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Department of  
Agriculture

USDA  
Council for Native American Farming and Ranching  
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Mark Wadsworth: I'm going to call to order right now.  
Okay, we'll do a roll call first. Today's date is September  
22nd, Tuesday, 2015, 8:30 in the morning. We'll do a roll call.  
Mary Ann Thompson?

Mary Ann Thompson: Present.

Mark Wadsworth: Jerry McPeak?

Jerry McPeak: Here.

Mark Wadsworth: Angela Peter?

Angela Peter: Here.

Mark Wadsworth: Edward Soza? Edward Soza is not here.  
Sarah Vogel?

Sarah Vogel: Here.

Mark Wadsworth: John Berrey? John Berrey is not here.

Gilbert Harrison?

Gilbert Harrison: Here.

Mark Wadsworth: Porter Holder?

Porter Holder: I am here.

Mark Wadsworth: Mark Wadsworth? I am here. Derrick  
Lente? Derrick Lente is not here. Tawny Brunch? Tawny Brunch,  
is not here. Joe Leonard? Joe Leonard is not here. Jim  
Radintz?

Jim Radintz: Here.

Mark Wadsworth: Leslie Wheelock?

Leslie Wheelock: Here.

Mark Wadsworth: And Val Dolcini. Val is not here at the start.

Male Voice: He said he would be in and out.

Mark Wadsworth: Yeah.

Dana Richey: And when he is not here, Chris Beyerhelm will be stepping in.

Mark Wadsworth: Okay.

Dana Richey: They should be arriving soon, one of them.

Mark Wadsworth: That officially gives us quorum today. We'll start with a blessing and Mr. McPeak will do that for us this morning.

Jerry McPeak: Lord, thank You for giving us another day to enjoy life, the freedom that we have here in the United States, to meet like this [audio glitch] and reach. Thank you for giving it to us our tribes, and our people, our states and our union, the sun and the rain. Blessings are good. Thank you for allowing us to view [audio glitch] this day. Help us to make wise decisions, wise things. Give us thought. Amen.

Mark Wadsworth: Okay. Moving right along this morning, I was talking with Dana Richey and we'll just go through the next three sessions, and she'll take the floor to handle that. We

have some changes to the agenda and what we're going to be doing today. Thank you. Dana.

Dana Richey: Sure. So if you'll turn to the agenda, I'll give you the changes to the times and the topics. So we have invited, on item number eight, Private Wildlife Management Angela Peter at 10:00. We've also invited someone from the Forest Service to join us. If available, they will provide some updates to outstanding recommendations that have been made through the Forest Service. We've asked them to arrive at approximately 10:20 if available. Then, the other change - two other changes - item number 13, we have the OTR update given by Director Leslie Wheelock. It's scheduled to move from 1:10 in the afternoon to 11:40 AM to noon. And the other additional change is lunch. We will have lunch from 12:00 to 1:15 instead of where it is currently, at 11:40 to 1:10.

A couple of other items - during lunch, we're seeing if there's a room available in the cafeteria for all of us to eat together. There are a couple of administrative items that we would like the council to discuss. Some of these were mentioned yesterday. One item I was given yesterday was to review the by-laws and other documentation about meeting attendance by members. We can discuss that over lunch. The second thing we want to talk about is the December meeting, and we have the opportunity to have it with IAC or to have it at a different

location and a different time. So that OTR and the DFO can begin to plan for that meeting, we'd like to discuss that item at lunch as well. The third item to discuss at lunch is that the CNAFR expires on April 28, 2016, along with the membership of its councilmembers. And so we would like to provide an update on that process of reestablishment going forward. So what we'll do is adjourn to the back of the cafeteria at noon for those discussions and also to eat.

A couple of other items I want to mention: one is regarding travel information - item number five on your agenda. What we'd like to do is ask you to submit your receipts as soon as possible, if possible, the day after you return or the day after this meeting and certainly by the end of the week. This will be very helpful to us as we're approaching the end of the fiscal year. We'll be giving out business cards of the secretary of OTR and -- I'm sorry?

Female Voice: Some business cards for [inaudible].

Dana Richey: Yeah. We'll get those. Very shortly, we'll give you the business card of Cynthia so that you can submit your receipts to her either by email or fax or mail, whichever is most convenient for you.

Female Voice: [Inaudible]

Dana Richey: Yes. Thank you.

Mary Ann Thompson: The travel form, can we get that today?

Dana Richey: Josiah? I'm not aware of a travel form that councilmember Thompson is asking about. Is there a travel form that we distribute?

Mary Ann Thompson: We send her our receipts, and then she sends us the form on the side [sounds like].

Dana Richey: Okay.

Mary Ann Thompson: I remember now. Thank you.

Dana Richey: Okay. Well we'll review that process with her to make sure that that happens. The other thing is I want to remind you when you're submitting your receipts that you also need to submit your request for the daily compensation rate. In the by-laws, it's referred to honoraria. In other places within the packet [sounds like] it's called the daily compensation rate. But please do include that when you're submitting your receipts to Cynthia so that we have your full package altogether and can get you reimbursed as soon as possible.

Gilbert Harrison: Excuse me. I remember back when John was here, he sent out, he emailed out a little form, a worksheet that you fill in the forms. That was very helpful.

Dana Richey: Okay. I'll talk with Josiah about getting you that form in advance. I'm not familiar with that process, but we'll research that for you all.

Gilbert Harrison: Okay. Thank you.

Dana Richey: Oh, thank you. The final thing is we may start to see, and in fact I think we will start to see, several members leave the meetings early today because of their travel schedules and the anticipated traffic congestion that we're going to see this afternoon, so we may be in a situation where we may not have a quorum late this afternoon. So it's been suggested that councilmember recommendations be taken up or at least put on the record as we're going through the meeting, and not wait until the very end of the meeting. If by chance we don't have a quorum, we want those important business issues to be discussed while there is at least eight councilmembers present. Okay. I don't have any other issues. We're running a bit early. Mark?

Mark Wadsworth: Yes, Jerry McPeak.

Jerry McPeak: Mr. Chairman, how many councilmembers do we have right now here? And then how many plan on leaving at noon? So what's our headcount now? We have to have eight, is that right, to have a quorum?

Mark Wadsworth: Currently, we have nine, with Val Dolcini or his representative going to show up some time this morning, so we have nine.

Jerry McPeak: So sitting right here, we have eight, huh?

Mark Wadsworth: Eight is the quorum. Now, okay, we have nine.

Female Voice: [Indiscernible] two minutes late.

Jerry McPeak: You have one [sounds like]?

Mark Wadsworth: Yeah. Okay, ten.

Female Voice: We have nine currently.

Mark Wadsworth: Yeah.

Jerry McPeak: Follow-up question.

Female Voice: [Indiscernible]

Jerry McPeak: And so my next question is how many are we going to --

Mark Wadsworth: Lose at 3:00?

Jerry McPeak: Lose at noon, even. You're leaving.

Sarah Vogel: I have to be gone at 3:00.

Angela Peter: I have to leave at 3:00 or 4:00.

Mark Wadsworth: So that's --

Jerry McPeak: You have to leave here at 3:00 or 4:00?

Angela Peter: Yeah.

Jerry McPeak: You're leaving at --

Mark Wadsworth: Two.

Jerry McPeak: So eight.

Mark Wadsworth: That will bring us down to seven.

Female Voice: Uh-huh.

Jerry McPeak: Doing anything actually, I have to take --  
left -- take four.

Mark Wadsworth: Two o'clock. Okay, so yes, Angela.

Angela Peter: Can we just do our action items? I mean move the action items up? I don't know if that's possible but --

Mark Wadsworth: Yes, Sarah.

Sarah Vogel: I do have a potential --

Dana Richey: Mary, would you mind? Excuse me. Sarah, would you mind talking into the microphone? Hopefully, they're working this morning.

Sarah Vogel: Thank you. Mister Chairman, Sarah Vogel. I do have a potential resolution from the council that could be an action item. Tell me when a good opportunity would be to bring it up.

Mark Wadsworth: Okay. Right now, it looks like we have ten minutes.

Sarah Vogel: Okay.

Mark Wadsworth: So let's go ahead.

Sarah Vogel: Ten minutes might do it.

Mark Wadsworth: Let's go ahead and do it.

Sarah Vogel: Okay. As you recall yesterday and at prior meetings, I've talked about concerns about the collection and analysis of data by the ombudsperson and I have a potential resolution to the secretary. I'll read two of them. I'll read them. Resolved that the secretary direct the USDA ombudsperson to consider national agriculture census data as well as the loan

data collected by state and county FSA offices, the collection of which is provided by the Keepseagle Settlement Agreement, to ascertain whether USDA Farm Loan Programs are being proportionately utilized by Native American farmers and ranchers and whether there may be barriers that may exist to access to such credit.

The second resolution: that the collection and distribution of statistics on Native Americans' farmers and ranchers utilization of the USDA Farm Credit Programs continue after the expiration of the requirements of the Keepseagle Settlement Agreement.

Mark Wadsworth: We have a resolution, any discussion?

Sarah Vogel: I move that they be adopted.

Mark Wadsworth: Yes, Mary Thompson.

Mary Ann Thompson: The state and county data would be all state and all counties?

Sarah Vogel: It's collected in all the states and in the 15 states with the highest numbers of Native American farmers and ranchers. It is also collected by county.

Mary Ann Thompson: Thank you. I'll second that move too.

Mark Wadsworth: It's been moved and seconded - the proposed resolution by Sarah Vogel. Are there any other further discussion?

Jerry McPeak: I've got a question.

Mark Wadsworth: Yes?

Jerry McPeak: Not being familiar, Leslie, I think this might be for you or maybe for the ombudsperson. But I assume that for efficiency, we did the seven or eight or whatever it was. What kind of time, how much time are we adding to do it for the 15 states, as compared to where we are now? What we have now, the eight or seven or what we did is 80 percent of the Native American population, right? Yeah.

Joanne Dea: So in terms of --

Mark Wadsworth: Joanne Dea.

Joanne Dea: Thanks. Joanne Dea, the Joanne Dea. In terms of running additional states, I'm not sure if I was as clear as I meant to be yesterday. We have run the other states. I did not bring that information with me yesterday. There are some states that the numbers are not high enough for me to run the type of calculation that we run. So what this office has done is run the numbers on the particular states that we have enough information. We also can't run that type of analysis at the county level, too, because you all may recall, some of the numbers are quite small. They might just be like one application or two applications in a county, or lots of zeroes. So that's another reason why we haven't gone down to the county level.

And I would just add, just because I do have this opportunity here, is that for census information, I had been in close contacts with the NASS statistician to ask this question about how we could use census information in some way. The census information would give me a number that's out there in terms of American Indian producers, but I also would have numerous questions around how many of those producers would even have an interest in coming to our programs. So there's lots of - I'm not a statistician - but there are lots of questions that have to be asked to actually design something. And then also the ability to have the information as well, which again, yesterday's information was based on the information that FSA provides to you all as the council, and those were the numbers that we ran.

