. And I can tell you that last year, we -- 16.7 percent of rural development resources were in those counties that had a census track of 20 percent of poverty or greater. So, we are moving to create greater equity, and we are creating a mechanism through StrikeForce to ensure that.

Secondly, I will be happy, and I'm sure Leslie will be as well, to convey to our friends and our sister agency at the

Department of the Interior the concerns that you are expressing here about better collaborative effort with BIA and a better relationship. I think the White House Council that was established to address tribal issues creates a great venue for Leslie who is, sort of, our point person there and for me as a secretary to be able to communicate that message, and hopefully over time, you'll see improvements in that relationship. I've talked to Secretary Jewell, and I know her to be someone who's very, very interested in making sure that that relationship is stronger and continues to improve. So, you have my assurance that I will communicate that to her today via e-mail, and Leslie will communicate it through the channels of the White House Council. And the other opportunity would be through the Rural Council which I chair where we can also convey that message and reinforce that message.

On the issue of cooperative extension, your points are absolutely well taken. And again, if I were in charge of the world and if I had some control over the cy-près funds, one of the things I would do is I would make sure that some of that resource was directed towards making sure that, in Indian country, there was as active an extension program as there needed to be. That's what I would do. I don't have control over this, I'm just saying what I would do, but that seems to me to be a way -- you've got \$300-something million, so a portion

of that could go a long way to addressing and starting to address the extension issue in addition to our need to do a better job.

And I would say that as we deal with difficult budgets, I've challenged our team, not necessarily to use that always as an excuse, because you fund your priorities, number one, and number two, maybe we ought to be thinking about more creative ways to use the resources we have. Or number three, maybe we ought to be figuring out how to encourage those who do have money outside of government to understand and appreciate the opportunities that exist in rural areas. So, we have created a program with the benefit of a fellow who's working at USDA for a dollar a year -- he comes from the corporate world and he'd done all that and been there and done that and wants to give something back, and he knows the players, and he's reaching out to investment bankers and others to try to stretch the dollars we have. Because if we can get an investment banker to invest in a rural water project that we would otherwise invest in, that will free up the resources that we would otherwise use for that project for maybe a project that that investment banker couldn't get interested in because the payoff isn't as great. We don't have to make a profit; we just have to get the water project funded. And again, the more dollars we have, whether it's

government dollars or private dollars, the more projects we can do.

Mark Wadsworth: We have time for just one more question, and Michael will take that, and then we'll have a group picture right after.

Michael Jandreau: Thank you, Mr. Secretary, for being here today.

One of the questions that I would like to ask, and it kind of follows up with Gilbert's question in relationship to the young people,. On our reservation currently, we own or control about 95 or 85 percent of the land that exist there. Of that, we utilize -- about 99 percent of it is utilized by either members of the tribe itself and agricultural production. Adjacent to us is a part of our former reservations, which is currently known as grasslands. And under that process, it's managed by the Department of Ag, and we've met several times with the folks out of Fort Pierre who are the managers in that and discussed with them possibilities of co-management or the return of those lands to us that are there, because of the 175,000 acres that were taken in 1905, approximately 135,000 of that are still under federal ownership. We see, as Gilbert has pointed out, the necessity to get young people involved. And with our growing population, the opportunities just aren't there, because we're primarily cattle ranchers and small-time

farmers, we don't do a lot of big farming except with the corporation that we do many things with, running cattle and irrigating and things of that nature. We see the grasslands, the opportunity to really grow agriculture even further and to really put our people into a situation where they're more self-sustaining.

We know that that land currently is being leased primarily to non-tribal members at a rate even lower than we charge our own members, and we know that many of the tribes in South Dakota are affected the same way. There are grasslands adjacent to their reservations and at least three or four of the other major reservations that are in South Dakota. Those lands were a part of our nation, a part of our existence. Having them separated creates even a greater hardship for us because access to sacred sites and to the utilization of that in the conservation mechanism that we apply on our own reservation, we're not able to participate to a real great degree. Again, it's not because the folks won't work with us, because they do work with us very well.

Tom Vilsack: Well, I need to look into this issue because I'm not familiar with the specifics of what it would take, which I imagine would be pretty significant to transfer the land, but when you tell me that it's being leased to non-tribe members for a rental rate that's less than what you would be charging, that

leads me to believe that there is something we need to look into, because you at least ought to have access to that land, if not ownership, on a lease basis, so that you could use it.

Michael Jandreau: But we do rent with one of our farms a little bit of a segment, about 1100 acres.

Tom Vilsack: But aren't you telling me that the rest of this 135,000 acres is leased out to a bunch of other folks who aren't related to the tribe, right?

Michael Jandreau: Right.

Tom Vilsack: And some of those lease arrangements generate less revenue than you're generating?

Michael Jandreau: Yes. And it's almost grown to be like an ownership thing. They own a piece of deeded land, and they rent these huge allotments, and there's not really very much of an opportunity to go in and even bid on.

Tom Vilsack: Well, I'm happy to look into this. And since I can't address it specifically, let me address it sort of generally. I think part of the challenge for us in terms of the management of the lands that we have access to is figuring out precisely what the priority use of that land is. Is it to generate the highest and best return? I suspect that in many cases, that's what it is.

Michael Jandreau: [Indiscernible].

Tom Vilsack: But should it be? And maybe it would be better use of the land, federally owned, if a portion of it were used primarily to promote beginning farmers and ranchers or returning veterans who want to get started in farming. So, we've started this in a very small way with ARS labs, research labs that were closing because they're obsolete or budget challenges; often they're surrounded by thousands of acres of land. And the way this works is we are required by statute to give that land in essence to a land-grant university and to give the buildings and so forth to land-grant university, and to do it with virtually no charge to the land-grant universities, it's a heck of a deal, with no strings.

And I'm saying, you know what, why don't we create some responsibility on the part of land grants to use that land for beginning farmers and ranchers and not have them lease it out to John Doe over here who's capable of paying cash rent that wipes anybody else out from being able to compete for that land, see that as if we have to transfer the land, that there is some restriction on the use of it? And we actually have gotten a couple of land-grant universities in the southeast to actually be attracted to that notion. So, we're beginning to change the philosophy a bit. Now, we're not anywhere near where you'd like us to be, but, Leslie, we need to think about this. And there may be a creative way for us, I don't know. I don't want to

overpromise this but I will look at it, because I think you raised a very good point. Joe, you had your hand up, and I don't know if you -- do you want to make sure you --

Joe Leonard: I wanted to have a follow-up to Ms. Thompson's question. We had the discussion earlier on the StrikeForce; what they were saying is that we may have the best intentions with StrikeForce, but BIA's regulations are somewhat blocking our efforts, and if we can somehow work with BIA a bit better so that we can help BIA enhance what they're doing in StrikeForce counties. I think you and I saw the [indiscernible] irrigation that went on New Mexico with FSA, NRCS, and this goes back to what the gentleman, was saying, there are certain places in the country in which the personality of the BIA person is amenable to something like that and there are other places that are much staunchly against it and they're impeding StrikeForce of getting into the states [cross-talking] very helpful.

Tom Vilsack: That's good to know. Okay. Great.

Well, I appreciate your time and very much appreciate your willingness to work on this. We're going to continue to work on these issues and continue to try to live up to the responsibilities we have in recognizing that --

Gilbert Harrison: Mr. Secretary, I have a gift for you if you don't mind.

Tom Vilsack: Well, I almost never mind getting a gift.

Gilbert Harrison: As you know, the council has been tasked to recommend to you strike through, cross-out, delete barriers that have been a pain in the butt for us for many years. This is pen from the Navajo Nation, seal here. You are authorized to use that [indiscernible]. Thank you.

Tom Vilsack: My youngest son, Doug, is working with areas in the Navajo. There are areas in this country where there is no electricity, and he's working with lights, the solar-powered lights, trying to get lights [indiscernible].

Gilbert Harrison: [Indiscernible].

Jerry McPeak: Council, we want to get you guys in front of this.

[Break]

Porter Holder: Mr. Chairman, we can break for lunch at this time, if you'd like to.

Male Voice: Yes.

Porter Holder: Okay. So, let's break it until 1:30.

Male Voice: What time is it now?

Porter Holder: It's 12.

Male Voice: Back at 1:30.

Porter Holder: So, everyone, there is a restaurant here at the ground level and there's also a food court down below that has a number of items for you guys. So, we're break until 1:30. Thank you. [End of transcript]

**Council for Native American Farming and Ranching  
Monday, September 09, 2013 – Afternoon Session  
Washington, DC**

**Farm Service Agency and Rural Development: National Environment  
Policy Act Regulation and Review**

Mark Wadsworth: We're going to go ahead and go back on to the agenda schedule here. We really appreciate the secretary who has his speech. I want to look harder on 101 in-depth. We really appreciate it. We're going to go ahead and go to the Farm Service Agency and Rural Development: National Environment Policy Act Regulation and Review. I'd like to introduce Nell Fuller with FSA.

Nell Fuller: I'm Nell Fuller with FSA, and this is my counterpart with rural developments.

Jerry McPeak: Yes. Your name again, ma'am?

Nell Fuller: Nell Fuller, N-e-l-l. Last name F-u-l-l-e-r. I'm the National Environmental Compliance manager for the Farm Service Agency. First and foremost, thank you very much for the opportunity to come and speak with you all today. We're going to talk about how we are proposing to change the regulations that we use to implement the National Environmental Policy Act, also known as NEPA. You'll notice on your agenda it says National Environmental Preservation Act. As a NEPA geek such as myself, it's National Environmental Policy Act.

John Lowery: It's on Tab 8 and 9. Tab 8 for FSA, Tab 9 for RD.

Nell Fuller: Thank you, John. So just to be clear about what our acronyms are: NEPA - National Environmental Policy Act.

Jerry McPeak: I'm glad you brought the acronyms. Because I read this thing last night, ma'am, and it sure is good that you describe what they are before we have the final pay [sounds like] time and go back. I mean, you have to go back. But this is like cadex or how do you say it?

Nell Fuller: Cadex, that's correct.

Jerry McPeak: Anyhow, that's interesting. But if you can kind of keep that broken down, that's really good.

Nell Fuller: Absolutely, I have it up here that I will define all of my acronyms before and after I use them. So NEPA, what is NEPA? For those of you that don't know, NEPA is essentially a national law that says all federal agencies will evaluate the impacts of their federal actions. The federal actions are defined as anything that the federal government funds, permits, authorizes, or otherwise controls. So for any federal action, we've got to evaluate the alternatives to whatever it is we're proposing to do. We've got to evaluate the impacts not only of what we're proposing to do, but also of any potential alternatives that exist. Then we also have to look at any mitigation measures that might reduce the level of impact

that we're having. Built on top of that is the requirement to actively engage tribal and public involvement in the decision-making process.

The National Environmental Policy Act was originally passed in 1969, and it was enacted in 1970. So what is that? Forty-three years. The Farm Service Agency has not revised their NEPA procedures in 30 years. That's kind of a long time for any individual agency to not go back and amend at least slightly their NEPA procedures. Additionally, not just the fact that they're 30 years old, FSA has two separate programs, two separate business areas that it manages. The first is farm programs, and the second is farm loan programs. Farm loan programs, those are our conservation programs primarily such as the Conservation Reserve Program - CRP. You've probably heard of some of our emergency programs: Emergency Conservation Program which is ECP; the Emergency Forestry Restoration Program which is EFRP; and then we've got voluntary public access and have a tenant incentive programs, and Biomass Crop Assistance Program, which is BCAP for those of you that are familiar with the acronyms.

For our federal loan programs, essentially we handle the full range of loan activities. We deal with direct loans and operating loans, emergency loans, youth loans, micro-loans like

we heard this morning, as well as new and beginning farmer loans.

FSA has both of those business areas. To date, both of those business areas operate under completely separate NEPA regulations. One is under 7 CFR 799. CFR is Code of Federal Regulations. It's where all federal rules are published. So one is published at 799, and the other is published in 1940. They don't speak to one another whatsoever, so that has resulted in an agency that has a confused, at best, NEPA process. It's a disparity. It leads to countless hours of work with our field to try to clarify what the rules are because not only are they confusing and different depending on who you're talking to and what program you're talking about, they're also different from one another merely in fact that it's 799 and 1940. So unnecessary confusion, inconsistencies, and inefficiencies. For all of those reasons, we're proposing to amend our NEPA regulations at this time.

You were sent the preamble, and I understand this is in your binder. Is that correct? Is that what you're referring to? Okay, so you have that and that essentially outlines our proposed changes provided you can get through the acronyms to understand what we're saying. I apologize. I didn't write the preamble just to put that out there. Essentially, the changes in short are these. We're consolidating all of FSA's NEPA

regulations into a single unified rule, so it will be the new and improved 7 CFR 799. That will be our new regulation provided this goes forward as proposed.

We're also adding a number of new categorical exclusions. Those are cadexes as you mentioned before, Jerry. What cadexes are is they are essentially classes of actions that FSA has determined that through much research and documentation that they will not have significant impacts on the environment either individually or cumulatively. What that means from a NEPA perspective, it means your compliance process can potentially take you about 30 minutes. Why that's important is because the NEPA compliance process can go anywhere from a 30-minute process to, say, a 30-month process. So your range of workload and timeframe that are involved in making those decisions can be enormous. The fact that we are breaking down our actions and clarifying to provide more categorical exclusions, that's going to mean our environmental process is going to go much more quickly and much more efficiently from that perspective.

Additionally, we are formalizing into law or codifying the FSA and NHPA process into our NEPA process. That is part of these proposed changes because as written, NHPA is not currently regulatorily integrated into our NEPA process. For you all, these changes they don't affect enrollment into any of our programs. They don't affect eligibility into any of our

programs. Essentially, all they're doing is making the NEPA process more efficient for everyone involved. Private land owners and individual farmer, you're not going to want to come to FSA and find out that we've got to work for six months on a NEPA document before we can even say yes or no to you.

Hopefully, these changes that we're proposing are making the environmental compliance process better for everyone that's involved. And we're making it far more transparent for everyone that's involved.

Beyond formalizing our NHPA process into the NEPA process, and as I said, making our NEPA process more efficient, we don't expect that these regulations will have any impacts to tribes. Through this discussion here today, we're starting the future consultation process which we would do for any time we go in and tinker with regulations. We would, of course, have a consultation process. That was part of sending you the preamble. Like I said, we're kick-starting it here and then on November 6th we'd begin actual formal government-to-government consultation on these proposed changes with the tribes. We have a set webinar conference call established for November 6th, like I said to start that government-to-government consultation to make sure that all the impacts from tribes are heard and incorporated before the document goes out to the public which we are hoping we can pull off by December of this year. So we are

engaging the tribes well before the document is expected to go out to the public.

We are doing this process jointly with Rural Development primarily because you heard me mention that FSA right now works under two different operating regulations, and 7 CFR 1940 is one of those regulations. RD also operates under 1940, and we are both planning on doing away with 1940, so it will become obsolete. What we're doing is relatively similar in nature, so we decided that we would combine our effort to do government-to-government consultation for those reasons, for those efficiencies. You've got the preamble and, again, that's the discussion that we will be having on November 6<sup>th</sup>, that is what's your feedback.

Without any further ado, I will introduce Rich Fristik from RD who will talk about their process. Yes, sir, absolutely.

Male Voice: One thing that happens when things are being simplified up here at the national level, normally when you get down to the field level it basically increases what we knew and somehow we got to simplify something here and make sure that the word gets down to the lower level - the word simplification. It really does because we have the federal level, the state level, the tribal level, the local level, and everybody sort of says, hey, another page. It really does impact what we do because I have yet to see a 30-minute process. If you can do that, I will

buy you a cup of coffee. I'm serious about that because it really does. We need to make sure that the words simplify and expedited are really stressed because the actual product itself is not only time but expense there. Keep that in mind. Thank you very much.

Nell Fuller: Absolutely. And that is one of our main motivations here really - was to make it simple not just for us up here - was to make it simpler for the field. That's one of the main reasons for those additional categorical exclusions. That will make it easier for us to communicate with the field what their responsibilities are, and it'll make it easier for the field to make that decision on the spot and move forward.

Male Voice: Thank you.

Nell Fuller: Ben, do you have anything to add?

Ben: Yes. My name is Ben Wood [phonetic]. I'm also with FSA. I'm the federal preservation officer. I worked with Nell to help create this new document. You're talking about making it more efficient, we actually did. In 1940, we had these Class 1 EA's that had to be done with Class 2's. With the farm programs, we had about five or eight sheet what we call the FSA-850 which is an environmental review sheet. Now we're getting rid of all of that and just having one page for both programs. No matter what you're doing, it's just one page, fill it out at the field level and that's it. So we're actually very much

simplifying those Class 1's, Class 2's, and 850's. We're getting rid of all that and just having one page to be filled out.

Male Voice: Ben, could you give an example of how this is going to simplify on a particular practice like an emergency conservation program practice? It's going to simplify the work at the field level because right now it's just horrendous. I think for the farm loan program or conservation program, it's going to really help out.

Ben: Especially with the farm loans I think because they have the Class 1's and the Class 2 EAs, which were very confusing. Chris can probably get more into the details of those.

Gilbert Harrison: One of the issues we have is let's say a particular farm or a particular ranch has been in operation for decades, now you can get a loan on some improvement, now you're required to do an environmental. After all these years it's sort of, I guess, the question is, it doesn't make sense out in the field like particularly here in the farming business. You cultivate it. You've got irrigation systems. You get your fencing system. It's been there for decades and now you want to do some improvements, now you've got to do the NEPA compliant thing and all that. These are what I'm talking about. Thank you.

Nell Fuller: That is one of the reasons that we specifically for emergencies, for example, we have a new categorical exclusion that's specific for emergencies which is exactly that. It's an emergency, we need to act. Do the situations fall into this category? Yes, yes, go.

Ben: We make it more simple, too. We even have it in there where if it's already cultivated land, you're just going to do something and not disturb below. Whatever that present problem is, you're done. No more even needs to be done. Just check that off.

Male Voice: Thank you.

Nell Fuller: Yes. And the goal is to not come in and try to do NEPA for everything that you've already done over the last 40 years, it's to come in and do NEPA on a specific and individual project that we're working on. Hopefully, those categorical exclusions will speed up our decision-making process and make it much more straightforward.

Male Voice: Nell, I love the word collaborative. The same form, the same department. Does NRCS have the same form?

Nell Fuller: No.

Male Voice: Why not?

Nell Fuller: Because they are NRCS. They operate under different rules than we do at this time. There are significant overlaps in what we do. When we're in the field, we do

collaborate with them such that if we've got our form they have the capacity to adopt our form. The same is true in reverse. So if they have done their compliance, we can adopt their compliance as our own provided we determine that it's adequate.

Male Voice: Coming from a manager who deals with NEPA constantly in just exactly what Gilbert is talking about, Ben, I started in management about seven years ago. I never heard nothing about NEPA. DIA didn't do NEPA. Nobody did NEPA. All of a sudden we're getting this NEPA language coming and it's been a struggle in some cases. People have all of a sudden used this document because they don't want to see a tank out there as a weapon to prohibit this situation of trying to put into an EA or an EIS.

Nell Fuller: Absolutely, people have used the process.

Male Voice: When we go into those processes, all of a sudden you have to hire expertise and non-biased individuals to do the studies for you. It's affected our wind generation projects. Also, I guess you need to know from the tribes themselves as a part of using our Integrated Resource Management Plan, IRMP, our tribes in particular are looking at developing TEPAs - Tribal Environmental Protection Acts.

Nell Fuller: That's fantastic.

Male Voice: Now, if we go into this language, we would like to have it that it's recognized as your NEPA as our TEPA would. That's just a going concern going on down the road.

Nell Fuller: That's fantastic. We would certainly welcome that process absolutely.

Male Voice: And finally, just exactly what Gilbert would say or has been saying, is that we've been here for centuries. We've had our economic environmental influence or footprint on this land for centuries or thousands of years. Under your classification for NEPA guidelines, could you possibly look into setting that native American-Indian producers under the cultural life way [sounds like] acts aspect language under the NEPA to make farmers and ranchers just as important as fish and plants? That is the equivalent of who we classify ourselves under the cultural life way aspect.

Nell Fuller: From a NEPA perspective?

Male Voice: Yes. I'm going to go to a situation in the Salmon River area where the agricultural producers are Indians and have been over there in a century. They were able to classify them as a cultural life way, to put them just as on a par of protection as fish and wildlife under the economic portions of that.

Nell Fuller: Are you saying that from a NEPA analysis perspective?

Male Voice: Yes.

Nell Fuller: Okay. So you want us to make sure that in our documentation we're talking about not only fish and wildlife, but we're also talking about the cultural resources and the cultural traditional --

Male Voice: We've been farmers for a thousand years.

Nell Fuller: Absolutely. Absolutely. And that is part of -- like I mentioned, we're incorporating NHPA formally into the NEPA process. That will incorporate some of that, but also NEPA itself mandates that we are not just looking at impacts to fish and wildlife. We are looking at impacts to the human environment and cultural resources. Impacts to cultural resources and traditions are most assuredly something we should always, always be looking at. So if you are in a position where you have an entity who is not incorporating that into their NEPA process, that is a fatal flaw of their NEPA process. At FSA, we try to do our utmost to make sure that we are adequately considering not just the environmental impacts, but also the socio-economic impacts and specifically the impacts to cultural resources.

Male Voice: Because when my counsel got a hold of this, an I'm sorry I'll quit after this, the situation has only happened last month. Actually, they prohibited my program to doing anymore work until we actually had this thing hammered out with

the range program. One of the requirements that they wanted from me was to go through the NEPA, which I did the documentation from USDA, to meet DIA standards, met everybody's standards in the world. Now all of a sudden there's another standard put up that's probably going to come from the tribe itself. But in that process, I guess what I was getting at is that the language I wanted in there was that I didn't want to have to do NEPA on maintenance and repair projects. Where was the cutoff coming? Because it would be ridiculous for me to have to do a NEPA document to replace a trough. We do not want to go there is what I'm saying.

Nell Fuller: Again, we don't want to go there anymore than you do. As the person who reviews the majority of these NEPA documents, trust you me, I don't want to have to review anymore of these documents than I absolutely have to. That's one of the main reasons for these new categorical exclusions, it's that so we don't have to go through these cumbersome time-consuming expensive processes on the ground when all we're doing is something like maintenance - upgrading a single facility, the ground, earth is not being disturbed in any way. We've gone to great lengths to talk with the Council on Environmental Quality, who's sort of the watchdog for NEPA for the federal government. We've gone to great lengths to communicate and convince them that these categorical exclusions are appropriate. Ultimately,

they are the ones who approve whether or not they are indeed categorical solutions. We've worked long and hard to try to do exactly what you're proposing, and what Gilbert is proposing also.

Mary Thompson: On the categorical exclusions you're talking about, I'll read that in the language?

Ben: I don't think they're listed in the preamble. They're listed in the actual regulations, which we can't release that yet.

Mary Thompson: Then I specifically request that they be listed in the actual language, the exclusions that you talked about.

Nell Fuller: They are. [Cross-talking]

Ben: The consultation, the actual government-to-government consultation on the 6th November. You will have those before the end to review those, to make comments. As well as probably, I think, we're looking at the middle of October to do an informal consultation with the tribal environmental staff, the tribal preservation officers just to give them a heads up this is coming. We really want you to take a look at this so when we do the government-to-government we can get a much better response and get good comments.

Mary Thompson: Okay. In October.

Ben: Yes, some time. We don't have the date set for that.

Mary Thompson: One last question on the, I guess, the approval process to have all the documentation signed up on. Has that process been simplified also? I don't know. It seems I've heard before you get your signatures and your approvals here and then it goes to regional or state, or it goes up the process, and then lays on someone's desk for a while. It doesn't get a signed off on and it holds up the project.

Nell Fuller: Sure. Again, with categorical exclusions they can make those decisions in the field. They don't have to take those decisions any higher than where they're standing right there.

Mary Thompson: And that's going to be in the month of --

Ben: Yes.

Nell Fuller: You bet. That is a huge component of this.

Male Voice: So there will be basically a line drawn stating somewhere what you can do when you do need your EIS for like a trough or a place you want a trough or fence length as opposed to putting in some retention ponds in a creek bed.

Nell Fuller: You're getting into some stickier issues there when you said in the creek bed.

Male Voice: But it's spelled out in black and white so at least you'll understand and you could know what to do. And then is it going to affect nations as well as reservations, as well

as Rancho Rios [phonetic]. Is the state going to have any involvement once your policies are set?