Sarah Vogel: Yes. And we very much appreciate the data from FSA. I think it's accurate, it's timely. They have been reporting it on an annual basis. My concern is that the settlement agreement contemplated that the ombudsperson would be monitoring these statistics that are collected, and taking a look at them and creating insight - not suing people, not doing anything, but just creating insight. For example, in fiscal year 2015 and the report to our council, comparison of loans sought versus loans awarded. I'm not disputing the accuracy of that. What I'm saying is that this report -- Gilbert, Arizona,

Navajo Reservation. How many Native American farmers and ranchers are there based on your -- okay, two applications received - two. Now, I think it would be useful to find out, are there a hundred Navajo farmers and ranchers on the Navajo reservation, whether or not they seek? Because part of this is reducing barriers to access, is there an office? Is there an outreach program?

And then you go to Arizona and you go to the Apache reservation - one application. You go to these other states, and of course I don't -- I mean these are the ones where they're listed by reservation. But like in my state, there are like, Sioux County has pretty much all of the Standing Rock Sioux Reservation, but Fort Berthold covers four counties. I'm just saying that if we don't take a look at how many Native American farmers and ranchers are there, then the data is of limited utility to folks like Jim. I mean you can look at it yourself and so on, but from the standpoint of this council, looking at it from the outside, trying to look at what are the barriers, what could the barriers be?

Fort Berthold, I would not be surprised for example, to see that there are very few applications from Fort Berthold because it's in the middle of the Bakken oil boom and people get paid \$25 an hour to drive a truck, so there could very well be fewer. But you know, this is just for informational purposes. I've

been bringing this up for a long time so I think it's time to have it be a resolution of the council so that there could be some insightful analysis of this.

Mark Wadsworth: Yes, Joanne.

Joanne Dea: I guess I just wanted to add as well that Jim Radintz and I are going to be working closely together in terms of more conversations, and so just in terms of different ideas that I have been thinking about. You know potentially, mapping is one area that kind of visually could give us some representation of kind of what you're mentioning, Miss Vogel. So I just wanted to add that.

Sarah Vogel: Well, good. Then there should not be any resistance to the resolution of this council.

Mark Wadsworth: Porter Holder?

Jerry McPeak: No, Jerry.

Mark Wadsworth: Oh, Jerry.

Jerry McPeak: Thank you, Mr. Chairman. I am thinking that probably that information is not difficult to come by. I mean I think putting it together might be difficult, but like the number of applications each county has, FSA?

Jim Radintz: This is Jim Radintz. Yeah, that's correct, Jerry. We have developed the routines to extract this data, you know, fairly regularly and easily. It's not, I mean obviously, it takes some work but as Joanne mentioned, I think we've been

providing her with probably nationwide data and then she's been crunching it down, and of course, the data that we provided here to the committee. So in terms of providing data, I wouldn't see that as a tremendous additional undertaking.

Female Voice: FSA.

Jim Radintz: For the part of FSA, yes. I would also say that Joanne and I probably haven't been able to work as closely - or Joanne and my staff, however you want to look at it - as closely as we should. I want to revisit that. In fact, I've asked to get a meeting set up with Joanne here in the next couple of weeks, to plot a way forward, to look more closely at a lot of these statistics. I guess what I would like to suggest, or I guess I first have a question. Is the council planning on meeting again December? Is that --

Mark Wadsworth: Yes. It is our scheduled meeting.

Jim Radintz: What I would propose is that the council hold off on those two resolutions and give Joanne and I a chance to revisit and look at these numbers and do a more thorough analysis, and present that to the council before they make a formal resolution as to the analysis of the data.

Mark Wadsworth: I think that could be workable, but one of my comments is this. I know, in my reservation that I come from, we have four separate counties that intersect the boundaries of the reservation. And generally, they'll assign

one of those county offices to accept the applications for tribal members.

Jerry McPeak: Really?

Mark Wadsworth: I know that within probably Gilbert's situation, he's in the Four Corners area, which means that your reservation encompasses four separate states. In those four separate states, I imagine you have a listing of every county within every state, and that could be relayed back to Jim to look at that particular number of applications also. I think that there's a lot of, you know, that sort of information that we need to have you have, so that you could give us the best information and the best pictures that we need to have, to see if there is problems.

Jim Radintz: Yeah, let me just add, I don't have a way to really track things on a reservation basis. Nothing in our data identifies, you know, everything is tied to the geographical state and county. I don't have any way of identifying or tying applications back to a reservation, so that would be a significant challenge.

Mark Wadsworth: I think I just told you how we could do that. Yeah.

Jim Radintz: Well. From a process standpoint, in terms of mapping out our data, I think it would be somewhat challenging. I'll say that. An alternative might be some of the mapping that

Joanne had talked about, but we're open to looking at whatever approach would be most beneficial within our resources and our capabilities.

Sarah Vogel: This is Sarah. For Arizona, it does say Apache reservation, Navajo reservation, and the census data is you know, pretty easily pulled out. My concern is not with the work of FSA. My concern is that the ombudsperson, by the terms of the settlement agreement, had an obligation and a duty to analyze these statistics. I don't see that happening yet. I guess I'm making this motion for the purpose of making this recommendation to the secretary that she be directed to do this. Now, the council may not want to adopt that, but I've made the motion.

Mark Wadsworth: Yes, Mary.

Mary Ann Thompson: Thank you. Mary Thompson speaking. It seems that I've seen maps of the United States with all the Indian tribes' names and locations on those maps. It may have been through NRCS or one of those programs that I've seen this. It seems to me that if you only skewed the information that comes from those specific areas, as identified as Indian tribes, Indian lands and reservations, that you could get a lot more accurate information. If that were available from some of the other programs, I want to think NRCS map, I think that if we

targeted just those areas, you could get a lot better information. Thank you.

Mark Wadsworth: We currently have a motion on the floor. Let's give this another four minutes, and then we'll go back into the agenda again. I don't want to get that all messed up, but go ahead Leslie.

Leslie Wheelock: Mister Chairman, this is Leslie Wheelock. I just wanted to jump in here for a second. FSA has historically had the best information and data that is collected on Indian country at the Department of Agriculture. The other agencies we are working with to consolidate and collect information specific to Indian country, we've been working on that for a year and actually probably about six to nine months. We have multiple systems, different points of collection and applications that do not ask for any kind of heritage designation whatsoever. So we're trying to identify and narrow down, along with a couple of other initiatives here in the department, including our Beginning Farmers and Ranchers Initiative, to identify the data. We don't have necessarily the data yet that you would like to see. As soon as we have it, we'll let you know, but we're consolidating things.

There is data that is generally announced toward the end of the year. Those are annual consolidations. It takes some time to gather them. Forest Service data, to the extent that it's

publicly available, isn't available until two fiscal years after it is collected, because it goes through such a reporting and confirmation system that it takes that long to put the report together. So I wanted to let you know that be careful of what you ask for. We're working on a lot of it. It doesn't hurt to ask for it, but I just wanted to let you know that some of that data will take a while to produce.

Sarah Vogel: Well --

Mark Wadsworth: Yes, Sarah.

Sarah Vogel: Glancing again, you know, at the report we just got, fiscal year 2005. Applications received from Alaska natives in Alaska, zero. You know it just raises opportunities, I think, for the ombudsperson to contact the Alaska office and say how is your outreach going? You know, maybe this is absolutely spot-on the way it should be, that there would be zero applications from Native Alaskans in Alaska for loans from FSA. But somehow, I think that there should be more. You know, I'm personally sick of litigating. But this is an opportunity for well-meaning people, the agency, and if the ombudsperson sort of took it on themselves to say, hey, let's highlight some of the opportunities for a better outreach just so that we can have an explanation for these statistics.

And the people in the council, I would hope that for the areas that they really know well, look at these statistics.

They're great. I mean we are so grateful that FSA is coming out with these statistics. You know, it's a wonderful thing and it's a tool for people to look at this and see what can be done. But that's one of the tasks of the ombudsperson, and I'm getting a little impatient in part because the settlement agreement was reached in 2010. It took a great deal of time to appoint the ombudsperson, and now there's about six months left, maybe six to eight months left of the court order. And I would like to see it in place before the court order expires, which I think it was five years after the settlement date. It's coming right up.

Mark Wadsworth: So should we call a vote on it? Okay, then moved and seconded to accept the resolution, as was stated by Sarah Vogel. We'll carry that to a vote and we'll do it by hands. All those in favor, please raise your right hand - one, two, three, four, five, six, seven, then eight - eight in favor at this time. Anybody opposed, please raise your hand. No one is in disagreement. The motion passes. We'll carry on to the next agenda item.

Sarah Vogel: And I want to say this is not intended as a criticism of FSA. I think you've gotten tons of compliments over the course of this meeting on your good work and the vast improvements that you've made.

Mark Wadsworth: All right. We're going to go into your EQIP and stuff.

Gilbert Harrison: Good morning, members and guests.

Gilbert Harrison from Navajo. I think the statistics that we're talking about and what Sarah pointed out, very few applications I think, reflects a lot of issues still out there in terms of the barriers that we see. That's why I was saying, we haven't really erased any of those barriers. We have not really modified any, so people are just getting discouraged and they don't even try anymore. So I think that's a major issue I see because there are a lot of promises but nothing kept, so people are just getting discouraged. So thank you very much.

Mark Wadsworth: All right, we'll carry on to the next, item number four, Environmental Quality Incentives Program Engineering Standards: Noller Herbert, Director, Conservation Engineering Division, Natural Resource Conservation Service, USDA. Noller, are you here?

Noller Herbert: Yes, I'm here.

Mark Wadsworth: Okay.

Noller Herbert: Or would you like me to sit over there?

Mark Wadsworth: You get the podium.

Noller Herbert: Well, good morning.

Male Voice: Good morning.

Female Voice: Good morning.

Noller Herbert: Okay, good morning again. My name is Noller Herbert. [Indiscernible] community, and Gilbert and I

have worked together many, many years ago when I was in Tuba City. I was [indiscernible] manager of Indian Health Service, and Gilbert was the engineer for Indian Health Service at that time, so we go back.

Good morning. It's a pleasure to be here in front of you to report on an issue that looks like it goes back. I know December last year, I was supposed to be on the agenda. Travel restrictions kept us from going to Las Vegas, and then I think the issue came to the table before that meeting. Looking back at the minutes, I think the issue came about when you guys were talking about microloans and I tried to understand what the real issue was to make the standards. I think the microloan, they were pilot projects and you were trying to get some microloans funded. And the way I understood it was that you needed a better engineer's estimate to be able to budget the work that you're doing, so that when you get the microloans, you make sure that the money you got was sufficient where you don't go back for loans or monies for overruns and all the things that go with the proper -- shall I do that?

Dana Richey: Yeah. It's for the court recorder.

Noller Herbert: Oh, okay. I'm on record now. So I was trying to understand the issue and again, to better have a dialogue, I think what I would like to do is talk about our conservation planning and also our conservation practice

standards. I think after that discussion, we can raise the question again and I'll try to help clarify some questions that you might still have after the discussion. So first of all, I work for the Natural Resources Conservation Service. I'm the chief engineer here in headquarters. Everything related to engineering, I'm responsible for the policy and also the implementation of that policy. In this case, this discussion relates to conservation practice standards.

So conservation practice standards, that's a little piece of what we do. I think the discussion should start with conservation planning. We deal with conservation planning, and your handout there kind of gives you a quick overview of what conservation planning is all about. The whole purpose of the planning is to give you, as a landowner, all the information that you need to make a decision. We, as an agency, do not make a decision for you. We work with you to go through the planning process. We help you identify the concerns that you might have related to natural resources. We work with you throughout the planning process to identify some of the alternatives, and we work with you, what each of those alternatives will have an impact on your land. So that's the proper conservation planning.

So through the nine-step planning process that we do in NRCS, we help you make a decision. So if you do not like the

engineer or the agronomist or the biologist, giving you what you don't like, you need to have that discussion with that discipline to make a decision. So once a decision is made by you, then we go into the conservation practice standards. The conservation practice standard is the, I guess, the minimum standard that are required to implement whatever you decide to do. For example, if you want to do a well, the conservation practice standard sets the criteria for how that well should be done. That is the conservation practice standard.

Another one that I read in the minutes was the irrigation pipeline or just a pipeline. So the standards specify the criteria for the pipe. Most of the time, the pipe will be referenced to the industrial standard, in this case ASTM, American Society for Testing and Materials. So, any product that you buy, it somehow has a standard. If you're buying a pipe, the ASTM would test the material and give this to the manufacturer to make sure that that material being used meets the minimum standard.

So the standards, they outlined their criteria. So it does not tell you how to install the pipeline. If you want to know how to install a pipeline, we go to the construction specification. That's where you would know how; the how-to will be in the specification. The standard is just how the criteria, the material, the velocity in the pipe, how fast should the

water flow through the pipe - that is in the standards. So that's how the standard is set.

So I guess make sure you understand the standard and the specification. So, the standard lays out the criteria on the material, the design itself, and then the specification is site-specific on how to install that pipeline. You'll take that specification and give it to the contractor or somebody that's doing the work for you, and say this is how I want it installed. That's your contract between you and your contractor. So that's how the specification works.

So again, the conservation, it starts with conservation planning. Make sure you know what you want, working with the discipline [sounds like] leader. And then once you agree on the practices that need to be installed, then the criteria comes in, the standard. And then you will work on, okay, what do I need to get this installed? Which is your specification?

And then the other piece for the planning process is the follow-up. NRCS is supposed to come back and check on the practices that you install. So that's the follow-up then. And again, to make sure that things are designed right, functioning right, and paid right. So that's kind of the background on the conservation practice standards, I mean the planning process. So that's what I wanted to share with you this morning, on how the planning process works and how the practice standards relate

to the planning. On your handout there, starting on page two, I know all the way to the end of the page is the list of practices that NRCS has in its portfolio right now.

The way the list works is that if you want to install a conservation practice, you will be looking at that list. You'll see a well, some pipeline, covered crops and all that on there. The way that works is that anything on that list already has a standard, if you implement that, that's what programs pay on. And you'll see a unit there for a pipeline. I think it's linear feet. So if you install a thousand feet of pipeline, that's how our programs will pay for it, EQIP or WHIP or whatever programs you're in. And one thing to keep in mind is the standards that I'm talking about is program-neutral, meaning that the standards that we use applies for all the programs in NRCS, EQIP, WHIP, EWP, all the programs that we offer.

So I guess if you don't see a practice that you would like to implement, or if you have a new practice that you know of, that you would like to install on your land, we do have variants. Meaning that anything that is listed there, we could issue a variance to either modify, tweak a little bit to meet what you're trying to do on your land. So the other piece is that if it's not on the list and if we can't modify what's on the list there, we also have what we call an interim standard, meaning that we can write an interim standard for a practice

that you want. We monitor for three years. At the end of the third year, if it's working well or if it's not, we could incorporate it if it's working well. If it's not working, we can throw it away and say lesson learned. Don't do it again. So that's how the process works for the practice standard.

So that's sort of a quick overview of conservation planning, how the practice standard relates to the planning process and if the standard is not on the list, we could do a variance or we could do an interim standard. So there are options if they're not on the list. So how do we develop these standards? Most of them, we call science-based meaning that they are tested either through traditional method. Over time, we've done a lot of farming. We've done a lot of field studies, so if it's working, we write the standards according to the traditional method or through a field trial. If you want to do something on your land and if you want to do a field trial to test something, we could do that as well. If there's a new practice that's never been done, we could do that.

We also partner with the Agricultural Research Service. They do a lot of research and then they give us the research and then we can also apply that on the land. So for example, in the West, they're land leveling there. Land leveling has always been used but there's research done on the efficiency of water saved, all that, so the research is behind the land leveling

practice. So what we do is we now put it in place. But before we did the nationwide implementation, we were able to do field trials, test it and then it worked. That's how land leveling, graded borders and all the irrigation practices in the West came about.

So I guess my job is to make sure these standards - the engineering standard - and there's also ecological science standard, the non-engineering practices that are in there. So on the engineering side, again, my responsibility is to make sure that those are field-friendly, make sure they're science based and that we, as an agency, can stand behind the standard. So that's how that works as well.

The last piece I want to cover is the why do we need standards. The reason why we have standards, the first thing is every time we take action, there's a risk that goes with it. If we do a land leveling, even a simple fence line, there's always a risk. So the standard, it helps set the standards for how to install it and if one should fail, we can look at their standard and say this is how it was done and we look at the why did it fail. So we have ways to look back. Just imagine if you just dug a ditch and something happened. And now there's no way to come back and see why did that fail. So the standard protects the landowner and also the agency, so that is one reason why we have standards.

The second thing is that when we talk about standards, when you apply conservation practice on your land, it's a federal investment. Plus, it's your own money put in on the land, right? That's the investment that you're making and we don't want you throwing money after the bad. So the standard, what it does is you set the standard. Your risk is minimum if you know that the standards will work, that's science-based, and you put it on the land. So again, it's your investment and we want you to get a good return on the practices that you're doing.

And then the last thing is liability. There's risk with everything that we do. The list that I gave you, there's risks for each one of those practices, a liability. So on the engineering side, there's a chance of something failing, even though it's science-based, it's tested, there's always a risk there or somebody doing something to it at the liability side. The standard protects the agency and also the engineer that is doing the work out in the states. So I think that's what I wanted to cover and share with you this morning, just kind of address some of the questions that you have related to practice standards.

Again, the practice standard is not a bad thing. Don't think of it as a bad thing. Think of it as you're protecting your investment. When you're asking for NRCS for help, we're giving you practice standards. We're giving you construction

specification. Think of it as a good thing for your investment, so you don't want to go and say I got 50 grand here, microloan, and I want a pipeline here. You buy the material. You don't know where the material is coming from to begin with. So you want to make sure that you have proper planning on your land. Make sure that what you're buying meets the standard. In case something goes wrong, you have the recourse to say this is what I wanted but I didn't get this. Okay, so any questions?

Mark Wadsworth: You bet. Angela Peter.

Angela Peter: Hi.

Noller Herbert: Good morning.

Angela Peter: I'm from Alaska. I was wondering, are there any tribes that have culturally relevant standards, or anything like such that has changed because of the way they do their culture?

Noller Herbert: Good question. And there's a handout that I passed out, too. We always get that question. So several years ago, the agency decided to look at the -- again we call it on the Western side, we call it traditional knowledge, but in the native way, it's the indigenous way that we do things. So in Alaska, the book that you got, we had an Inuit that took the lead on putting the group together, looking at the practices that you guys do up there, the blueberry harvest and all the native things that we do. So what we do now is that if you look

at the book again, there are things that we've been doing for generation and generation.

And the challenge to the tribe is, okay, if there's something that's not in the practice standard - the list that I gave you - if we can harness the knowledge from the elders or whoever is practicing that, to bring it to the table. And if they're willing to share it - that's always the issue, it's that there are some things that we can't share - so if they're willing to share it, we're willing to make it into a conservation practice standard. So when you do manage the blueberry harvest or the berry harvest, that you will be able to be paid for it.

Mark Wadsworth: Yes, Angela.

Angela Peter: Are there any tribes that have done that?

Noller Herbert: Well, Alaska, I think the Alaskan natives up there have done that, I believe. The practice that comes to mind is the hoop houses, right? I think everybody knows about the high-season tunnels, the hoop houses. What the Alaskan natives did up there was that they were able to build their own frame but they were able to ship in the plastic sheeting, which they can't get there. But that's the only thing that they brought in. So as far as the tribes identifying the practices that they use, most of them that I know of is in the non-engineering side, like the wild oak harvest in California. But

on the engineering side, I don't know of one. But the opportunity is there, and that's always my challenge to them. That's why we wrote that tech notice, the challenge to the tribe. If you're willing to share it, we're willing to work with you to make a conservation practice standard. So the challenge is up to the tribe. It's up to you on if you want to do it or not.

Angela Peter: Who do I get a hold of to do that?

Noller Herbert: What's that?

Angela Peter: Who do I talk to? You?

Noller Herbert: Yeah. Uh-huh.

Angela Peter: Okay.

Mark Wadsworth: Gilbert, if you'd like to give him your example.

Gilbert Harrison: Yeah, to Noller. The position in Tuba City is still open. Noller, after my retirement, I went back into farming and I applied for EQIP on behalf of my community. And we have an open irrigation ditch right now. That was constructed by hand in 1907, okay? It's got all kinds of problems. We lose a lot of water due to seepage, evaporation and weeds and stuff like that. So we put together a master plan to put that irrigation underground in a plastic pipe, okay? The whole length is about five miles, so we have to take it a

section at a time. I'll just go through it with you, so that we have an understanding of the issues we ran into.

The first issue we ran into was the environmental. You have to have archeological and biological. There in Navajo, we deal with three distinct parties, government entities. We have USDA, we have the Navajo Nation Environmental EPA, and of course we have our friends from the BIA. And we ran into a tremendous problem trying to coordinate. Now when a project is approved, you have a certain amount of time to implement it. So just to get the project approved through the three agencies, it took us over a year to get everybody to sign off. Hey, that's a done deal.

Now, we went to conservation planning. Again, USDA, was it nine-step or seven? Yeah. It was nine-step. The BIA has a little different conservation planning. The Navajo Nation says this is Navajo Nation land so we have our conservation plans, but they don't have one spelled out. So just the conservation plan again to coordinate, this is -- I'm talking about trust lands. So we had a problem trying to just get the conservation plan approved, and we finally did.

So now that in itself, we're into year two now, trying to get the documents approved. Then we had to have the system design according to your specs and all of that, which is not a problem, but we had to submit everything to the State of Arizona

in Phoenix. It took them nine months, because I guess there's only one engineer or something like that - nine months.

We're almost into year three. We're supposed to have this project done in one year. Okay. The problem we have here is all these take time. The problem we had was upfront, when we submitted our proposal it was approved for a certain amount of money, dollar-wise. Now because of all these steps here, the time and then the engineering standards that were used, the price has almost doubled in value, okay. We had something like, you know, \$300,000. Now it's ballooned to \$600,000.

So now that puts the owner at a disadvantage because you have \$300,000 already approved, but the project's now \$600,000. So we went back to USDA. They said well, you have \$300,000. Good luck on the other \$300,000. So just to get money to match, to come out with the total price, it took us almost two years because money's not easy to come by. We had to go to the tribe. We had to go to the state. Finally, we got that. Now all of this is good. We said, good, let's start working. Then the thing is the new Farm Bill came in. The monies we had was on the old Farm Bill.