Nell Fuller: Once our policies are set, the states don't really have any --

Male Voice: Land in trust then. Am I correct?

Nell Fuller: Land in trust then. Ben, can you clarify that?

Ben: What was the question about? Land in trust?

Male Voice: Yes. Once these policies are complete, I'm assuming there's a timeframe left, probably the timeframe's [indiscernible]. Is the state going to have any say on reservations as this policy is going to apply?

Nell Fuller: No.

Ben: Because California's, their NEPA law, they have their own correct?

Nell Fuller: Yes.

Ben: I think there are a couple of other states maybe. Now, I don't know how that works with --

Male Voice: But we're talking federal.

Ben: Right. But if it's federal, you're fine. I mean, once we say as long as it passes ours, you're good.

Male Voice: [Cross-talking] your land in trust, you do not have to deal with the state?

Ben: I wouldn't think so.

Nell Fuller: For NEPA.

Ben: Yes, for NEPA I wouldn't --

Nell Fuller: Yes, let's be clear that we're only talking about NEPA. We're not talking about any additional permitting requirements or anything like that. We're being specific to NEPA. For example, Ben mentioned California where they have CEQA which is the California version of NEPA. In those situations, we would work with California to have a joint document or we would simply adopt theirs provided it met our same standards and our standards that are going to be written down in this policy and not tweakable by any state entities.

Jerry McPeak: Nell, first, thank you for that information. Probably if we got the people out in the field that had your attitude as well as your enthusiasm and looks, I think, this thing works a lot better. For you folks who are wanting specifics having come from writing things for the government, if I think I'm going to have good people making decisions, I don't want it too specific. I want them to be able to make good decisions to allow me to do things. Our problem is that we have people who don't sometimes, and so that creates a response that [sounds like]. I guess, for you folks who are asking for exact things, I like to have the guy like get out there on the ground and say, all right, this gives us some room here to work with so, yes, we're going down that ditch or we're going to move that

there. Look, you know it doesn't affect anything. I know that it doesn't affect anything. He says you're right, check. So thank you for your approach and thank you for what you have. Again, it comes down to those [indiscernible]. The thing I was going to go to if we all got to that, so be careful about wanting it too specific because when it gets too specific it backs them in a corner too. It backs us in a corner, but it backs them in a corner also in my opinion.

Nell Fuller: Then we're all hamstrung by it.

Jerry McPeak: Now, the thing I'm going to next is probably not for you necessarily, but Chris and Juan. You've been good than anyone else in here that has to do with the government thing and where you folks sitting in the council. Working to getting more things that says apply for the Internet, it is in the Internet, I just got a deal from the conservation service in our county that says you no longer get a newsletter. If you want to get a newsletter, go in the Internet and get it. What percentage do you folks have of your entire population of [indiscernible] and agriculture that have access to or know how to use the Internet? I mean, do you have all of them now that use it?

Male Voice: Oh, no.

Jerry McPeak: Or 50 percent of them, or 30 percent of them? I'm not just talking about operational. What do you guys

have? I think that's important in this conversation because I know that's where we're going to be headed next because I'm getting it at the state leveled up. You've got to go do it in the Internet. In our deal - I think in my area in Eastern Oklahoma, and we're pretty educated - I think you're stretching in saying that 30 percent of our people have access to and utilize Internet is what you report?

Male Voice: Yeah. That's what I know.

Jerry McPeak: How about the rest of you?

Male Voice: I would say 70 percent, maybe 75.

Jerry McPeak: That can you use it or can't?

Male Voice: Can use it and do use it.

Jerry McPeak: Can use it, is that right?

Male Voice: Yeah.

Male Voice: We have some places where you can't even connect to the Internet.

Jerry McPeak: There you go. We too. I told some legislation. Last year I've almost gotten into a fight in the House for it because they wanted to make it, if you didn't have a physical address, you couldn't vote. And I said, I don't have a physical address. Oh, you've got to have it, you've got 911. I said I'm telling you, damn it, I live a mile and a half from town and I don't have a physical address. And sure enough they [indiscernible], you don't have a physical address. I said no

crap that's what I've told you. So you know what percent you have or use. If they have to go fill out a form and had to go on the Internet, what percentage of them could or would do it?

Male Voice: I would say maybe only 40 percent or less.

Female Voice: They don't have electricity.

Jerry McPeak: Michael?

Michael Jandreau: Oh, probably 25 percent.

Jerry McPeak: Mary?

Mary Thompson: I don't even have that. If I could say 20 or 25 percent. We don't have service.

Jerry McPeak: Do you see where I'm headed, you folks up here in Washington D.C.?

Nell Fuller: Absolutely. Absolutely.

Jerry McPeak: You guys are in a world where 98 percent utilize this. We live in a world where we're pretty lucky if 25 or 30 percent utilize that. And yet you all are going headstrong, by gosh, we're going to go do it. Well, you can't call that sucker. I cannot call him at daytime because you can't get a signal down there to him.

Male Voice: That's true.

Nell Fuller: That brings up a follow-up question then. How - how do we do it? Is that it, a hardcopy newsletter?

Jerry McPeak: We still got pencil and paper. We got Big Chief notepads where we're from.

Male Voice: We have no place to mail it to you. [Cross-talking]

Jerry McPeak: I've got a post office box. I've got a physical address. I don't want you going to my house. Just give me some shit, okay?

Nell Fuller: But perhaps this is something we could talk about more on the tribal consultation call. We'll have more important individuals at that meeting. We'll be able to better make an address this particular situation. I will say I am in the process of developing a hardcopy newsletter to send out to our field. Now, whether they can get that to their individual farmers, whether they will get that to their individual farmers --

Jerry McPeak: And again, I'm not being critical - well, I am being critical I guess. But I'm sure your people, if you send it out by email, they get it. I mean, I get all my stuff at the Capitol. [Cross-talking]

Nell Fuller: Sure, but that's not the point. That's not the point. How do you get to --

Jerry McPeak: We get a lot in the country.

Male Voice: Okay, we're getting much tremor [sounds like]. We're getting into a whole different deal right now.

Jerry McPeak: Well, not really because what I want to make is for every one of you guys, just because you guys up here got

90 percent or 98 percent that could do the Internet, it doesn't mean a damn thing out there in the country. I want that to be noted and important [sounds like]. Because you guys can do it up here doesn't mean it gets to us. The blood can flow, but if it doesn't to the foot, the foot dies. Thank you.

Male Voice: If I can comment Mr. Chairman, I totally understand your position, Jerry. Of course, we are going more with Internet newsletters. We have over 550,000 producers that have signed up online to get information. Yeah, we're not reaching some of the others. I think the secretary talked today about increasing more broadband out throughout the nation. I think if you look at a map of where there's broadband and where there's not, there's a lot of work that still needs to be done. Rural Development has done a lot of work with broadband, with [indiscernible] we did a lot of work there. A lot of it has to do - and I'm sorry to say - with our budgetary constraints. The sequestration put us in a tough position, so what we're planning now with our budget for this next year is to allow X number of dollars for our counties to send out paper newsletters like we used to, but we just don't have the funding anymore to be sending out newsletters as often as we used to, so we're going to try to prioritize what we do. Maybe send out three newsletters a year or something like that, we just can't send them out every month.

But we also want producers not to put those newsletters on the dashboard of their pickup and blown away either. We want them to read those newsletters too. So there's a lot of communication out there. A lot of folks will get them. I mean, heck, I've been working for a long time. We tried all kinds of things; put it in orange-colored paper so people would at least read it. So a lot of it is budget. We totally understand that we still have a lot of producers. Even if they have a computer, they don't want to use it very much. It's an ongoing challenge. We're looking at ways to do more texting. A lot of people have cell phones where you can get a text. So we're looking at robocalls, texting and things like that to get out the information as much as possible. It's just a tough budgetary issue right now.

Male Voice: Robocalls are cheap.

Male Voice: We're looking at those.

Male Voice: One more point, I guess, I want to ask on specifics because you said under the farm programs you're going to carry the NEPA for the emergency programs and conservation reserve programs. How about CCRP and WRP - Continuous Conservation Reserve Program and the Wetland Reserve Program?

Nell Fuller: All of FSA's programs will be covered by these NEPA regulations, yeah. I was just giving some examples so that the folks that didn't know what --

Male Voice: Your staff is going to be the ones completing the document, right?

Nell Fuller: Correct.

Male Voice: Same with Rural Development? Okay.

Nell Fuller: On that note, can we get poor Rich up here to talk about rural development? Gilbert, do you have a question before we go?

Gilbert Harrison: Just one comment. I really would like to have the BIA involved in this conversation. [Indiscernible], sometimes they take it to extremes. I don't know if you know what BIA stands for - Boston Indians Around.

Nell Fuller: In my previous place I was in the Pacific Northwest, so I'm well-versed with the BIA.

Gilbert Harrison: The concept is still there. I guess, I'm really saying that sometimes they do have interpretations [inaudible] and it does present problems, so I would strongly recommend get them involved in this simplification process because anything we do, the BIA, as the trustees, they have to approve that also. So if we can get them to buy-in to the simplification process, expanded cadex, I think that would improve a lot of communication. Thank you very much. That's it.

Nell Fuller: Okay, I'll make sure we include them. Again, without further ado, here's Rich Fristik, for rural development.

Richard Fristik: Thank you, Nell. Good afternoon. That's a pretty tough act to follow, so I'm going to try to be real brief and to make sure I'll do my best to keep you all on schedule here with your agenda. I do have a handout which I understand I think you may have the first page of this, but there's a second page that has a flowchart that talks about some of the organizational changes that now referred to and that I'll speak from a little bit.

So what I'm going to try to do since Nell and Ben really gave a pretty good, certainly a good overview of what NEPA is and some of the history there and some of the changes that are going to be underway with the new regulation, I'll try to focus more on what is specific to rural development. I'm going to start out just real briefly. Just in case folks are not aware of what our agency is or what we do and how we're organized, Rural Development actually consists of three separate agencies. The Rural Utility Service, which I work for. The Rural Utility Service provides water and waste water, telecommunications, and electricity in rural areas. Then there's Rural Housing, Rural Business Service which as the name implies provides rural housing, multi-family housing, assist with small businesses. And then the Rural Business Cooperative Service is also very similar to that, which provides programs, again, for small businesses and cooperatives.

The differences, I guess a little bit following out what Nell spoke about and as you see more on the flowchart, she spoke about FSA having two regulations. They're going to retain one of those regulations, 799. As she said, we essentially share the 1940 regulation because in the way that the reorganization happened over time we ended up with two regulations in rural development. So Rural Utility Service was under one regulation, which is 7 CFR 1794. Then the other two agencies are under another regulation, 1940 G. For all of these years, our one agency had two regulations. This created a lot of confusion, a lot of redundancy. What's happening with us is since 1940 is going away, 1794 is also going away. We're going to end up with a totally new regulation, 7 CFR 1970, which will be our new environmental regulation.

The big differences as Nell mentioned, there's going to be more efficiency. There's going to be less redundancy. Things will be simpler for those in the field that we serve including tribes. I'm going to try to go over again some of the differences just real quickly. Some of these might be repetitive of what Nell and Ben spoke about. But I think they're important to emphasize, again, a greater use of categorical exclusions. This allows greater efficiency, and actually is in line with guidance that has come out from the Council on Environmental Quality which says we need to try to

simplify NEPA. We need to try to get away from using lengthy environmental reviews for actions that may not require those. Certainly, a good example was given under the Farm Services Agency with replacing a water tank or something like that.

Similar in Rural Development, we're looking at categories of actions that formerly required perhaps an environmental assessment which requires more detail, it takes more time. We're saying now that a lot of these actions could be categorized as categorical exclusions. We have more categorical exclusions. What is now changing under categorical exclusions for Rural Development? Currently, in our 1794 regulation, we have two types of categorical exclusions. One requires documentation; one does not require documentation.

We realized that doesn't make a lot of sense. So what we relooked at and what would be different about the new regulation is that there will be a standardized documentation required for categorical exclusions. It's going to be more along the lines of a questionnaire, probably a one-page type questionnaire that will be very straightforward, very easy to complete rather than having actions that maybe or maybe don't require documentation. And if they do require documentation, sometimes that documentation has reached really, really excessive lengths probably because sometimes applicants preparing documentation don't realize the process and that just a minimal amount of

documentation is required. In many cases, we would end up with very thick reports for categorical exclusions. We realized these really are unnecessary. They're taking a lot of time on our part. They're certainly taking a lot of time and resources on the part of applicants.

Categorical exclusions, eliminating redundancies where we had a lot of across the various programs in Rural Development, and there are well over 40 programs. If you look across the entire agency, there are a lot of redundancies in those programs. In other words, programs would be providing the same type of services. So we're consolidating a lot of those redundancies, eliminating redundancies.

Our public involvement is going to be simplified somewhat. A lot of classes of actions we have coordinated and made those consistent with the types of actions that other agencies, other federal agencies do that have programs similar to ours. For example, the Department of Energy that makes loans and grants for energy programs is very similar to what we do. And we're saying, okay, if the Department of Energy has a categorical exclusion categorized this way or an environmental assessment for this type of action, we should be consistent with them so that then in the eyes of folks that are using these programs things are a little simpler, a little more straightforward.

We're going to have a greater reliance on our applicants that use what we call design professionals, which would be consulting firms, that they are retained to help them prepare applications or prepare documentation. They will be able to be involved very much earlier in the process so that we can make sure that we're getting the correct information right off the bat, thus, again, creating more efficiencies.

Another big change is third party contracting wherein the case of an environmental impact statement if that's required, currently we would have to go through our contracting process within USDA. And we're finding that, this is already done by other federal agencies where they can use contracting processes that the applicant would have or have access to. What we will have is a true third party contracting process that would allow the applicant to use their own contracting process, their own procurement processes which would be much more efficient and save a lot of time versus what we have now.

That is about all that I have. In the spirit of explaining acronyms, if you look on your flow chart, there is one that I wanted to point out if you're not familiar with it. If you go down to the second, there are two boxes right at the very bottom of that page. The box above that states that the request to consolidate our regulations, and there's actually two things to point out. One is the acronym NACS, that's National Association

of Credit Specialists. That's an organization that works closely with Rural Development to help our programs to be implemented more efficiently and more effectively.

You'll also notice in that box that this effort has been ongoing now for about ten years. It's been a long process. It's had a lot fits and starts. Lost momentum here and there along the way, or kind of lost steam and then picked up again, lost steam again, picked up again. Finally, it's picked up to the point where we're getting towards the finish line here. We're hoping that within the next year or so that we will be able to see something actually coming to fruition after a long period of time.

All right, that's all I had. Are there anymore questions, specifically on the Rural Development side? I think you are all questioned out at this point. All right, if nothing, I thank you for your time.

Female Voice: I have a question.

Richard Fristik: Sure.

Female Voice: But it doesn't have to be at the environmental. On the rural housing issue, does NEPA play into that? Earlier today there was a discussion of how it's going to be trying to be more housing on the reservations, rural development, rural housing.

Richard Fristik: Rural housing, rural businesses is an area under Rural Development, so where a certain type of action involving housing and also depends on what program it is and where the funding is coming from, but NEPA would apply. Now it's going to, again, depend on the specific program as to how it would apply. That's probably the best that I could answer that.

Male Voice: One question.

Richard Fristik: Sure.

Male Voice: Within the NEPA application portion of the documentation with you, are you requiring that before an application is approved, or is it used as a disqualifying factor in a proposal?

Richard Fristik: I wouldn't say that's ever really a disqualifying factor. The application comes in, and the environmental review as part of that application. That review is looked at basically simultaneously with all the other parts of the application. I mean it's possible --

Male Voice: So you're going to have the NEPA completed before you'll accept the application?

Richard Fristik: Typically, yes, because it's all part of that application coming in. We always say with NEPA and any environmental review, the earlier you start the better. If the

steps in that process can already be done and come in with the application, that's better for everybody.

Male Voice: And I can see how come these credit specialists were trying to speed up the process because they're trying to get that loan out. And they're under the gun, too, for lending purposes, but they haven't --

Male Voice: I have a question. This is USDA Rural Development environmental policies. Now this consolidation, the new simplified process, is that going to be a policy that's going to be applicable to other federal agencies under this rural initiative that the president has? In other words, this here is USDA driven.

Richard Fristik: Right.

Male Voice: But is there going to be something that other federal agencies, are they going to be picking this up as their guideline, in particular the Department of Interior, and other agencies that normally do work under reservations?

Richard Fristik: A short answer is no. This is only specific to our agency, to Rural Development. So another agency under Interior or --

Male Voice: What I'm saying is, if we have project that is approved under this, here. Now, my fear is that the bureau - I've dealt with them before - they're going to say, "That's not our way of doing things." That complicates the matter. So

that's what I'm saying. How do we make this simplified approach applicable to the other federal agencies that have, I guess, jurisdiction over trust lands so that we have only one process to deal with on all these federal funded or federal guided programs?

Richard Fristik: I mean, I make sure I'm understanding, and I think Nell might have alluded to this earlier. If there's a particular program or project going on and if USDA Rural Development is involved in some aspect and another federal agency is involved in some aspect, we certainly try to cooperate and work together in terms of adopting documents or working together on a single document so that you're not having to do one document for every agency. Is that --

Male Voice: I bring this up because I have a project that's going within my community. NRCS is part of the partnership, and another federal money is coming through the BIA. We're going to use the funds to match it. Now, the EPA NEPA process was approved under USDA or NRCS guidelines. BIA came back, and says, "Wait, we have shortcomings on this because that's not how we do things." Now, we got two federal agencies that are bickering over whose guidelines and whose signature is appropriate for that. That's what I'm saying. On trust lands where you have the BIA as our trustee, it's important that they

realize that we have this simplified process and honor it.  
That's really, I think, important.

Richard Fristik: If we know upfront that BIA is involved, we certainly would be reaching out to them early on to try to, again, coordinate our processes.

Male Voice: If may I just add, Mr. Chairman. Leslie, I think this is something where we need to expand our MOU we have with BIA.

Leslie Wheelock: I agree.

Male Voice: For instance, when we do an appraisal for a loan, BIA is, in the past, one to do their own appraisal. And we worked on an agreement that if they do one, we'll accept it; if we do one, they'll accept it. We need to do the same thing. I think that's the solution to this problem.

Male Voice: Okay, thank you.

Male Voice: Okay, Mary had a question [indiscernible].

Mary Thompson: I was just thinking about the Rural Development and Rural Housing Service and thinking I should talk to you about recapture clauses in there, but maybe on the side. Maybe it would be time to introduce Kathryn Isom-Clause, counselor to the assistant secretary of Indian Affairs. We were talking earlier.

Kathryn Isom-Clause: Yeah, I'll introduce myself because I know a lot of people have concerns about the BIA [cross-talking].

Male Voice: I'm going to put my name tag away.

Kathryn Isom-Clause: I think, obviously, there's a lot that needs to be done. I'm taken several pages of notes already. I work directly for Assistant Secretary Washburn. He sends his regards to you. He's unable to be here today. It's really a scheduling issue. We really want to get out, so I'm here instead. I can just listen. I can't necessarily answer the specific questions about the programs [indiscernible] there. But we've also decided Leslie that I'm going to be the point of contact now for the assistant secretary, for all of the RD-USDA issues. So hold on to that card, let me get to you all. Any complaints, I will take them. But I want you all to know that I'm here taking notes and all of your concerns will be conveyed. We're not ignoring you. All of this it's just a scheduling issue.

Male Voice: Do you have another card?

Kathryn Isom-Clause: Yes, I have [inaudible].

Male Voice: [Indiscernible]

Female Voice: I was going to echo the same point, and that is that with all this incredible work that the USDA is going in on this NEPA, that is they share their insights and share their

experiences right now before it becomes finalized. Right now with the BIA who just happened to pop up - fabulous. That would be so effective, but it almost sounds like you have had no contact with the BIA yet. The prior speaker had had no contact with the BIA. On Indian country at least, it's essential that the BIA be advised and to figure out what forms. It may not be all that complicated, but they can be so removed and need a heads up. They may be the bad guys, but they may be unaware of the fact that you are going through this process. I think that, Leslie, when these things come up it'll be great if the worker bees got in a room together and worked.

Richard Fristik: Maybe what I should add is, certainly, the worker bees are always glad to get together and work.

Female Voice: I don't think you're kind of a worker bee.

Richard Fristik: Actually, I am a worker bee. But maybe a point of clarification of where we are in the process with this regulation, as I mentioned, we've gone through this long ten-year process. But this, what we call it, it's a rule for formal purposes, it hasn't even gone out to the public yet. Right now, where we're at is we just got approval. We're in the final stage of getting all of our internal approvals within USDA. Then it goes out to the public via the *Federal Register* on that. That's the point where basically everyone in the world will have a chance to say, hey, USDA, Rural Development, and FSA

and others are working on this new NEPA regulation. Believe me, a lot of people's eyes are going to open. They're going to have a chance to look at it and see what we're doing.

Female Voice: I used to be a commissioner of agriculture for North Dakota and I followed the CFR like there's no - the Code of Federal Regulation - like it was the comic strips. I mean, we filed a lot of comments. But in all those years, I never saw one federal agency file comments on another federal agency's regs. I know something, people feel it, yes, they do.

Female Voice: Absolutely.

Male Voice: They will be.

Female Voice: I think in this case, the timely involvement of the BIA would even be before you publish it. While you're gathering information, it would be, from the native perspective, getting the BIA involved early because, for example, this is a very long process for you to publish, propose comments, evaluate the comments, come out with final delayed effective date and so forth. Now, if the BIA has a separate set of decent [sounds like] regulations and say even they want to change theirs, it's going to take them at least as long as it takes. So you might think you're going to get this done, and then in place in a year's time, but for Indian country it might be three years, unless there's early coordination, which is what the MOU, I

think, is intended to do. But it's folks like you that need to be chattering with the BIA folks.

Nell Fuller: At this point, we're a little bit hamstrung based on the rules that govern rulemaking processes.

Female Voice: But I thought the MOU is to enable the -- I mean, when I read the MOU, it's like respective secretaries are saying, "We're going to be talking on a regular basis. We're going to be coordinating." So I think that's in there. It's the anticipation. But you don't have to wait until you have something in the CFR, Code of Federal Regulations. You can talk to other federal agencies ahead of time, I think.

Nell Fuller: Again, that will then depend on their willingness to come to the table and their willingness to review what we've done, compare how what we've done works within their structure and provide us with that feedback. So that would be for the BIA to help us with, and that's one of the things as we go out for public review and comments. That's one of the things we do, is we invite comments from these other agencies. The intent - the hope - is that they would do exactly that, how does this process work with our process so they can be streamlined in the field. And FSA RD, they are adding an additional compliance working on top of what we, BIA is already doing. So we are going to actually solicit feedback from them, and hopefully they will give it.

Female Voice: Yes, I agree. If they don't, then --

Male Voice: They're on the same boat.

Female Voice: If they don't, then I think the Secretary, I think needs to rise up.

Female Voice: This actually came up at the White House Council meetings specific to NEPA, and specific to trying to make the NEPA regulations ubiquitous throughout Indian country. It's on the CEQ's radar, but it's not on anybody else's -- I'm sorry, the Council for Environmental Quality. They're the ones that are pushing, not just in Indian country, but across the government to try to get people to - agencies to be looking at things in a more uniform way. I think this fits in to a couple, both to our MOU and to the White House Council requirements.

Kathryn Isom-Clause: Are they going to write any sort of guidance documents?

Female Voice: I don't know, but I can get a hold of the person who leads that organization and ask them. I thought they already had but I have to go look.

Nell Fuller: I don't think it's about --

Female Voice: It's not solid yet.

Nell Fuller: It's not solid, but they also don't have one that sort of says, these are the overarching rules for tribal country.

Female Voice: No, they haven't.

Nell Fuller: That's what I'm saying. Guidelines from CEQ specific to that would be enormously helpful, because a lot of times federal agencies get in a room and our roles are so different and divergent we don't even know what'll we talk about first. So because CEQ is the ultimate arbiter, they're the boss of NEPA. When things come from them, agencies take them very, very seriously. We could get additional guidance from CEQ on how to adequately and appropriately incorporate all of our NEPA compliance processes together on Indian lands. That, I think, we would all agree would be an invaluable service from CEQ.

Male Voice: Yes.