So these are some of the practical problems that we face out there. We are very, very hopeful that we'll start the project this fall. So I think somehow, we need to recognize the timeframes and the things that come up. And also, we need to

really look at the budget, the price of a project from the very first, recognizing these are the things that are going to come up. So at the end, whoever the recipient is all set and done, is assured that there's enough funding from USDA to do the project.

And that I think, somehow that process, the budget for a project needs to be really evaluated closely, particularly on trust lands because on private lands, it's a lot simpler, very straightforward. But on trust land, you know you don't have accessibility to financing, you can't just go and walk in there and borrow some money from anybody because of the trust issues. So somehow, I would like to recommend maybe your office or maybe out in the west area, take a look at some of these common issues that do come along with the problem. So take a look at the whole project, how long it's going to take. You know, all of that and maybe make it a little easier, and I think that's my experience.

I'm glad you're here. I'm glad that we can lay this whole project out and say that these are some of the areas that we need some reevaluation by USDA, the engineering side, the financing side, so that these projects can work in a timely manner and there's enough funding so that we don't have to scramble around for additional funds. [Speaks in Navajo]

Mark Wadsworth: Okay. So Noller, on the Navajo Reservation, you have Navajo NRCS representatives, right, that are on the reservation? How many do you have? Two, is it?

Noller Herbert: I don't have the count, but there used to be field officers in Kayenta, Ship Rock, Fort Defiance, Chinle - missing one - but they're all field staff.

Gilbert Harrison: Window Rock.

Noller Herbert: They're on the Navajo.

Gilbert Harrison: On Window Rock, yeah.

Mark Wadsworth: Jerry [phonetic], I can't remember his last name.

Noller Herbert: Delcone [phonetic], that's right. I think that the best way to, again, communication, coordination with NRCS anyway, is through the state conservationist. There are area offices, the assistant for state conservationist. They're the front lines for us here at headquarters. Every time there is an issue related to standards, our field staff or our front line, if we recognize that the issue is related to how their practices are implemented or planned, we will then provide training to the field staff. I know we have new people coming in. They might not be up to speed to how to address or implement the standards, so we do provide that training.

As far as funding, that's not my area, as far as how do we make sure that the prices are correct. I think, yeah, just

reemphasize the conservation planning, you guys need to be at the table, the landowner and the NRCS, and make sure that everything's covered. And we give you the best estimate at the time.

Mark Wadsworth: And I apologize if I missed this next question that I have. Mark Wadsworth, member of the Shoshone-Bannock tribes in Southeastern Idaho, Shoshone. I manage the range program out there, so we do a lot of water pipe installing from these old systems that were built back in the old CCC days. You know, 1930s, 1940s, that's what we ran into all over our reservation, never been having any attention to it. And one of the things that we deal with, we deal with a lot of elevation differences and from the pump to the upper tanks to fill all of our troughs and stuff.

The thing that I ran into is that, yes, there is over-engineering, I think, on some of these projects. Because you will get your standard, and we use a high-density polyurethane pipe that was an inch and a half to two-inch that we pump to these higher elevations. And a DR 9 pipe is rated by the company standards and the standards within the industry that they have to make for maybe 200 psi. Well then, it comes to you guys. And you guys say, no, we're only going to rate that at 80 percent.

So basically, it went through two ratings in which we know through industry standards, that probably that pipe has been over-engineered and probably can handle 260 pounds per psi, but they only rate it for 200, and now you guys are rating it for 160, so the lower the number of your DR [sounds like] value, the higher the cost because of more petroleum that they use to construct these deals. Who in USDA made that determination that you would only accept 80 percent of the standard of the industry?

Noller Herbert: The 80 percent is based on, again, we also rely on traditional practices. The 80 percent again is based on risk and that's probably an internal policy. So again, the one thing to keep in mind, too, is at the local level, like Idaho, the state engineer can do what he or she needs to do to do the practice right, as long as he or she wants to stamp the practice. So again, I go back to the liability, the risk about each practice. So if he or she wants to go lower than 80 percent, as long as they don't go below the national standard, they can do that. But he or she who is taking that risk on whatever the engineering practice and the state law and all that, so --

Mark Wadsworth: And just one comment, too, because I've taken it on the other side, too, where they've rated for a lower psi. But I know with our windy conditions and our sandy soils

and stuff like that, if I put that pipe out there, it has the ability to be run over constantly by vehicles. So I over-engineered and said I want to go with the higher one so, you know, it doesn't break by that sort of aspect. You guys accepted that, which is on the other side of the fence.

Noller Herbert: You got paid for that?

Mark Wadsworth: Yes.

Noller Herbert: Okay.

Mark Wadsworth: Yes, Mary. Mary was first, I believe.

Mary Ann Thompson: This is on the same line of questioning, then I'll yield.

Okay. Thank you. Mary Thompson, Cherokee, North Carolina. So along the lines of what Mark was asking you about the engineering standards, and he talked about the state standards and such, but you said that was an internal policy. So that policy then could possibly be reviewed and if changes were needed to help get some of the projects completed, that's a possibility?

Noller Herbert: Sure. I can look at the 80 percent that he mentioned. I can bring that back to the board. Yeah, I can do that. Yes, so.

Mary Thompson: Okay. So as an internal policy, that's something that could be taken a look at. And I guess that's where, you know, this board then is accomplishing some of the

things that they need to, to get these projects on the ground and complete is to make recommendations and to look at your internal policies. I'm wondering, you address in your book, and I haven't really read everything, but with travel policy and NRCS policy, if the two conflict, which supersedes?

Noller Herbert: Between the state and the national?

Mary Thompson: Between the state, the tribe and NRCS.

Noller Herbert: Again, I go back to the engineer that's helping you. And for the engineering practices, it would be the engineer that will have to decide that. So if they --

Mary Thompson: Which engineer?

Noller Herbert: Huh?

Mary Thompson: Which engineer?

Noller Herbert: NRCS or --

Mary Thompson: NRCS engineer.

Noller Herbert: Yeah. So again, in the order for payment to be made, the program that we offer has to meet NRCS standard. Put it that way. But if there are situations that need to be adjusted, like I mentioned, we could offer variants or we could do an interim standard. So again, it goes back to the conservation. Again, don't miss out on the conservation planning. That's where all this needs to be discussed. So again, as your investment, you make the decision and at the end, somebody has to sign off saying that all this meets standards

and specifications. So whoever signs that at the end has to make sure that they document what they did, so --

Mary Ann Thompson: I don't know about other states. In North Carolina, we've always worked pretty good with our state con and we have a tribal liaison representative there, who is a tribal member. I guess through different programs in other states in the Southeast, they don't maybe get a lot of attention or feedback from their state cons, so it hinders their projects when there's lack of communication or miscommunication between your local representative and your state representative. Do all the Indian tribes have tribal liaisons?

Noller Herbert: I don't know. At Pocatello, at Fort Hall, they used to have one but I think Craig [phonetic] has passed away. I don't know if they replaced him. But there used to be, but I don't know who's where now.

Mary Ann Thompson: And then I've listened to Gilbert and the project over there through I guess most of the existence of this board, and with the timeframe, the issues with the timeframes and getting approval, the bureaucratic process for getting everything done, has that gotten any better? Those types of issues, have they been addressed?

Noller Herbert: I think from my level. I'm not sure at the local level, but at headquarters, we do have the MOU with BIA, also with FSA. So again, to address some of the planning

differences, I haven't read the MOU in a while, but in the MOU, the agreement is that if a tribe does have an integrated resource plan, management plan, NRCS is supposed to work with BIA to implement that plan. So that way, we don't go through the whole process. Again, you already have a plan to begin with. So why not just use that plan? That's what MOU says. So there are some streamlining going on, but I don't know how far it goes down to the field level.

Mary Thompson: Yeah. I guess I'm sympathetic to the problem there when by the time you get the project on the ground, the standards had changed because it took so long to get all the approvals in all that process. And I guess if that conservation plan were right to begin with, then maybe that would streamline the process. I don't know. But I guess whenever I look at who approves it, it should have been right to begin with and that might have helped the project along. But I will yield the floor. Thank you for your time.

Noller Herbert: I guess just a comment on the conservation plan. Correct, if we do the proper planning, probably 90 percent of it will be correct. There's always changes to the plan, of course, because you change your mind or you want to do something different. As far as standards changing, that's probably very unlikely because we go through a review process every five years for each of the practices that you see on the

list. It goes through a public commenting. It's published on the federal register. We take all the comments and then incorporate anything new that we learned. So it won't change overnight or within a year. But if you sign a contract with the practiced standard, that standard is in place. We won't change that unless you ask for it.

Mark Wadsworth: Gilbert. Or Jerry, did you have a --

Gilbert Harrison: Thank you. Just a couple more. When we talk about a project, there are various components. Like within a NRCS project, you need environmental -- I think that's part of the total package that you get monies for. Is there a way that we can, let's say when environmental studies are done, that you can do a drawdown against your contract for that portion? Then also when you have a design, you know it takes time to design. But when that design is complete, can you have a drawdown on your contract to pay your designers? And then when you finally come to implement it in the construction, you have various components in throughout that construction? Like when we're laying the pipe, we need to have the land, the debris, everything cleared before you can dig a trench. Can various components of construction be paid a drawdown from the contract?

Right now we have a cash flow issue because the contract is a reimbursable type, which means everything has to be done. So that means whoever is getting some of the project, you have to

fund the whole thing, find some money somewhere to pay all these people and get the project funded, done, and accepted before reimbursement occurs. Well, again I refer to trust lands. Funding is very difficult especially like many of our people back home, they don't have access to a bunch of money to do a construction project that's \$100,000 in value. A lot of projects had died because of that. But if you're able to draw down the contract as the process proceeds, I think a lot more projects will be done. So I don't know if you have any input on that, but I think that would also be very helpful is to have the capability of drawing down as components of a project is finished. Thank you.

Noller Herbert: I think Mark Rose is up next. He's in charge of EQIP. So save that question for him.

Mark Wadsworth: Any other questions? Jerry McPeak.

Jerry McPeak: Thank you, Mr. Chairman. First off, I find bureaucracy to be infectious. I'm the state representative at home so I have big dose of it. I carry a chip on my shoulder to start out with. An example of where I'm headed here, and I think you get it. I don't mean to lecture, but my daddy said to give my sick cow a shot of 10cc. No. The manufacturer said I need to give my cow a shot of 10cc. My daddy said to be sure give that cow 15cc so she's got enough. When I got there, I said, well, that might not be enough so I gave her 20. So it

costs me twice as much money, and 10cc would have been just fine. That's where this is headed.

If we have engineers across the world who say this pipe is strong enough and then he increased it, and the federal government increased it, that's part of our problem. So we're able to do less because we have more, and it continues. Just an example, we do the same thing with medicine. We make medicines not work because we overuse them. That system doesn't work. We do less on our lands because we overdo. And you and I know there are very, very rarely a statesman that's going to risk his job to go out there and say, hey, this is okay even though the fed says it's not okay. He wants to get his time at the table.

Noller Herbert: Thank you for the lecture. I do that with cough syrup, too, you know. It's one tablespoon and I take two, and I bet you'll feel good. So thank you.

Mark Wadsworth: I believe that all the council is really happy to see you in the place that you are, and we're really impressed. And thank you, Noller.