Female Voice: These guys, Chris and Juan, just dropped the fact that they finally got the appraisal issue solved. I just want to say kudos, kudos. If you can do that --

Female Voice: They can do anything.

Female Voice: They can do anything.

Male Voice: Mark, one final comment. I take back what I said about BIA.

Female Voice: Too late.

Male Voice: Back in the earlier part of the year, before I did my income tax, I was talking to my accountant. I'll make a recommendation. I said, "We ought to defund IRS, you know." The next day there was a drone flying over my ranch. But anyway, I think, Kathryn is it, I would really strongly

recommend, take back to the BIA what we're saying about the [indiscernible]. It's important that the two federal agencies coordinate on this because it does create a problem out in the field for us trying to decide whose or where do we take on environment and other issues. It does cause a problem with the people that you guys are trying to serve. I think we can agree onto a method. Hey, great whether it's MOA or whatever process. If you can take that message back, that'll be great. And let us know please. Thank you.

Mark Wadsworth: Kathryn, just one question. It's  
Kathryn --

Kathryn Isom-Clause: Isom-Clause.

Mark Wadsworth: Is your father-in-law Santa Claus? We'll carry on to the next. Thank you very much. I'd like to introduce Ashlee Johnson. She's with the Federal [indiscernible] Committee.

John Lowery: Ashlee Johnson is the Deputy Director of White House Liaison Office at the USDA. She's also over the past, probably a year now, she has been de facto person for the USDA overall. I'll let her explain further, but I'm just glad to have her here. I'm also passing out a list of all de facto committees. I think this is all of them here. Ashlee, is this all of them?

Ashlee Johnson: Most of them. I just added one today, so you have an almost up-to-date list. I'm going to be very, very brief. As John said, I am the deputy White House liaison at USDA. For the past year, I have been the acting committee management officer for all of our federal advisory committees. So I'm going to be brief so you all can go back to your business at hand. I want to start by saying, thank you for all that you do as it relates to federal advisory committees. I want to take just a short amount of time to visit with you today about what we're doing with our committees and opportunities to serve on these committees. You all know what that service is about because you are doing it here today, and you'll be doing it all day tomorrow. Thank you for what you do and for your service.

You know that committees play a very important role in departmental policies and programs. I want to talk to you today from a standpoint of outreach and what we're doing to try to increase outreach. We have approximately 166. I should correct that because as of today we have 167 active committees and approximately 4,000 members. Those are a lot of opportunities to serve. And just stepping back into my role as the deputy White House liaison at USDA, we have approximately 239 political appointment slots, so 239 political appointees. But we have these very unique opportunities, these 4,000 membership opportunities for people to serve on these federal advisory

boards. So it is a different opportunity for everyday people to come in and be able to become a part of these processes.

What John does as your designated federal officer, he goes out and he employs these different outreach methods to encourage people to come and serve on these committees. He does outreach to the Hill, industry and stakeholder groups, attendance at conferences, going out and speaking to people, radio, publication, newspaper, federal registry notices, website announcements and things of that nature.

What we on the White House liaison's office are doing, we are building a website that is going to serve as a central location for all USDA boards and committee data. The goal of our website is going to be twofold. It's going to allow the public to come in and create a profile where they can select the issues that they're interested in and select the committees that they're interested in. So they can say, I would like to serve on the Beginning Farmers and Ranchers Committee, or I would like to be involved in the Minority Ranchers Committee, or I'm interested in food issues, or I'm interested in environmental issues. Then when committees of that nature have openings and positions available, what our website will do is automatically notify them, and then they will be allowed the opportunity to apply.

We are hoping to be able to launch that at the first of the year. That will also give us an opportunity to do some direct outreach of our own. But what you can do to help us is to spread the word, not only about what you are doing in your current positions, but about what we are doing here at the department and what all other federal advisory committees are doing around the administration.

So we need diversity, but not only diversity in race and ethnicity and gender, but it's also important to remember that we need diversity of thought, of education, of experience, of geographic and regional diversity. And we cannot in any way guarantee that every person that applies is going to be given a spot on any particular committee, but we can guarantee that they will be given consideration. But if we don't receive an application, we can't consider their candidacy. You're only allowed to serve on a committee for six consecutive years, so we need to continue to receive these applications because we need to continue to get different opinions and bring on different people into these roles. Any questions?

Female Voice: Ashlee, one of the things you mentioned when we spoke was the fact that people should not wait for an announcement of one of these committees coming open because at any point in time, you might need to put somebody on one of

these committees pretty quickly, and it helps to have people in the hopper so to speak.

Ashlee Johnson: That is correct. You do not have to wait for a solicitation announcement to come out. You do not have to wait to see a *Federal Register* notice. You don't have to wait for anything like that. You can always apply. People can always send in an application. We have a website, and it's listed on that form that John just handed out. Also, the mailing address is listed on there. People can always mail in their resume, a cover letter and an application which is the 8755. It's a generic application that's available for people to apply. They can send it in at any time, because at any given time, someone, for any given reason, cannot be available to serve on a committee for which they have been appointed. So we are looking for alternates who need to fill those vacancies. We need people who can be vetted quickly and who can be appointed in a timely manner. So people are encouraged to apply often and to continue to do so. Any other questions? Yes, sir.

Male Voice: On behalf of my friend Gilbert here, Gilbert's asked a question. We have a public comment period with our advisory council here. Of course, recommendations are made and comments are made. Do you have any advice -- is there a standard to these advisory committees how they handle those?

What responsibility to have you respond to them, if any, and if so, in what format?

Ashlee Johnson: That's not my cup of tea. That's handled through John, about your comment periods and the format and all those things.

Male Voice: [Indiscernible]

Ashlee Johnson: No, sir. Yes?

Male Voice: How many of these committees can I serve on at any given time?

Ashlee Johnson: Only one. You can only serve on one federal advisory committee at any given time. And we'll find out when we check your name. But we do appreciate your enthusiasm.

John Lowery: Let me say something. There is a thorough background check, too, guys.

Male Voice: Now that's beyond thorough.

John Lowery: [Indiscernible] have fallen in the dirt.

Male Voice: I'm not admitting nothing. I've [indiscernible] not that thorough.

John Lowery: But when you get back out to your community and you talk to individuals and you try to encourage people to apply, we, not we but you need more help but you guys need to make sure that they don't have anything in their background that would cause, you know. The reason I say that is because we want

people who can serve. If there is something in a person's background whether it be in college when they were 18 or high school is going to come up and it can --

Ashlee Johnson: That's why we say we are actively accepting applications, but we cannot guarantee that everyone will be accepted or allowed a position to serve. Thank you all so much, and good luck with the rest of your meeting.

Mark Wadsworth: I know we didn't have a break schedule for the afternoon, but there is coffee outside that can be brought in. How about we just break about ten minutes, I believe? We have to try to keep pretty much on track for the 3:30 public commentaries, so we can start getting together. [Unrelated group chatter until 1:16:35]

The next speaker will be Astor Boozer. He's the Western Conservationist for the National Resource Conservation Service. You're talking about Tribal Conservation Advisory Committees.

Male Voice: His name is what?

Mark Wadsworth: Boozer.

Male Voice: Really?

Astor Boozer: You've heard of Carlos Boozer? You've heard of Emerson Boozer, a football player for the Jets? That's a relative of mine and everything. I played football. I never did go to the pro level, but, yes, Boozer, a common name, easy to remember as well.

Male Voice: He said he want to party with you.

Male Voice: I thought you're [indiscernible] after that description, not a name.

Astor Boozer: You know, we can always partake of sort of things after work, so we can talk about that. Good afternoon folks. I'm glad to have this opportunity to visit with you a little bit on our Regional Tribal Consultation Advisory Council. Quick question, John, do we have copies for everybody? Do we have copies in their packets?

John Lowery: Yes, sir.

Astor Boozer: Great.

John Lowery: It might be 10 or 11, something like that.

Astor Boozer: So you guys have copies of the flyer --

Female Voice: Six.

Astor Boozer: -- a fact sheet in there of our Regional Tribal Conservation Advisory Council. This is something that NRCS started working on last year based on the executive order. The information is on the sheet so I won't hit it too deep per se, but just to kind of give you an overall view and maybe answer a few questions and then add a few things to it myself as well. So it's set up to really provide an opportunity for us at NRCS to work closer with the tribes that we have been trying to provide some direct connection from [indiscernible] local, regional and up to the national level per se.

My position -- and if you look on the flyer there, we have the committee, the Conservation Council, divided up into our three regions. When we established it we only had three USDA NRCS regions: West, Central and East regions. I am the regional conservationist for the West region, so I am more, I guess, the chairperson for that council, that Conservation Council for the West.

Now, the West region covers 13 western states. So everything west of the Dakotas, Texas, Kansas, Nebraska, and everything west of that is my territory. I cover Alaska, Guam, Hawaii and all those areas, Arizona and things. So that's my particular territory. Then we have the three Conservation Councils set up that way. And you have representatives, other regional conservationists as myself that are the chair of these particular councils.

Now, my supervisor, my boss is, our agency head, Jason Weller, I directly report to him. It does provide an avenue of having representatives from the tribes within the western region to when I have meetings that these individuals are sitting at the table with me and telling me what the tribes are saying, or they have a direct access to me because of phone calls, emails, things that are happening, they need to get in contact with me they can. And then that gives me an opportunity to share that same discussion with our chief, Jason Weller. I have quite a

bit of discussion from time to time with our Leslie Wheelock in her position, and John Lowery. I was detailed over to the department in an acting role where I am having an opportunity to meet those two fine individuals and get a dialogue and get to know them, to where we, I think, all feel pretty comfortable with each other and can bring things back and forth to each other.

I was at a meeting, the Conservation Tribal Meeting in Alaska two weeks ago. The tribes there with their conservation districts and the work they are doing there, there are some questions that they have provided to me that I'm bringing back, that I'd be sharing with Leslie and the group. The avenue of dialogue is very beneficial. This is a great opportunity to have these here councils established and members within each one of the regions there that can feed the information to us, so very beneficial. I don't have to go into the "we" [sounds like]. I think most of the information is spelled out pretty clear. They're on the sheet there. If you guys have questions or any concerns, I definitely will try to address those at this particular point, so I'll cut it and leave it like that.

I think a little bit of dialogue on some things would be beneficial. This is our second year. We are going to our second year [indiscernible]. Our first meeting that we had with our conservation councils was last year, so it's mandatory. We

have two meetings a year. We had one face-to-face, and I'll just give you guys the layout of what we did with our West meeting. We had it in Arizona. The face-to-face meeting there was in Chandler, Arizona at the Wild Horse Casino there, had a great time. We had a good discussion at the meeting, some of the feedback that had come to us.

Now, I think in this year we have our next meeting, our second annual meeting coming up next week in Arizona again as well. We'll probably move the meeting around within the region. This year, we decided to go back to the same location, so this would be our third meeting. We had one face-to-face. We had a teleconference early in January to discuss Farm Bill activities, things that tribal members should be aware, where they need to go to pull information, reaching out to the congressionals on things to help make decisions move along as it pertains to the Farm Bill. We're still in that same frame of mind as we look for what's happening right now.

So next week, we'll have a similar discussion. We'll have the Farm Bill with the House and the Senate. They have discussions on things and maybe they'll continue resolutions. Whatever the issues might be, we're going to try to work with the tribes to make sure they have the most update that I have. If they have some questions that they have in that particular point, we'll address them. There may be some things that I need

to back up to the secretary's level which I have a conduit that I can do that as well. Like I said, two meetings a year, we'll have one coming up again here next week in Arizona with the tribal members. We'll have some overall great discussion of where we are right now, things that we can do, things that we have actually accomplished from last year's meeting.

Last year when we had our meeting, Leslie was not in the position that she is in now. We've had quite a bit of transitions since that time. We had some acting, some people there so we missed out on some good opportunities of having some information sent up to the proper channels. But this year with Leslie in the position, we'll have a great opportunity that whatever information the tribes bring to me, we could share with them. A lot of it will tie in with status of where we are now, Farm Bill activities, where we're going budget-wise. We are at the end of our own fiscal year, so we have our budgets that we will be dealing with.

We heard some of our guys this morning talking about EQIP and WHIP, so those are the things that will be in the discussions. If you have to continue a resolution, those particularly in there, some of those programs were extended or have been extended until the end of the calendar year, so with the things that we can continue -- not calendar year into '14, the fiscal year '14, that they'll be available for us. Some

programs will actually be ending at the end of the fiscal year. Those things that we will make sure that we'll provide to the tribes. So we have it, you know what's available. We can go back and talk about some of the individual things that are happening there locally within that particular state.