We're going to have a change in the agenda. Actually Ralph Giffen from the Forest Service was able to come and answer our questions on the process with the Forest Service allotments on grazing and the current process on that. I appreciate him being able to take the time to come here. Ralph, if you would.

Ralph Giffen: Sure. Where would you like me?

Mark Wadsworth: Just right up front.

Ralph Giffen: Good morning. Unfortunately, my director, Allen Rowley, had to go back. He's got another commitment here at 10:00. He had hoped to address you, but again he had to leave.

It's been some time since I addressed the council and I had at that time some great hopes of moving quickly to get something moving on our directives. It's been a real challenge this past year to move on some of the stuff. I won't go into all the reasonings why, but there's been a number of efforts by the Forest Service to get some changes made to our directives. Of course, last year was a major effort to get our directives out for our planning to roll on, and that consumed our time. And we've got that done. But there are other things too that have complicated what we want to do.

So at this point, our work on these directives has been paused. We're going back to look at the way in which we're going to do this and try to figure out if there is something better to do and a better way to address it. We felt that there is going to be a three-stage effort we would come out and ask people to address what we have and then go into a process, so draft directives and then a final. We've decided that the best thing we can do is begin an informal discussion. When we do that, we are going to engage some folks who then would come out

and talk to everyone about what they like to see first before we start getting in to a more formal process.

Of course this summer our attention has been turned to such things as fire, fire funding, et cetera. So we've really had our attention diverted away from doing this kind of work. Hopefully, at the beginning of this new fiscal year we can get back to doing this stuff. And it's very important. I think that all the way into the department that they thought this was one of those things that really would be worth our time and effort to do.

Again, we have been working with our Office of Tribal Relations to really put together a way in which we can, at least to begin with, come to your communities, come to your tribal representatives and whomever to begin a discussion. Certainly we've had a number of discussions, and locally there's been a lot of feedback on what we need to do to address some of your questions in the past. So we're trying to build that and again we intend to, at least to the extent we can or know of, address or at least try to come forward to each and every one of the tribes that we can and ask them to see what kind of feedback we have. I'm sure that we'll get to them, every one, to have a conversation like this. But it's our attempt to begin that fairly soon.

This next year is going to be one of those that begins an election year. With anybody who's in a government agency, the priorities change as to when you come up to the presidential elections. So we'll have to see how we again sort through our priorities. It's been our hopes that we could move forward. The status is after the fiscal year, we will look at our funding resources and take the next steps to put together inquiries to, well, not only this community but others in trying to figure out how to then put our next formal draft together.

If you've got questions, certainly ask them. I just want to also let you know that we have been this last year working with the deputy undersecretary to address the proposal by the Society for Range Management - and I guess, Ms. Wheelock, you probably heard this - and that is to: what is it that we can help to bring the science management and training education to the local communities, especially the Native Americans, in range management. An education program that we've supported at least in some symposia at our annual meeting, but now we're going to dedicate some funding for that and I think along with some of the other agencies. But it's just one of those initiatives we're trying to do to help bring that science forward.

We also, at the annual meetings which are typically in the middle of the winter, January-February, sponsor symposia so that we can get some recruitment of the native youth into the ranks

of range management. There's really kind of a dearth of people who, at least in our agencies, but even more so out there and probably within your communities that need that education.

So that's where we are. It's an unfortunate situation. From my standpoint and everybody on my staff and on up, we've really worked hard to try to move this. You've addressed the bureaucracy. Bureaucracy, you know, it's one thing to have the process slow it down. But there are some mitigating circumstances within the last year that really has put some other priorities ahead of this in trying to move it. So I'm open for questions or comments.

Mark Wadsworth: Ralph, yesterday we had some comments and I guess that's what the question is. Is there current regulations up for public comments that address the allotment grazing issues today? There was a statement that there is.

Ralph Giffen: We have not gotten into releasing for comment anything at this time. I think the last time I was here, too, I wanted to make sure I distinguish between our directives, our policies, and regulations. Regulations are those things we write to the statute. The directives are our policies on how we operate within those regulations.

At this point, we were not attempting to change the regulations. But in our conversations about directives, how we work, we were going to also take all comments about regulations

or the statute because we know there are certain things that point all the way back to the way the laws tell us how to work. So we're going to collect that once we get moving. Again, not sure how we'll move forward with that, but we will attempt to act on those things too. We know that there are some things that certainly aren't very well addressed in the regulations, so that would be a next step after we start getting the policies cleaned up.

Mark Wadsworth: And then one last one. One of our other recommendations to you as a memorandum on the Bear Programs between the Forest Service BLM. How's that working?

Ralph Giffen: That is not an area that I know a lot about. But certainly, at least with our agencies and the BLM, we have been working closer. I'm sorry, but maybe -- and I don't know if somebody from our Office of Tribal Relations this afternoon or this morning might be able to address that. I'm sorry. I just didn't know the question; otherwise, I might have been able to get that answer. I know that more and more we are really trying to work together. How it works at the very field level, at the line, I'm not sure what that is. I'm sorry, Mark.

Mark Wadsworth: That's fine. And I'm glad to hear your work with SRM because they reach out to Native American community. I had the opportunity to be on that first part of

SRM and have been there ever since. And Leslie, you had a first --

Leslie Wheelock: Just a couple of things. This is Leslie Wheelock. Point of clarification. The Office of Tribal Relations is a separate office in the Forest Service than our office. Just to avoid any confusion. The other thing is that I spoke at the SRM tribal session two years ago, I think. They do have a tribal organization that they support. They provided free room for the folks who come for that. They had several presentations on the youth programs that they're currently involved with, and I didn't want anybody left with the impression that there's not something already happening there. Thank you.

Ralph Giffen: Right. Thank you. And again, I'm not sure how focused the hiring effort is, but certainly within our organization we have some folks from New Mexico and Arizona who will be at the SRM meeting. We will be attempting to do some hiring there, at least begin the hiring process. So it's a place where we encourage anyone who is going to be there to apply for this job. Certainly within our agency there's really very few Native Americans that are in our ranks. We always welcome those people who have close touch to the land to come and look at what we're doing.

This year, the meeting is in Corpus Christi, which is kind of away from a lot of the West, although it really couldn't drop people from the southeast and the central area, too, so yeah.

Mark Wadsworth: Gilbert, you have --

Gilbert Harrison: Good morning. My name is Gilbert Harrison from the Navajo Nation. This particular topic is dear to me because a number of my colleagues, Navajo ranchers, have expressed concern. This has to do with the leasing of land on forestry and also forestry lands. It has to do with base property. Because even though under the reservation on trust land, we have grazing permit that allow us to graze on tribal lands. As long as we were in compliance, we can do that. But the Forest Service does not consider that as base property.

The issue here was we have asked the Bureau of Indian Affairs to see if this particular grazing area that we have a right to use on the trust land can be interpreted and accepted as base property if we were to apply for a permit on forestry lands. Because many times it's advantageous to lease land on the forestry because it has a lot better grazing area and it has a lot more water, particularly in the southwest where our traditional lands are basically arid. So we wanted to know if there's any consideration or what would we have to do to make the trust land where we have a right to graze and use that as

base property in our application? Right now we can't do that.  
Thank you.

Ralph Giffen: Thank you. You've said a number of things there and I really have to make sure that I understand the situation because there are certain rights, there are certain ways on which we work with seeded lands, treaty rights, et cetera. If these lands are such that there are a right to graze, then it's very different than if it's forests that are not part of those rights. I mean just to address that because I really don't know your specifics, and maybe we could address that later. Where there are no rights by any of the tribes, we would see that as the statute, the laws. Our regulations dictate to us that we must, and that is there has to be an owner of base property.

That owner of base property, let's say if it's the tribe, then the tribe would then have to also be the person or the entity on the permit and the owner of the livestock. And I'm certain that's not what you want. You want some individual to be able to either lease that or be able to work with the counselors, some entity there to be able to use that land. That's where we are having some issues in this. In other words, it's not within our regulations at this time or the law for us to allow that particular situation to happen. Those are the things we know and we've been challenged with over the years.

Until we can get the regulations or laws changed, that's what we as an agency are having to deal with. But again, I'm not sure if there isn't some other way to do that. Again, I'm not sure how helpful they are. Certainly, if there is a particular individual there who would like to do that, I don't know if they've made an application or not. But I've got to say it's something that we've tried to deal with, something that's not been particularly easy to deal with because of the law and the regulations.

Gilbert Harrison: Along the same line, where can I get some definitive information on why an individual rancher on trust land cannot use his area as base property? Well, at least we can start addressing this specific issue and say maybe this law or this regulation needs to be modified or something to allow this to happen. Thank you.

Ralph Giffen: All right. I think that the information would be within our policies right now. I certainly can provide a link to that on a computer so you can see what we say. And I don't know if this individual be from a Forest Service office -- at times it's probably easier to talk to somebody than it is to just read this and try to interpret it. So if there's some place that's not too far away or at least an office that you could call them, that might be worth it.

But let me see. I can certainly provide a link to our direction. And again, we've allowed our regions to also define what that base property might be. So out there, Arizona and New Mexico, they might have a little bit more added requirements. I don't know what they are specifically. Sometimes they want to have a certain amount of land just so that we know there is a place to go once the forest have been utilized to the full extent. So I could even have you contact the regional office if you haven't talked to those folks already.

Gilbert Harrison: Thank you. Can you go ahead and submit that information to Leslie and she can then forward it to us?

Ralph Giffen: I can.

Gilbert Harrison: That would be a common link. Thank you.

Mark Wadsworth: Ralph, also in the Forest Service manual there's a specific section on tribes.

Ralph Giffen: Yes.

Mark Wadsworth: If you could show him the link to that manual.

Ralph Giffen: Absolutely.

Mark Wadsworth: I imagine that has the base property. It's on the Internet, I believe.

Ralph Giffen: That describes our relationships and our agreements with tribes. We know that that needs a lot of work, just in a discussion with the Forest Service Office of Tribal

Relations. There certainly has been a lot of changes in how we need to address the rights, and that's one of those that I think we've said is critical to get revised. I tell you I don't feel good that we aren't moving on this. Certainly when we are given the green light, we'll initiate conversations with you folks, I think we had said that before, and others that would have a strong interest in the grazing part of this.

Mark Wadsworth: Sarah Vogel.

Sarah Vogel: I guess if you send those links to Leslie, then Leslie can fan them out to the entire group. Because I'd like to echo Gilbert, it's not simply an issue in the Southwest. I've talked to numerous ranchers in North Dakota, South Dakota, and Montana who are smack dab next to Forest Service land and have no access to it. Part of it is I think, due to historical practices of somewhat obscure origin, at least obscure to me, that I'll call them the big leases are made with grazing associations.

Those grazing associations started a hundred years ago, and a hundred years ago they didn't let Native Americans into that club. So unless somebody has married a Native American in the last hundred years, there's going to be no Native Americans in that club today. And to me, it's a concern. What happened in the past isn't necessarily right in the present. And I think some of the base property, at least in the north, what we call

the North Dakota Bad Lands became base property at about the time that the reservations were created. So it's not necessarily a time thing. And I know it's a deep, deep topic, but it's almost like many, many other types of segregation and discrimination that have arisen over the years without ever saying we won't let Indians in. I'm not saying Forest Service said that. But the net effect I think is often we don't let Native Americans in.