Also, we have state conservationists that are representatives on this here particular conservation council as well, so we work with those. They actually have the most direct tie with the tribes. When it comes to any activity within the state, those individuals that are right there in front will be beneficial to us since they actually have the director or the supervisor of the state conservationists that you guys are working with there in the state. I think this year, the committee council that we have in place, even though it's a new council, I think it has its place. I think it has been beneficial in just a short time. There are a lot of things that we can improve upon as we're looking to do what we can to make things move, so we want to do that. I don't want to just talk about that. There may be some questions.

One thing I want to say, I was in the back earlier when, yes, I think it was you, Gilbert, that asked the question about the NEPA and NRCS and BIA, I believe it was. There is an agreement that has been signed. We have an agreement with BIA that's been signed. We've had some conference calls that we've

talked to the high level - myself, Leslie, folks that had been in the meeting. We talked about staff down at their local level where they understand what the agreement is trying to do. We should not have that issue that you were describing happening.

Now, you know when you put something new together, it takes a little time to get it fully functional. That can be it so I'm not really making excuses on that part. Maybe we can talk, give me an idea where that location might be, what state it has been. We can do some follow-ups because we are at a point at where those issues should be addressed. We've been working there locally with the field staff. They are working together, understanding our practices, understanding their needs and so on. We're trying to avoid those types of scenarios to happen locally at the land [sounds like] with you guys as landowners out there. I'll do some follow-ups. We'll see what we can figure out on that level. Are there any questions?

Male Voice: Thank you very much. What's your name again?

Astor Boozer: Astor Boozer.

Male Voice: Do you have a listing of the membership, like for the western?

Astor Boozer: Yes. I don't have one on me but I can get you the list of all the members.

Male Voice: [Cross-talking] if we can get that.

Astor Boozer: Actually, I've got a meeting in Denver tomorrow, but I can email it to you. Leslie, if you don't mind sharing it with the group, I can give it to you [cross-talking]. We can do that.

Male Voice: Secondly, you said there was an agreement between the bureau and USDA, where can I get a copy of that?

Leslie Wheelock: Is it the MOU that you are talking about?

Male Voice: Yes, the MOU.

Leslie Wheelock: We can do that.

Male Voice: I'm sort of confused here. I understood the MOA was between the loan and something - financial agreement. But it did not cover the NEPA requirements and we're going to try to get it under this MOA, have the NEPA included in that. Can you sort of clarify this statement for me?

Astor Boozer: Now you got me confused, now I do.

Male Voice: Is the NEPA part of this MOA?

Astor Boozer: The MOU, memorandum of understanding between BIA, that should be all rolled within that memorandum of understanding however you want to look at it. It should be all rolled in because what we're trying to do is we're trying to get conservation on the ground, make things work for what landowners are trying to do. The NEPA process is just a step in making sure things are done properly, so it should all be rolled into that agreement as an item under the memorandum of understanding

to where the staff there are working together to address all of those issues. But we can definitely look into that. I'd like to find out where you are located, I think, see what we can do about that and stuff.

Male Voice: And your meeting in Arizona is where?

Astor Boozer: We're going there. Next week we're going to have it at the Wild Horse Casino there. What's wrong?

Male Voice: You've been there, Gilbert? I thought so.

Astor Boozer: This was the question, Leslie, that the council asked of me and at the time there were one or two predecessors of yours. It's just like if you -- of getting that information there. The Regional Tribal Conservation Advisory Council not only the one in the West that I worked with but all of them, have a concern and they want to know how when it comes to information sharing, can they coordinate with you, guys?

Leslie Wheelock: That's a good question.

Astor Boozer: The question would be how can you guys coordinate with them? That's one of the actions I have done that's on my list from those guys, how can we coordinate with this council?

Male Voice: Because that was going to be my next question. How do we coordinate our efforts? And secondly, how can we get input and direct conversation when you have these regional

meetings? Because I'm willing to make time in my schedule to be there because I can firsthand -- both ways.

Astor Boozer: That would probably be great if there was a representative from this council that may be attending the West or the East or the Central and vice-versa. If a member from the conservation council can have an opportunity to sit in this or even bring certain topics to this council just for you. I think that's where we want to kind of give some of you here. We don't need them all separated doing things by themselves all the time. We will coordinate together, it's going to be great.

Leslie Wheelock: So if you want to open that up to an invitation, you could give us the dates and places. I know you've got regional meetings coming up.

Astor Boozer: Yes.

Leslie Wheelock: And we'd be happy to share those with the council and they can come on in.

Astor Boozer: I apologize folks. I don't know where you're located at around the country. I think I heard someone - Mary is it?

Mary Thompson: North Carolina.

Astor Boozer: North Carolina, so I know Mary's in North Carolina. I have no idea where everybody else is. Anybody here from any of the Western states?

Male Voice: I am.

Astor Boozer: Well, California is on the West end.

Male Voice: Southern California.

Female Voice: I'm in the middle. I don't know if I am  
North --

Astor Boozer: So where are you?

Female Voice: North Dakota.

Astor Boozer: You'll be in the Central.

Female Voice: The Central?

Astor Boozer: The Central, yeah, you'll be in the Central.  
So we have representation on this council from the West. It'd  
be great if we could have, you know, yourself, if you're  
available and at least knowing the dates and times and sharing  
some information. It is a two-day event where we try to just  
have some good discussions of what's going on with the tribes,  
share some ideas.

Male Voice: I was going to say I did develop a short  
PowerPoint presentation what the council's charge is and all of  
that because a lot of people don't know exactly what the council  
does. I presented it at a couple of our meetings in the  
southwest region. We can share that because you have a part and  
it's a bit [indiscernible]. It makes a lot better impact on  
that.

Astor Boozer: Yes, exactly, I agree.

Male Voice: Leslie has my email.

Female Voice: Just quickly, I guess. They've made the entire book from the comment period we might go into, and so with the other USDA programs that need to have input into this council's business, we just need to share that information. Thank you.

Mark Wadsworth: We are pretty well stuck to a time period when we have to do the public comment period, but if anybody would have any more questions?

Astor Boozer: I'd be announcing in a little while anyway so I appreciate that last question there.

Mark Wadsworth: I guess we're going to the public comment period. Nobody has given me a list of anybody who is --

Female Voice: John has, well, one or two. I'd go and get them.

Mark Wadsworth: I'd like to request Sarah Jane Smallwood [phonetic], Choctaw Nations.

Sarah Jane Smallwood: Hi everyone. Thank you so much for letting me come today. My name is Sarah Jane Smallwood and I come from a long line of ranchers in Southeastern Oklahoma.

Male Voice: Ms. Smallwood, would you come up here so --

Sarah Jane Smallwood: You'll be able to hear me better?

Male Voice: Yes, please.

Sarah Jane Smallwood: Thank you so much for letting me be here. As I said earlier, my name is Sarah Jane Smallwood. I

grew up in a little town called Clayton, Oklahoma. I started my first cattle ranch right there with a heifer named Scarlet O'Heifer [phonetic] as part of my FFA project. My grandparents before me and my father before me were cattle ranchers as well, so it's quite an honor to be here and to speak to you. If you had have told me ten years ago as an FFA member, I'd be in the same room as the secretary of agriculture, I would have laughed in your face. It is quite an honor to be here and represent the Choctaw Nation.

What I'm going today to talk to you about is just a little bit about the proposal we recently filed. I know it might have shaken up some of the waters, but I'm just here to answer some questions you might have about it. To give you a brief summary of what the Choctaw Nation is proposing: The Keepseagle Settlement was a landmark victory not only for all the parties here involved, but also for all of Indian country. My friends and family were directly impacted by it, and I just want to say thank you. That was a long time coming. My family, my Choctaw granddad has ranched in the same land for 75 years. He's 96 now. It really has been a long time coming so thank you, Mr. Holder and others here in the room who are important parts of that.

As the settlement still stands right now, non-profit agricultural organizations can access part of the money. When

we filed our proposal on August 23rd, the Choctaw Nation and its foundation, the Jones Academy Foundation, is just requesting a portion of that money. Jones Academy is a school run by the Choctaw Nation; however, we serve children from multiple different tribal backgrounds. I think there are upwards of dozens and dozens of tribes represented there, so it's not just Choctaw students, it's children who might not have a future otherwise.

Starting in the '90s, when I was in 4-H and FFA, we'd always compete against the Jones Academy kids. My biggest victory as a 4-H member was winning the Choctaw Nation livestock show in 1995 with my grand champion hog, Luebelle [sounds like], but it was a really big deal because we beat the Jones Academy kids. These kids are Indian kids from all over the country, but Jones Academy really takes 4-H and FFA to the next level. It provides on-site housing for these animals and for these children. Agriculture is a way of life for everybody and it really exposes these kids to agriculture as a way of life. I know it's something I hold near and dear to my heart, and this school really does take it to that next level. The children develop their projects as part of 4-H and FFA curriculum, but then they also grow their own food there, and they eat the meat, they eat the vegetables they grow right there on campus.

In the late '90s, the Jones Academy Foundation was established to provide support for the school, but specifically for the agriculture programs at the school. Like I said earlier, it's a phenomenal program and pretty formidable when you're out in the show ring and competing against these students in a number of endeavors as 4-H and FFA members. That's how you can invest in native youth and take it to the next level.

The foundation was established specifically to aid in the assistance of agriculture, so what the Choctaw Nation and the Jones Academy Foundation now would like to do is to take it even beyond youth, but to cultivate those youth into becoming the farmers or ranchers of today. Chief Pyle of the Choctaw Nation gave his State of the Nation Address last week, and he talked about our 100 years for the future, our 100-year vision, and that includes sustainability. But it also ties back to our culture and our heritage and to our heritage in Oklahoma. We're new residents to Oklahoma. We've only been there since 1830, but we want to protect the land that we have and continue making a living off of it.

So what we proposed in our application is the Native American Sustainable Initiative. This is an inter-tribal initiative. As I said earlier, Jones Academy provides services to children from all different tribes. So building off the

foundation's legacy, we want to work with farmers and ranchers all across Oklahoma and all across Indian country.

The Choctaw Nation has over 200,000 residents who live around the world. A little over 80,000 of those live within the boundaries of our treaty territory in Oklahoma. However, the same area is home to people from over 20 different tribes. We have other programs that provide outreach and services to all Indians in our area and to non-Indians as well. We're the number one WHIP agency in this area, and we serve both Indians and non-Indians. Again, we're just willing to continue that type of good faith effort in Southeastern Oklahoma in the Indian country. We feel establishing this Sustainable Ag Initiative, we can do that. That's why we're requesting these funds. You should get the application I think. Did you say you're going to hand it out later, our proposal, to be included in the packets? Mr. Gibson, I think, maybe said that earlier?

Rick Gibson: I received it Thursday or Friday so I can definitely give these individuals a copy tomorrow.

Sarah Jane Smallwood: Okay. And if you have any questions, I'll give you my information. Please feel free to call me. The outline is kind of a five-year process for how we want this initiative and to really hit the ground running. Our area of Oklahoma, our area of Indian country doesn't have really extension and outreach services specifically targeted to Indian

people. We want to provide the mechanism for that to happen. By requesting a portion of this [indiscernible] money, that's exactly what we hope to accomplish. Our proposal winds it all out, it gives a five-year plan for how the initiative can become sustainable in and of itself, not just to provide sustainable farming information. A good portion of it does focus on native youth and how they can become farmers or ranchers.

I know I sold all my cattle and went off to college and moved to D.C. Then I moved back to Oklahoma though. Hopefully, we'll start up ranching again with my dad and my granddad, but frankly it's hard to make a living. It's hard to make a living off the land in some of these areas, so we really hope to foster that growth of our native students and encourage them, hey, you can make a living in Southeastern Oklahoma. You can become a farmer or a rancher in Indian country, and we're going to provide you the assistance and the outreach to be able to do that. I hope you all do take a little bit of time to read through our proposal, and if you have any questions, please let me know.

Male Voice: I have one little question, and you never know what the [audio glitch] is going to do, that's the nature of [indiscernible]. If this foundation idea went forward, wouldn't your plan be a great candidate to get funding from that, too?