I think it creates a hardship and a disparity between the opportunities available to Native American farmers or ranchers versus the others. And I know that those that have had access and their ancestors through this federal land for the last hundred years are not going to give them up easily. I think you had an example of that where that guy thought he could occupy that land and not even pay any rent. I mean the Indians at least are going to pay you rent and not pull a gun out on you. So that was a very bad episode in the history of --

Jerry McPeak: [Speaks off-mic]

Sarah Vogel: No, no, no. But I just really want to urge you to take --

Ralph Giffen: I see what you're talking about, okay.

Sarah Vogel: I just really want to urge you to take a deeper dive into this and look at not necessarily what we call the *de jure* like by law. This is not discrimination by law, but

this is discrimination that has a reason over the decades. It's sort of status quo discrimination. I think the Forest Service could do a great deal to remedy those, but it isn't going to be just this is our policy. Thank you. And I'd be delighted to visit with folks about this.

Ralph Giffen: I'm glad you brought that up because what your situation is is unique in those National Grasslands. You're right, the history of the way in which we set up the use really goes back to the formation of the reserved forest. And then as they became National Forest, we were allowing permitted use. In doing that - again, this is over a hundred years ago now - the decision was made that rather than have a lot of transient use like what happened in the 1800s that really destroyed a tremendous amount of the Great Basin and other areas, it had to be tied to certain ownership requirements. That became part of our history and that's where we are now.

However, in the case of National Grasslands, those lands were bought back by the federal government. It was in the late '20s and 1930s because of some of the -- everybody's going broke. They're buying back lands to kind of help support the Depression Era. And also the dust bowl days. So what we have especially in North and South Dakota are lands that became National Grasslands. Those were administered early on by what's now FSA and I think NRCS. Unfortunately, the way in which they

set them up began that way of dealing with those lands within association of people who occupied or at least were within the boundaries of those.

So what you have was a recognition of those associations, and then they had to be recognized by the state as an incorporated somehow entity. That is where we began to have the really solid block of people who then in some ways controlled the access of the base property, et cetera. We know that. It's a legacy that began before us. We are trying to manage for making sure that there's open access. It is a challenge because it seems to be much more difficult to have people come in to those associations.

However - and we've done this and it hasn't been too far back - when we have challenges of discrimination, we have gone out and reviewed those challenges and tried to figure out what it is that's occurring and to see if there are some ways in which we can correct that. And we've done that in the past. Certainly there may be more. That is one of those I've got to say it's unlike the rest of the National Forest, but the National Grasslands have their own special way of having to be managed with those associations where they have it now.

As you move further south, especially in New Mexico, we don't have associations. We have direct permits. So it's very

similar to the National Forest as we do in some other cases still.

Sarah Vogel: I'm grateful you're doing that. I do think time is of the essence because every year that land is leased out and for the most part I think Native Americans have extremely limited access to it. It's nice stuff. And they're looking over their fence line and saying why does Bob Smith have access to this and I don't. So I think the question animated creativity, hopefully not a lawsuit.

Mark Wadsworth: And Ralph, I think that's where you have to understand where we're coming from. It is our established goal here to take down those barriers. It's inherently discriminatory that an individual also within your permit process has the ability to hold that permit in perpetuity forever. And actually they have that much of a control over that permit that they can use that permit in value if they're selling an adjacent ranch along with those allotments. So not only would a farm be worth a million dollars because he has a base property sitting right by the allotment, but he is able to then, therefore, sell his property of 500 or 700 acres or 5,000 to 7,000 acres along with his Forest Service 7,000 - 10,000-acre allotment and improve the value that he receives of that.

Now I have a problem with that because that's federal land and not private ownership land, but his owning the permit and

he's got that just locked up solid. It is not only discriminatory probably towards tribal members, but probably towards a lot of other groups.

Ralph Giffen: You're absolutely right. We recognize that people have capitalized that permit. There's a value added to any property they sell where that permit may be a part of what they're doing. We do not recognize the value. We own the permit, they don't. But they can get a premium for either cattle that are permitted or their land that's permitted just because it has a federal permit attached.

One of the things that we do is that if we see any documentation that represents the sale of that permit or the sale of any of that to somebody as part of the process, we will deny that applicant that permit because we do not recognize that they have any authority to sell by that permit.

There are ways around it. They've been working at it for over a hundred years. We understand that. We understand people place a value on that. How to get around that, that's a big challenge. Part of this is then, you know, in the past there has been discussions on different ways to deal with permits. Some of that is, well, can you put them out for bid. Can you do other ways in which you can get people on the land? And it's a real challenge. You've got to know that wherever you talk about grazing permits, the politics become the most important part of

it as opposed to management on the ground. That's just the way life is in the West. It's just like water - who has rights to water, to forage, et cetera.

I forgot to say one thing. We don't claim Cliven Bundy as one of our permittees. Thank goodness he was on the BLM, and we do have had situations --

Sarah Vogel: I'm sorry. But I know the type though. There's that type.

Ralph Giffen: Yes. And we're still dealing with some of those who claimed the federal land is theirs. So we absolutely do have that. Again, as best we can, we take action. Certainly when it comes to especially militia action, it's not something we want to do as confrontations. So anyway, I'm sorry. I know I'm taking a lot of time but, yes, you have a question.

Mary Thompson: Mary Thompson from Cherokee. We don't do base property so our tribe doesn't have an issue. But as I listen to this, I guess it does kind of aggravate me. It seems that up here in D.C. I don't know if there's a blind eye or what. But allowing those policies or everything that trickle down in some decisions made on the regional level as to the definition of base property, it's discontinued to allow things to happen.

Now when I first raised my hand a while ago, I was just wanting to make sure that I heard you right when you said that the regs - and I'm assuming that's statutory regs --

Ralph Giffen: The regulations [cross-talking] --

Mary Thompson: -- the regulations up here and then your policies that you're going to send a link to Gilbert on are your policies that are set to help you enforce the regulations, and then you went on to state that regions define base property. So I'm trying to work that one out in my head. Do you regions define base property?

Ralph Giffen: They have a national standard and they can add to that. So yes, they can add more to that. That's right.

Mary Thompson: So they can define. Now how about if a tribe defined base policy?

Ralph Giffen: Well, the tribe is not the one who has the permit or administered the permit unless there's an MOU.

Mary Thompson: So therefore, it doesn't matter what the tribe says.

Ralph Giffen: So in cases where we do have agreements with the tribe, they're the ones who work with us to make sure that the use is proper. And we've had tribal youths, and I don't know who the permittee is, out on the Cariboo. I don't know if it's on the grasslands or someplace there. So the tribe has the

rights and they lease it to somebody, and we work with them when we need to to make sure that the use is proper.

Mary Thompson: Okay. But I want to get back to the base property and the individual. So if reasons are allowed to add to the definition of base property to enforce the upper management policy to administer the statutory regulations, then it seems to me that you're aware that your region's definition of base property is hindering the ability of a tribal member to participate, that you should be able to do something on the level up here to keep your regions from hindering tribal members. And if that needs more or additional policy changes up here to enforce your statutory changes, then when those consultations are opened up I think tribal members should get at least the early heads up that, hey, we're going to -- when those consultations are coming up, especially the folks that are affected by this definition of base property, they need to be aware of this so that they can get their forces together to recommend changes. I know that it's just a recommendation and we know how recommendations work sometimes. So in little time I would ask this board to consider an additional measure or additional resolution that would research and determine which policy would best benefit the tribal members and that policy be enforced on the regional level so as to allow tribal members access to those permits. Thank you.

Ralph Giffen: All right. If I may, those regions cannot go outside of the bounds of our national policy. But they can - - and this is the way in which it's supposed to happen - they can set site or area specific base property. That's supposed to be, and I'm quite certain this, in consultation with the local grazing industry or whomever is the permittees. And some of these times --

Mary Thompson: In the case that you just heard, those permittees are the National Grazing Association did you say?

Ralph Giffen: Right. Yeah.

Sarah Vogel: Local.

Mary Thompson: Local Grazing Association.

Ralph Giffen: They're a grazing association, yes.

Mary Thompson: So the way I'm reading this is that while you may be doing that consultation, you're going to consultation with the other side of the fence. You're not doing the consultation with the Indian side of the fence, the owners of that.

Ralph Giffen: Well, at this time what we're trying to do is -- again, we're working with those people who are there now. But as we move forward, it's trying to open up that conversation. How we go about changing the directives, changing regulations and even the statute is what we're going to have to do. We try to have a strategy to do that. Otherwise, for them

to do something that's different outside of the regulations, they're unable to do that. We're going through it right now to make sure that what they have is consistent with national policy. In other words, they can't be adding things that don't meet a national policy. And that's one of the first steps that we've tried to do over the last six months is what's the consistency with each of the regions to the national direction, because we'll then have to go and address that as we get into these things.

Again, that is one that has been a concern for probably as long as there's been permitted grazing - is ownership and those kinds of things. It's not an easy one to address. It's limiting. And certainly for many years then there's been the comments that it doesn't open up to others the process. That's the unfortunate truth. That's where the regulations and the statute lies in most instances for grazing.

I just want to comment here. I'm sorry. I didn't want to take so much time. But in the east we have another situation very different than the west. The lands in the east were purchased through the Weeks Act. The way in which it is administered is very different. In fact, you have a system by which you can bid on the pastures in the east. It's very different, a different way of setting it up. It's outside of the Federal Lands Management Policy Act which set up the way in

which we work in the west. Very different. And there are concerns always with that too. There's always concerns. But anyway.

I guess there's a question about regulations or directives for tribes. Actually, I think that Estelle is here and she is maybe going to address that. Estelle Bowman is with our Office of Tribal Relations. That question came up about the tribal directives for that. Again, I will certainly answer some more questions.

Sarah Vogel: I think it was about a year or so ago, just prior to the time that these recommendations were made, Reid Strong who was attending our board for the Office of Civil Rights, which unfortunately isn't here today, was really digging into that problem. I think it's a significant challenge for the folks on this council who most -- I think I'm the only lawyer on it. But it's very, very deep and thorny legal issues. And I know Reid was doing research, I guess, and I don't want to disclose anything that is confidential, but did you ever hear from the Office of Civil Rights about this apparent disparity of access to federal grazing lands?

When you said you're going to provide the links to these different policies and rules and regulations and so on, that's fine. But that doesn't answer the question. I think there are -- and again, I'll tell you I seriously thought about suing on

this some years ago. Now I got tied up in the Keepseagle case and that kind of occupied me and a lot of other lawyers. So this is an opportunity, I think, for the agency to look real deeply at this and see what needs to be done. And if the law has compelled you to act in a discriminatory way, then I think that should be something that could be brought back to Congress and say please change this.

When I started law school, another example, there was a scholarship program that was set up by a donor and it was men only, and we said that's not fair. The dean said write a brief, We wrote a brief. The dean, they changed it. But the law school itself had to go back, go to court, change the provisions of that particular donation which had said men only to change it. Now, a year or so later, it's women could apply the same way as men. But it took effort on the part of the law school to change something that they were just administering. So it may work out that it's not intentional. But if it turns out that way, then -- and so I guess when we say the secretary should review this, we're not necessarily just saying -- I mean do what it takes, that's what I think the request of this council would be.

Ralph Giffen: Yeah, and it's our intention too. Again, as far as we can find out what this means and when we get -- like I said, we'll get a lot of feedback. I can anticipate a lot of

things, and I know this is one. It's always been one. So it's then what do we do with that, and that's really that next step. We can work on some areas and some things in the directives, but we have to then bring it to the agency leadership and into the Department of the Administration. Especially when you're going to talk about changing laws, it'd have to come into the secretary's office to be able to be resolved. But I can appreciate that.

Male Voice: Sarah Vogel.

Sarah Vogel: And I think Reid did -- I wish the Office of Civil Rights were here, and I wish they would send somebody routinely. And I wish it were Reid. But he did a lot of work, I know.

Leslie Wheelock: He relocated out of this position.

[Speaks off-mic]

Ralph Giffen: Certainly Reid and I have had a numerous conversations about our directives, about the regulations. Certainly, there have been challenges to whether or not we've been discriminating, and he and I have talked about many of these things and where some of the stuff lies at least in the statutes or regulations. Everything that I'd show or send to you, he and I have talked about as far as what's there, how do we have to deal with this, how as an agency where this is the box in which we have to live in and work into.

Sarah Vogel: Well, I guess then we're saying get the box changed.

Male Voice: Gilbert Harrison.

Gilbert Harrison: Thank you. One final comment. This is based on personal experience maybe 10, 12 years ago. We went to a forestry office in Southwest Colorado and there were some signs up there saying that these forestry lands were opened for leasing and people could apply. So that opened our eyes because it's advertised to everybody. And so my wife and I went. We are sheep ranchers. We went up to where these plots were located. We were looking around and these people came up to us and said what are we doing here. And we said these are being advertised; these are going to be up for leasing. And apparently the guy there that had the lease on it, he said, "Oh, they just do that. They'll give it back to whoever has it." So we went back to the office and sure enough the issue of base property and those who came up and gladly waited were just completely shut off.

So this was based on our personal experience. And all we say is -- and we brought this up. All we want is an equal opportunity to participate in these programs. We feel that we have every right as citizens of the United States, as Native Americans to participate, and I think that's why I'm so passionate about this issue. Thank you.

Male Voice: I've got one short question. I like to keep things simple. I've heard all of these and I'm still not sure. Just a straight yes or no answer. Is it legal for someone that if he owns 500 acres or 100 acres and he has a 5,000-acre lease, he sells his 500 acres or 600 acres, does he include the value of that lease? Hypothetically, instead of just 100 acres, it would more of 100,000. He can sell this lease along with his place for say half a million.

Ralph Giffen: I'll tell you, so it turns on a technical point. If he's selling that lease and he's documenting the sale, we will not recognize that. In fact, we will deny the permit to the purchaser.

Male Voice: So it is not legal?

Ralph Giffen: It's not legal to sell by a permit. I'm telling you though that people will put a premium on anything that's attached to permit. That's the reality out there. Unfortunately, we can't control what they say or do. And I've seen places where, in magazines, where in Montana they have a ranch for sale. And then they all say that they have also 20,000 acres of federal land under permit. Well, to me, it's false advertising that they might think that that's part of their ranch. It's only part of what they can use. So again, it turns on a very technical point. In fact, if they are advertising it for sale, we may even challenge that - if we

discover it - when they do that because there are people who are smart enough to understand that they aren't going to talk about they're selling. There are people who talk about selling or buying permits. If that's within I'd say the documentation, we have denied permits. We have taken away permits. We have found that they fraudulently given us paperwork on that and we've cancelled their permits, or taken their permits, or deny them. Again, you can't stop people from trying to find ways in which they will put a value on what's not theirs. With that, I don't know how to say it any differently.

Male Voice: So when that guy that owns that, or girl that owns that place and that permit and they decide to sell, why can't a permit not come up for everybody that joined his 5000 acres? I mean how can they retain it? Once you sell your place, how can you retain that? I mean, how can it not go up for public right there?

Ralph Giffen: That's part of I think the dynamics of our policies that need to change. And one of the things that is in there is a purchaser of the base property of the permitted livestock has the first right to apply for that permit.

Male Voice: The same one. The purchaser of his property has the right to that permit.

Ralph Giffen: He doesn't have a right. He has first right of refusal. I say he is the first in line to be able to apply

for that permit, yeah. So then they have to have clear ownership of either property or the permitted livestock in order for us to issue them a permit. Now if they just buy it up, the property, they are required to bring in enough livestock to be able to validate the permit that first season.

So there are requirements. And I don't want to make it complicated, but we try -- and again, this is going back into the way in which it was laid out over a century ago to have an orderly process by which people -- usually at that time they wanted local people. They wanted people who are right there in the community. They wanted stability that they would be able to do that. It's changed tremendously. The laws haven't changed to keep up with that. Our ability to change our directives is lagging, and that's where we're attempting to get to. I can't answer anything different than that.

Male Voice: Thank you.

Mark Wadsworth: Yes, Kat.

Kathryn Isom-Clause: Hi. This is Kathryn Isom-Clause. I'm here as a liaison to the BIA for the council. The council asked us to look into this issue, which we have done. It's not under BIA authority, as we found. It's under Foreign Service either regulations or policy. But our staff has familiarized themselves with this. We didn't informally see an issue with using trust land to fulfill a base property requirement, but

we'd be very happy to speak with your staff about it and discuss the issues that maybe involved in using trust land. I'd be happy to do that.

Ralph Giffen: Certainly. Yeah, thank you.

Mark Wadsworth: Well, Jerry, we've got a next stop. The speaker is coming up. I appreciate it, Ralph. So you'd probably be hearing more from us.

Male Voice: You bet.

Mark Wadsworth: The next speaker on the Animas River spill, Mark Rose, acting deputy chief of programs, NRCS-USDA.

Mark Rose: Good morning. Mark Rose. I'm the acting deputy chief of programs with the Natural Resources Conservation Service here in Washington. I don't think I spoke before the council before. I do want to start out by saying we are not the lead for the Animas River spill. So that's the EPA's job. We're here to assist. But that's one of the things that I was asked to kind of just touch base on with what NRCS has responded to on the Animas River. We have three states impacted - Colorado, New Mexico, and of course Arizona - where I believe the Navajo Nation covers most of or part of all three of those states. Keisha Tatum is our state conservationist in Arizona. She is the lead state conservationist that covers the Navajo Nation for all three states, so she will be the one that you hear her name of.

Now I do want to say that NRCS, we are very limited on the emergency programs that we administer. I believe the Emergency Watershed Program with Noller Herbert, that's under his jurisdiction within the agency. I don't believe there are any opportunities for the Emergency Watershed Program to be utilized as a result of this spill. Our other programs, which I oversee as Noller mentioned, are the financial assistance programs and easement programs. We have EQIP. We have the Conservation Stewardship, and then of course the ACEP or Agricultural Conservation Easement Program. EQIP could be utilized to address THE resource concerns. There wasn't really any opportunities as a result of this spill for EQIP to be utilized in a short term basis like this. Typically we're looking at irrigation efficiencies, livestock watering, and soil health type of activities that EQIP probably can be utilized for. However, as it relates to the spill and in consultation with the state conservation assistance, there's really not a whole lot of opportunities in the short term for this. There could be in the long term.

I will say though that we are working closely with the EPA to identify if we can enter into an agreement, and this is in conjunction with I believe it's Texas Tech and New Mexico State University into an agreement to do soil testing. The soil testing would establish a baseline for contaminated soils. Now

we're working with EPA and Keisha, and Keisha will be our point of contact with the Navajo Nation to bring or ask the Navajo Nation if they are interested in participating in this. So it's going to be up to them if they want to be able to do this. So that's one of the things that we are working on in the short term to try to be able to work with the EPA.

We have the expertise within our agency and some of the technical tools to be able to test these soils. We're not necessarily going to be doing the analysis. There's going to be a third party doing that analysis. But we just started talking about this last week and I expect to do a little more follow up this week with the EPA that's leading that effort out there. I want to entertain a few questions here on that particular issue. Or if you have anything on the Animas River, then I'm going to answer your question too that you had earlier as well. Leslie, go ahead.

Leslie Wheelock: Just a quick question. The university program, does that currently involve the Navajo Nation?

Mark Rose: No, it does not. Right now our state conservationist in New Mexico, Xavier Montoya, he is working with them to do this in New Mexico because on private lands we are planning to invite the Navajo Nation if they would like to participate in this. That's some of the things that Keisha will

be helping with. And I honestly cannot remember the lady's name.

Leslie Wheelock: Rose Whitehair?

Mark Rose: That's it, Rose. I'm just trying to figure it. It begins with an R. But yeah, she'll be working with Rose, I believe, to make those contacts with the Navajo.

As I said earlier, I have oversight with EQIP as one of the programs. To answer your question, Mr. Harrison, you are looking at probably an EQIP contract within the regulations. In our policy, we are allowed to advance up to 50 percent of the cost of that practice to historically underserved participants in which tribes fall under that. So if you have a cost engaged in say, I'm just thinking it's a thousand dollar figure, that's the cost estimate to put that practice in or that's been established by NRCS to put that practice in. You can get up to \$500 to be able to do that. And she said we do advance 50 percent.

We want to make sure the design is in place before we make that advancement, which typically would be someone from NRCS or some other engineer would get that design. We want to make sure everything is in place before we make that advancement because you're ready to start work. We don't want to give you an advancement and have it sit there for a long period of time with no work going on. Because by regulation and by statute, you

have a certain period of time that that needs to be implemented and installed. So does that answer your question and helped?

Gilbert Harrison: Thank you. The 50 percent, that's a step in the right direction. But as I explained particularly on trust land, these projects tend to take a lot longer because with trust lands you have to have the environmental issues resolved. You have the archeological clearances to be done before you can disturb any surface. Now that's the law. Then on top of that we talked about conservation planning and the issue of design, and finally the issue of the actual construction itself. Well, each one of these components has a price to it.

To say you have 50 percent for construction, that's way over here down the road. But the cash flow you need for upfront work is not available, and that's one of the things that hampers a lot of our progress. So what I'm saying is, well, I can't wait to take a look at the whole project itself. And say, the project includes by requirement you have to have these things done by law before you get to construction and to completion, so the financing should include all of these components and it should be based on completion of these components. Because the people that do archeological and biological clearances, they want their money right upfront too. They want to be paid just like any other person. I think in some other government

contracting, a contract for a certain amount of money for a project you can draw down as you complete these components instead of waiting at the very end to say, okay, now we've got it covered. Our 50 percent, this is just one component.

And so what I say is I think I would like to recommend that you should look at the whole component, all the components of a project and basically be able to draw down as this component is completed. Because these components are required by law and it's really hard on trust lands to have other funds available for cash flow. I think that's one issue we have.

The other issue is that - like I explained - if it takes three or four years, the inflation goes up. Also the approval of design is downstream from the time that a project is approved for a certain amount. The design tends to inflate the project cost. So when you finally get that design, everybody approves it, NRCS approves it, you've inflated the price quite a bit. So I think there ought to be provisions. At that time when you get a realistic price, the price for the contract should be adjusted accordingly. That way, you're not left holding the bag after running around trying to come out with some additional funds now, matching funds.