Sarah Jane Smallwood: We proposed our plan like we would another grant application. If the new foundation is established as well, we will apply for some of those monies as well. It definitely is up to the court's decision on whatever happens. We were just trying to be proactive with how the settlement currently stands. I'm not an attorney; I'm an advocate for the Choctaw Nation and the ranchers. I'm just here to speak from my heart on the two things I love most, agriculture and Indian country. That's why they sent me today.

Also, I know earlier there were some mention of Ms. Hipps' [phonetic] involvement and Mr. Porter Holder's involvement with the initiative as well. Just to clarify a little bit in that proposal, we did have a list of names of people we would like to invite to be part of it. But since it really doesn't exist yet because we're uncertain about the funding, we haven't yet invited anyone. We can't invite someone to anything that doesn't exist yet, but we did provide a list in there of people we want to be involved.

I guess I was in D.C. for a while, and I'm happy to be back home in Oklahoma. During the summer, we've gone around a little bit and tried to meet different people who are involved in agriculture in Oklahoma at a number of different levels. I've helped introduce our new economic development officer to people

at OSU, which is my alma mater where I studied agriculture, and just do different things like that around the state.

We're trying to make those relationships so when we do get the go ahead and can really push forward full steam ahead with this kind of initiative, and then we can then reach out to those relationships we've already created. Nothing is set in stone yet, you don't know what the court will decide. But we are trying to be proactive and to lay it out there and provide our plan for how we want this to be in Indian country. Are there any other questions? Well, I'll be hanging around here for the rest of the afternoon, so I'd love to meet you all. Thank you.

Mark Wadsworth: Thank you, Sarah. Is there a Philip Parker Schick [phonetic]. He's not here. Would anybody else like to make a comment at this time?

Gilbert Harrison: If members of the council are permitted, I would like to make four comments for a recommendation.

Leslie Wheelock: I want to ask John, council members can speak, can they?

John Lowery: Yes, ma'am.

Gilbert Harrison: Let me take my council hat off.

Leslie Wheelock: Tribal member hat on.

Gilbert Harrison: Thank you members for allowing me to make four points very briefly. My comments basically have to do in the area of NRCS and the area of finance. The first is that

EQIP is a very good program. It helps a lot of Native Americans, but it just so happens to be a loan you have to pay back. Looking at it from a different perspective and different paradigms, anytime you say no, this is trust land, quote, federal land, if you are making improvements to federal property on behalf of the federal government to improve that land, to improve the water system or the water well or irrigation, that becomes a permanent fixture to that land. It's not your land, not your property. So the questions comes up, why should you have to pay back? This should be a true grant, a grant made to improve federal property that's going to stay within the property - real property. I think that's something that should be looked at from a different perspective instead of a loan. Why not make it a true grant? That's one.

Similar to that, I hope IRS isn't, since these grants basically are to improve government lands, all of that, why should a 1099 be issued? In particular, let's say you're going to redo a well, or you're going to make improvements to the farm, bury a pipeline to a property that's not yours, that you are just basically improving government land, why should you be issued a 1099? You're just a pass-through. In the end, that property belongs to the, quote, federal government, a trustee BIA, and the nation. I'm talking strictly in terms of trust property, so these are some that needs to be looked at, and I

think we ought to seriously answer these questions, why not? I'm talking about personal experience of things that I have run across.

The third thing is that NRCS within the last couple of years has said you're eligible for 30 percent upfront money if you get a grant, if you get a contract. But if your contract is for \$100,000, things are very expensive, that means \$30,000. Who has \$30,000 in their pocket to make upfront payment? And the requirements, you have to pay, you have to do that piece of work within 30 days. Guess what, folks, in construction, things don't occur within 30 days. Take a look at the federal contracting. It takes two to three months to get a contract in place, so 30 days for the upfront money is unrealistic. Instead it would be my recommendation, our recommendation, why not do like a good contractor? Have a draw down. If your project is going to be four or five months, draw down every month. That's what normally is done with a lot of contracts, you have a draw down. That's more realistic and I think that should be considered very strongly.

The fourth item, just recently the design that NRCS approves are very expensive, because any time you have to do any kind of design, they said that NRCS has to approve the design. Their specifications are just like any federal specification, they are very expensive when you get the design done. Just

recently, I was told just like an underground pipeline system that we're trying to install for the community, underground irrigation system, you're using a PVC pipe. In the industry, you say I want a 24-inch pipe. It comes in standard 24-inch lengths and they have pressure specifications. But I've been told that NRCS engineering is now going to specify those in pounds. Industry does not use pounds, how are you going to specify a pound of pipe, a 20-foot pipe, certain pressure? Do you just get a block of plastic? It's really hard because somebody has to make that translation, and it costs more money.

I'm saying NRCS, the engineering department, needs to make it so that the industry understands if you need a 20-foot pipe, a plastic PVC pipe, industry calls it a joint. It comes in standard 20-foot lengths, certain pounds, and that's it. Not pounds, not any of these things that industry doesn't understand because somebody has to take time to translate that into what industry uses. That's more time and it costs a lot more money. I think those are basically something that I think needs to be addressed and in realistic terms. How do we make these things more efficient, how do we make this cost-effective, and in the end, it saves the government a lot of money. Thank you very much.

Mark Wadsworth: Anybody else likes to make a comment?

Yes, Sarah.

Sarah Vogel: I have a question for Gilbert. When you're talking about it being government land, do you mean land, federal government in trust for individual allotted land or privately-owned land? Because I guess I almost never hear it talked of as government land. It's somebody's land, not the government's and the government is acting as trustee but not as owner.

Gilbert Harrison: I think this is something that when you talk like the Navajo Reservation or other reservations, it's considered trust land. They say the government holds the title to that land. So I as an individual, I cannot own that piece of land; I will never own that piece of land. Any improvements, if you look at the BIA regulations, any improvement that I make to the land stays with the land. When I make a ditch, when I put a well on it, if I do that stuff, if I make improvements to real property, it stays with the land. In fact, I'm out of the picture. That's why I'm saying if that's the case, if the government has title to that land, it's government land. We're making use of government money to make improvements to government land, so why should we repay? That's the question I think that needs to be addressed. Our recommendation often [indiscernible], why should we pay it back? That's the question.

Sarah Vogel: Once question, there's land that the federal government owns like say a military base. They own it, it's like straight-up owned, it's not in trust for anyone. But your land would be in trust for someone, is it the tribe?

Gilbert Harrison: As far as I know, it is held in trust for the tribe, but not individuals, nor that can the tribe itself sell that piece of property.

Sarah Vogel: I just wanted to get a clarification because I don't know very little about the Navajo.

Mark Wadsworth: Is Mark Rose available?

Mark Rose: Yes.

Mark Wadsworth: Hey, Mark, you have your individual -- it was up here before [cross-talking].

Mark Rose: I have a concern with the term of paying back a loan, because EQIP itself - the Environmental Quality Incentives Program - is financial assistance for the producer to install a practice. We don't ask for that money back. I'll use the word grant, even though that's not what we use officially. We have a contract with the producer that says in the conservation assistance here's the conservation practices needed to address the resource concern. Here is what it's going to cost, or here is a cost estimate, and here is the amount that we can pay you to install this practice once it's installed. I'll touch on the 30 percent here in a second too. But really kind of a question

for you, Mr. Gilbert, is the loan part bothers you very much because we can provide financial assistance for conservation practices, not only on private lands, we also can do this on public lands, federal lands as well. It's the operator of that land is who we have the contract with. In some cases, we may have a contract with the tribe where the tribe is the contract holder, and then the tribal members are taking advantage of that contract. Of course, they have to abide or have to be under all the farm program rules as well, and the tribe makes sure that those are met with us. We have a few contracts like that, but not too many.

Does that help clarify some things? Because you shouldn't be having to be paying anything back. Once you have an EQIP contract, the practice is installed, NRCS comes out and checks that practice based on scientific methods we've proven those this is what's needed over time. Then once that practice is certified, the payments made based on what we call a payment schedule or payment rate, it's basically a cost estimate to typically install those practices, and then that payment is made. It's typically is a portion of that cost borne by the contract holder as well. It could be anywhere from 10 percent up to 25 percent, maybe a little more in cases of where there's a cost that is over and above our cost estimate. Does that help

understand or clarify some things, especially for council members here? Any other questions?

Male Voice: I think maybe the only way it may possibly be something that you had to pay back, because if I understand it right, you can get up to 30 percent upfront, and if the project was not completed.

Mark Rose: If the project is not completed, and at any case if the project is not completed, if any money has been paid out, then yes, there could be a process that we go through. We try to avoid those things, because we want to see that practice installed. We don't want that money back. It really causes concern for us to not have that practice installed. The 30 percent is for beginning farmers, underserved producers, that's what that up to 30 percent is for. There's a 30-day clause in the policy. However, the state conservationist has flexibility to work with that producer to get that practice installed if 30 percent has been paid. We would like to see it done in 30 days. The idea is I'm going out, I got the engineering plan, I know what I need to do, I know where my materials are, here is what they're going to cost, you go to NRCS to get your 30 percent payment made; that way you can start doing some things. If it happens to run over that 30 days, work with the field office and the state conservationist can extend that period out with some justifications, very easy to do.

Ross: If I understand this right, the 30 percent is only applicable to materials needed to do the project, right?

Mark Rose: Correct.

Ross: So it should be fairly simple for anybody to go in, get an advance, and purchase those materials and prove that they purchased those materials in that 30-day timeframe.

Mark Rose: You have a point, Ross.

Ross: I mean, because that is what the rule says, there's 30 days for materials.

Mark Rose: That is right.

Ross: So I should be able to go to the local hardware store, buy my tank and my PVC pipe [cross-talking].

Mark Rose: Sure, within policy. I mentioned there is flexibility with the state conservationists to be able to get that practice installed. And it may take longer than 30 days to do that.

Ross: The installation, yeah, but the advance was only for the materials, so I should be able to just lay a receipt on you and everything is good.

Mark Rose: No, we do not want receipts. That makes it easier, hopefully.

Gilbert Harrison: Thank you, because the project I had involves converging from above-ground irrigation to put this pipe underground.

Mark Rose: Uh-huh.

Gilbert Harrison: So it is about a mile or so long, taking it in sections. Okay 30 percent, what they're telling us you have to use it, you have to do that 30 percent in 30 days. Well, secondly, you're going to be digging that long. You've got to trench it, you've got to clear it, you've got to bury the pipe in the meantime. It is a lot more involved than just buying materials. You can buy materials, but you still need the money for the crew to come in and trench it and get the trench ready. From that project standpoint, it's not really effective. So I think somehow the flexibility needs to be clearly spelled out so you can work this out.

Mark Rose: Sure. We will take a look at that because I know this is a concern of us. I monitor the payments that are made in more than 30 days out. Across the country, the last time I monitored it was about 30 days ago, there is less than \$400,000 a very small piece in \$1.4 billion. It is a concern for you as a producer to have to make sure that you're complying with our policy but also I want to make sure that you ask the right questions. Does our policy allow me a little extra time? And it does. And I just want to make sure that you understand. So make sure you work with that field office and then certainly, I'm hoping that field office is flexible with you. That is when Astor gets involved later on.

Mark Wadsworth: John, as a point, when should we officially end the comment period and do it kind of more like a discussion on what we are involved in now?

John Lowery: Does anyone else want to make a comment? And if none, then --

Mark Wadsworth: Go on to discussions?

John Lowery: Yes, sir.

Mark Wadsworth: Is there any more comments? If not, we'll go into the discussion portion and possibly, Mark, I think we have [cross-talking] another question for you. Thank you. At this time then the comment period is over. We'll go straight into the discussion period. [Cross-talking]

Male Voice: My question is. That is when we get into reality is -- boots on the ground as compared to you standing here and saying you hope that they do that. We're still out there looking at them in the face; they don't. So now what do we do?

Mark Rose: You got my card? I get calls from producers. I used to be a producer myself in Ohio, so I know the challenges you have to get a practice in or practices in, weather-wise, getting a contractor, all those issues. Like I said, the state conservationist is the executive for that state, and that's the one you need to really deal with.

Male Voice: Is it your point is that 30 days is too short?

Mark Rose: Yes.

Male Voice: Context is that's too short.

Mark Rose: Okay.

Male Voice: And I think you're almost agreeing that's too short because obviously you're [cross-talking].

Mark Rose: I won't argue with you. From experience, I can say that I have seen language in the new Farm Bill in the rule and regulation and so forth that does extend that out some. So I think with what I have seen and what's available to you all publicly is that that is being discussed. Once we do get a new Farm Bill, your comments to me are certainly going to be a point of looking at to make sure that we're satisfying that.

Gilbert Harrison: The other thing that I've experienced in this community project and my own project is that the cost estimates are grossly out of line. Right now, this section we are talking about, I'm using it as the example. According to NRCS estimates, it was supposed to cost \$300,000. And out of that, we pay 10 percent down and that we contribute 10 percent share - \$330,000. So we did all the environmental and all of that as our share. In the meantime, the cost of material, it's at \$280,000 worth of that \$300,000. I'm having a heck of a time trying to come up with some monies to actually bury the pipe. That's why we got into this cost-sharing with BIA. They are willing to contribute \$150,000 to finish the project. So

instead of \$300,000, it's now \$450,000 the actual cost, and so I think somehow that cost estimate, our share needs to be a bit, a little more in [indiscernible].

Mark Rose: Two things I will discuss here or mention here. The cost estimate, we develop payment schedules and we review those payment schedules each year. So what we look at is the typical installation for this practice or combination of practices and the components that go in that practice, including labor, and that's the cost estimate and the payment schedule is developed. The other thing which might be or may not be a concern here, a program rule on the Farm Bill only allow up to \$300,000 for a contract. So that may be what you're bumping up against. As you hit that \$300,000-dollar limit, we can't go any higher even though we know that based on the payment schedule if you're installing a mile of pipeline, the contract may only allow you to install half a mile with our funds, which the other funds would have to come from somewhere else.

Gilbert Harrison: We have the flexibility to cut it down from a mile to half a mile in the new projects.

Mark Rose: We have to be able to complete the practice in order to certify it. So if you still have a half a mile of water to pump, then you might have a problem there of completing the practice, having it certified. But yes, we can be flexible when the extent is completed. Fencing is a good example. We

have been able to cut down the extent of fencing in some cases, mainly because we've been able to say, yes, this paddock is now fenced off and we can certify it.

Mark Wadsworth: Finally, on your weight, we were getting to that. I think an example like what we referred to is we will have a tank that is approximately three miles away from the pumping source and we have an elevation to meet from the water source to the tank of 780 feet. Now in the calculations that come through with that is that in every two foot of rise is like 1.1 [cross-talking].

Mark Rose: I should know that because I got engineering in my background, but it has been too long.

Mark Wadsworth: Well, believe me, it gets up there. At the beginning of that system I need a post or a PVC pipe that is rated for 320 pounds per square inch to handle at the beginning to get up to that tank. Now the closer I get to the tank, the smaller and smaller the psi rating I need until I'm finally there. And then it works the other way when you go down. So you can have a 7,000-foot drop, all of a sudden you got to really realize that you got to have a huge pipe at the end or in our case a valve that's going to handle that pressure so that it gets through the trough not blowing stuff up.

Mark Rose: Right. So when the engineer designs that, the engineer should be conscious of, well, in this section we need

to have X psi pipe. It shouldn't be we're saying this is the X psi pipe we need, but you should have X feet of that X psi pipe, not the way you described it. I was a little confused of how you described it, saying pounds there. But the engineering plan, when they put that together, just like Mr. Wadsworth [sounds like] described is here is the section, we'll use this psi. Here is the section, we'll use this psi, and so forth until you get to that end product. Ross, I think had a question.

Ross: You mentioned something in your discussion about setting these prices on an annual basis. And your cohort a half hour ago was talking about Tribal Advisory Committees. It makes it very important that Navajos at the table, they're adjusting these prices because what we have witnessed as a good example, everything that is done on reservations is done with Davis-Bacon scale, which is a lot higher than what off-reservation backhoe operators offer. So you can't hire a backhoe operator to dig that trench at that off-reservation cost. So two things either have to happen, the agency has to be aware of those local costs or the producer finds an operator who is willing to do that project at your scale. That's two things. But my point is, is that it's imperative that Indians are at the table when these discussions take place in the Fact Committee and the Loans

Advisory Committee, so we have input on what some of your cost could be because they go through it once a year.

Mark Rose: Yes, we do. And we review them on anything, any adjustments that are needed we make adjustments. There are scenarios within this payment schedule I describe as an Excel spreadsheet and there are different tabs where there is a scenario to do these structures like what he's talking about. And there could possibly be on tribal land type of scenario, which addresses those costs you're talking about. Ross, it's noted and I will ask the questions and say, hey, what are we doing?

Twenty fourteen is pretty much wrapped up as far as payment schedules. I'm not sure; it is a very cumbersome process. My staff of six had been reviewing it the last five weeks the various payment schedules, and I will ask that question. And we'll get an answer to you, either through Leslie or someone as to how those are being addressed. I would encourage you mentioned the Advisory Committees, the State Technical Committee, hopefully you all are participating in those and are aware of them. So if not, contact your state conservationist and find out how to become involved with those. Astor, you want to add anything to what I have said?

Astor Boozer: No, you covered that perfectly. Again, if there's opportunity, if you have questions, we can get you

involved in more of those groups, the state tech committee groups. State conservationist has broad authority to work with those committees and we expect them to have representation from all of our customers out in the countryside. If you have any questions [indiscernible] which I'll address.

Mark Rose: Any more questions? Also, we have WHIP as well, Wildlife Habitat Incentive Program, under my responsibilities. Yes, sir?

Gilbert Harrison: One of the issues we have related again on trust lands, we don't have private ownership where you fence off a piece of property, more of an open range where we graze. One of the issues we have come across is that if you have a well that serves your livestock and you want to go ahead, improve or even provide a new well, NRCS is saying that you have to have control of that land which means you have to put a fence around it. Reservation, open range you cannot just put a fence around it. So improvements to land that are subject to open range type of arrangements, you get disqualified for that.

So somehow there are needs also for that, too, because like in our particular area where we graze our sheep, we have one water source. People use that water source for their livestock, and that has been going on for generations. But we need to make improvements to that because some of these wells are 1930s vintage. Yet we say they say, why, you can't do that unless you

fence off that well area, so it jumps even closer and it's under your control. We've been using this as a common site all these generations, and now you're saying that you got to fence it off before we allow any monies for improvements to that. Those kinds of things create a lot of problems because if we fence it off because it is going to be under control, what's our neighborhood going to do? We are going to have a neighborhood war, so water is a valuable resource. So those kinds of things are a hindrance, and that needs to be looked at --

Mark Rose: Indeed, I'll do that.

Gilbert Harrison: -- tons of other recommendations of that nature.

Mark Rose: Sure.

Gilbert Harrison: Thank you.

Mark Rose: Yes. And like I said, you have my card. You are more than welcome to call me.

Gilbert Harrison: I will do that.

Mark Rose: I would encourage you to start with state conservationists. They are the individual that has the authority over that state, a lot of flexibility. [Cross-talking]

Mark Wadsworth: Mark, we're kind of transitioning towards the end of the day here. Gilbert has shared with us an actual video cassette of what you worked on within the Navajo. And

maybe we could present that at this time. Also, later we would like to do a presentation and then we'll go into more of a strategy [cross-talking].

Female Voice: So one of the things that the secretary mentioned today was his personal appreciation to all of you for serving on this council. We all do appreciate you being here taking time out of your busy schedules both to prepare for these meetings and to come to the meetings and to actively participate in them. And we have for each of you a certificate of appreciation for our tribal members that I would like to distribute now. We were going to have the secretary do it but it was more important for you all to have some talking and listening time with him, so we withheld these until now.

Gilbert Harrison: Well, if there's a cheque inside --

Female Voice: Yeah, your travel reimbursement is inside.  
[Cross-talking]

Astor Boozer: This video that we're going to see was produced with the Arizona NRCS and it's a - exercise that we did. It's available mostly in the Navajo version and the English version.

Male Voice: Which way are we going to see it?

Astor Boozer: Navajo.

Male Voice: The Navajo version, okay [cross-talking].

Astor Boozer: We want you to understand what we're saying about you guys.

Mark Wadsworth: If I may, Mr. Boozer. I think, too, on that Advisory Committees, especially on the regional level, you guys make the recommendation on a region of what your priorities will be for conservationists. And I believe like the Sage Grouse Initiative, the other SLGI know that [indiscernible] land issue all comes for on a more of a macro level, and then by the time it hits us on a local level, hopefully, we can put it to use.

Female Voice: Can you give us a preview to this, did I miss --?

Astor Boozer: This is a 15-minute video. Well, actually 14 minutes, so we can [indiscernible].

Female Voice: Yeah, really.

Male Voice: Sure, the light switch's somewhere back there.

Male Voice: He's going to get it turned on [indiscernible].

Astor Boozer: We don't have any sound. Edward, does it have sound? Strange, [indiscernible], if not we just have to leave it [indiscernible].

Male Voice: Gilbert, what you're saying earlier in the hallway? [Indiscernible] What did you say how to go about the conservation, Gilbert?

Gilbert Harrison: Yeah.

Male Voice: Used to at the college where I was they have Arbor Day. They come by, me and my eight kids, want us to go help at Arbor Day. And the first time they had it, I said no. In fact, I said no every year. And they get all mad and said, "Why were you not participating in Arbor Day, you guys?" I said because if we aren't involved in conservation everyday, we're in a lot of trouble. So pardon us for not getting excited because you pick one day out of 365 to pay attention to conservation. If we don't do it 365 days a year, we're in deep trouble. It just used to wear me out, "Oh, we are going to plant a tree today." Well, save me. Geez, if we're not planting grass and doing things to keep us from planting trees like everyday, we can't wait for you guys to get ready to plant a tree in one day.

Well, if all of them has the words up there like that, we can pretty much get by when you read it, Porter.

Male Voice: Yeah, every second big words.

Male Voice: All the two syllables? I know what you're going to tell me, [indiscernible] go tell me, right? You're giving me the words of one syllable like sign language.

Male Voice: Sign language.

Male Voice: Maybe we can give her a try tomorrow? [Cross-talking]

Male Voice: Yeah, we can try tomorrow or we can just rig the [cross-talking].

Male Voice: Can we try again tomorrow?

Male Voice: That's what I'm talking about.

Male Voice: Let's try this once and make a motion.

[Cross-talking]

Male Voice: And again, the U.S. has quieted. The Indian now allowed to speak. The USDA, it's all USDA.

Male Voice: I can watch in the morning.

Male Voice: I don't see anybody up from USDA up to running that thing. [Cross-talking]

Male Voice: You don't want me trying it.

Male Voice: There's something on there. [Cross-talking]

Male Voice: What are those [indiscernible] numbers?

[Cross-talking] are those like parts of the land?

Male Voice: Yeah. They're different locations, yeah.

Male Voice: [Indiscernible] have a segment within your flag would mean something? Would you have a whole parcel of land under that name in your reservation now?

Male Voice: It's a section, Berry Hill [phonetic] number three. Berry Hill's a sector [indiscernible]. [Cross-talking]

Male Voice: Gilbert, would you care if we did this in the morning? [Cross-talking]

Female Voice: It is not working.

Male Voice: Well, that didn't do it. Mark, you try it.

Female Voice: We put off and on everything that has a line adapter on it.

Astor Boozer: I'll just have to grab another computer tomorrow. Maybe we could get some new computers in my office.

Male Voice: A modern one with sound on.

Female Voice: Yeah, that would be nice.

Male Voice: I think we have a dinosaur.

Female Voice: We each have a dinosaur. We'll see about that. [Cross-talking]

Mark Wadsworth: I believe we'll just wrap this up and then we can figure out the IT on it tomorrow.

Female Voice: Okay.

Mark Wadsworth: A motion on the floor to wrap up the meeting.

Male Voice: I will make one. We'll watch it tomorrow.

Mark Wadsworth: Do I hear a second? Seconded by Gilbert Harrison. All those in favor say aye.

Male and Female Voices: Aye.

Mark Wadsworth: All those who are not, say nay. Motion passes. We'll see you at 8:00 in the morning-ish. There is a question, Leslie, is it all right to leave our materials in here for the night? That would be fine?

Male Voice: Yes. I would leave your materials but not anything of monetary value. I would put them apart like wallets, phones [cross-talking].

[End of file]

[End of transcript]