I think those are the two biggest impediments in trying to implement a project particularly on trust lands, and I think that is where I come from. Thank you.

Mark Rose: Sure. And thank you for the comments. One thing I will look into is what type of technical assistance/financial assistance can be done to address the concerns you have. There is one provision that's in statute that allows us to enter into alternative funding arrangements with tribes. To my knowledge, I don't think we have done that to any degree. We typically don't necessarily get a tribe coming in and apply. I'm aware of very few contracts that we have entered into that way. But I will look in to see what opportunities there are.

I work with our outreach folks - Barry Hamilton as you may know, some of you may know him from the council; and also Noller, as well as some of his folks - to see what the opportunities are to help alleviate some of those burdens that are on in getting the project to completion. Within the practice itself, our limitations are that we don't pay for permits. When it comes to the EQIP financial assistance, that's going to be up to that applicant to be able to get to that point. But I don't know if there's any opportunities with alternative funding arrangements that we have. We will certainly look at that and see what kind of opportunities could be there.

Gilbert Harrison: One idea I've asked about, one of the things that we said, okay, USDA has these loan programs. Why

can't we marry those loan programs to a project? So you have a given project that you know you're going to get reimbursed at the end of a successful completion. Why can't we just go ahead and marry USDA loans to cover all of that so you have appropriate cash flow throughout the project, and then at the end you can just go ahead and use those funds to reimburse the program?

Mark Rose. Sure, a very good suggestion. I know the Farm Service Agency does have some opportunities there. I can't speak for them as to what they are, but I do know what you have described could be available and we'll look in to see what we can do.

Jim Radintz: Jim Radintz.

Mark Rose: Yeah, Jim.

Jim Radintz: From FSA's perspective, for individual projects, we do that very regularly. In fact, that's one way that the microloan program gets used a lot - it's to provide the upfront funding to get EQIP practices implemented when the cooperator doesn't have the money out-of-pocket. I think the issue in your case, Gilbert, is it's a much bigger project than just one individual, as I understand it. And that would be the issue. But from the standpoint of tying together the loan program and things like EQIP, our folks work real closely with the DCs and the state cons and that happens quite regularly.

I'm not sure if there's another program at USDA that might fit, maybe an RD program or something that might fit the project you have, maybe Rural Utilities or someone because you have a very large project, as I understand.

Gilbert Harrison: Yeah. Thank you. But this availability or the ability to marry the programs is not advertised too well. It's not made clear. They're saying that, okay, USDA as the last resort can provide this loan so we can get the project done. Basically, based again on personal experience, we're left dangling out there. And now, after the fact, we find out these things are available. So I think they ought to be integrated so that it makes it feasible.

Mark Rose: Well, you've brought this to the, I guess, the right folks.

Gilbert Harrison: Yeah.

Mark Rose: Because we work almost to the top, let's put it that way, just below the chief. But yeah, your concerns are heard. And I know we have mentioned to our field folks and our state folks that, hey, there are loans, the USDA programs out there to help producers and we'll make sure that we do a diligent job of continuing to do that.

Gilbert Harrison: Yeah. And the other thing that I really want to emphasize is the ability to reach just the amount of the contract when the design is completed. That way, you know

you've based your budget on what the USDA - the engineer side - has approved for a design. Otherwise, we get -- because, as Noller said, they have standards and those standards tend to increase the price of a project. So at the end of design, then you probably have a very good idea of how much a project is going to cost. And if it exceeds the original estimate, you should be able to adjust it so that you can cover the price of the project. Thank you.

Mark Wadsworth: And Mark, if I'm correctly understanding this - and I don't know what the situation on Navajo is, but I know what the situation of what we deal with is - is that through the technical assistance, when you're saying you need to design them, NRCS is doing the design. So we don't have to pay them a dollar for that. When we have to do NEPA, NRCS does NEPA. If your tribe accepts their NEPA process, that's fine. The federal government will accept the tribes so long as they marry each other basically too. So that is on a payment too that is suffered by us when we're doing these projects.

Although when we get into the cultural surveys, again through NRCS, they have the connection within their state to do the cultural resources on your project and they do not charge us a dime for that. But again, we, as a tribe, we have an internal HeTO office. We double check that through our own tribe, but our tribe does not charge for that either. I guess, I'm just

not getting worthy [sounds like] or getting these designs. Are you required by your reservation to do all that by yourselves? Or how does that work?

Gilbert Harrison: Thank you very much, Mark. I'm coming as an individual farmer getting a loan for a project. Now USDA, as part of the agreement, they can pay for biological, archeological surveys. But they tell you, we don't have internal staffing, we don't have enough people to do that. So if you want to do it quickly, go out and get somebody and we'll pay you for it. But is that reimbursed at end of the project?

Mark Wadsworth: At the end of the project?

Gilbert Harrison: Okay. The same way with the design. You have to get somebody to design it. Or they can do it, but what they're saying is they don't have the resources to actually do the design. So they want you to go out and get a designer to actually do a design and then they check it. So when it's approved, that's when it's done.

Now a tribe is different. A tribal government is different. But as an individual, it's now all of that is basically pushed on. You get that and that is not reimbursable until the end of the program. Design is expensive, and archaeological clearances are expensive especially for a small operator. So that's why I'm saying how can we improve this process?

Mark Rose: So he is correct that NRCS typically does the design. But if we can't, then the landowner does have the option to be able to hire them themselves. We do have opportunities, I believe, for what's called technical service providers where we will actually pay for that design or that check out or whichever. Our situation is limited resources across the board, whether it's human or capital. That's our limitations. Same as the producers, both ends. So that's our challenge, is to be able to get things done. And it does take longer to get something done sometimes within NRCS because of the complex projects especially. So what I can do is we can have those discussions here at the headquarters level to see what we can do to try to streamline these processes to some degree.

One thing I will mention is the Regional Conservation Partnership Program, which is new under this Farm Bill. We have funded several tribes with RCPP. It's a competitive process. There could be opportunities to utilize RCPP which invokes funds from EQIP, Conservation Stewardship, and the easement programs, along with Healthy Forests Reserve Programs, along with another \$100 million that Congress puts in each year. There could be opportunities to get some of the things done faster through RCPP. What you just described - an entire project - could be utilized both technical and financial assistance with the

programs particularly under EQIP. But I will say that it is competitive. We just finished the pre-proposal stage for fiscal year '16. I believe we asked back 200 and - don't quote me on this - 225 or so applications out of almost 300 this year.

Mark Wadsworth: I believe I'm talking to the right person now on this scenario. Underserved tribes, there's a set aside through EQIP. Is that a 5 percent figure of EQIP dollars to each state?

Mark Rose: Beginning farmers and ranchers, and I believe it's socially disadvantaged. Those two total up to 10 percent.

Mark Wadsworth: Yeah, 10 percent.

Mark Rose: It's a national. We do monitor that. We typically exceed that 5 percent for each of those two groups. The state conservationist has the flexibility, and I believe I know Washington State has done this with Roylene Rides-at-the-Door. They can set aside a pool of funds for tribes where only within the tribes you're participating for that, you know, the members can come in and apply or the tribe comes in and apply. So the state conservationist does have that flexibility, but by statute we have beginning farmers and socially disadvantaged. Those are the two with the 5 percent each that you're referring to.

Mark Wadsworth: And you said that typically this is for every state in the United States?

Mark Rose: Every state does have these fund pools established.

Mark Wadsworth: If a state does not use their pool, does that money or state --

Mark Rose: It still stays within the state.

Mark Wadsworth: It stays only within the state?

Mark Rose: Right. They're required to offer it and they're required to put dollars into it, and typically they're oversubscribed.

Mark Wadsworth: Would it be much of a problem in keeping those dollars to the intended group, for the dollars to be transferred to other states that have bigger demand?

Mark Rose: I won't say yes or no. It's a suggestion I'll take back and we'll take a look at it.

Mark Wadsworth: That wasn't one of my concerns. I believe it was Mary.

Mary Thompson: Excuse me. Thank you. I'm glad that Gilbert came up here and found the right ear. I kind of hate it. It took how many years to get to that.

Mark Rose: I still have my ears left, too, though.

Mary Thompson: This is the first that I heard of a statutory provision for alternative funding arrangements.

Mark Rose: It's been there and we haven't utilized it. It hasn't been requested.

Mary Thompson: Maybe if the folks on the state level and the levels down there knew about it and took advantage of those opportunities, then projects like Gilbert's could have been resolved years ago.

Mark Rose: Maybe. Maybe, yeah.

Mary Thompson: Maybe. But I guess just getting it out that that is a possible resource opportunity for these contracts - these EQIP contracts.

Mark Rose: Yeah. The good thing with tribes, you're AGI exempt. You're also contract limit exempt. We have several tribal contracts or tribes with contracts that are over a million dollars, and somebody I know I think exceeds \$2 million; whereas, individual producers and non-tribal entities are subject to the \$450,000 and the \$900,000.

Porter Holder: Gilbert Harrison.

Gilbert Harrison: Thank you. Gilbert again here. I retired several years ago to enjoy life, but now I seem to be --

Leslie Wheelock: Isn't this fun?

Mark Rose: Gilbert, if it helps, in two weeks I have 30 years with the service. So I'm looking forward to that day someday.

Gilbert Harrison: Anyway, on the next subject, the famous bill that EPA bestowed upon us. My farm, the north edge of my farm is right along the river. And I represent a small

community and other communities within the San Juan River. You talked about soil testing. There's a couple of concerns that have been expressed and that just recently surfaced because of this bill. One is we found out that all the heavy metals and all this toxic stuff had been released in small quantities into the river for over 100 years since the mines have been abandoned. In all this time we've been using the water to irrigate our farms, to grow crops, and so our livestock have used the water to drink out of. Many of our, you know, including myself, we used to have a lot of fun playing in the river. And so the issue now becomes what has occurred in the past? How much of this have we been exposed to? That's one health issue.

The second one is how much of this heavy lead [sounds like] has -- heavy materials or metals that have been flowing down through our irrigation. We get our irrigation water directly from the San Juan River as a diversion, and it comes right to our fields. How much has this actual [sounds like] deposit been made in our farmlands over the years? We don't have a baseline information on that. Like I said, the spill has now brought up all of these questions. So we're saying, okay, now we have a wake-up call. Now we're going to do all of these things. But we don't have a clue on what has happened and what kind of

effect it's had on our health, on our farms, and on our animals. So that's a big question.

A lot in my community, particularly the grandmothers and some of the mothers, they are worried about what their kids have been exposed to. I think this is what really is a big concern out there. Last week during the Senate testimony I testified before the Senate hearing, and that's the thing I expressed - is we are being hit by all kinds of information. The EPA says you're okay, you're safe. Then they revise their information. Then we have all of these experts that are now coming out and saying this is going to happen. We are a small community. This is like standing where you are and being bombarded by all kinds of information. So that's really a big social issue now - what is coming down?

You say you're going to take part in this soil testing. Now you can get results from the testing. But in the light of all of this, what does that testing result mean? I mean, how can you extract this little bit of information in this year and say this is what happened in the past? This is what you might expect versus this is coming down the river. We're going to get the same amount of toxic material flowing down our water.

I think these are some of the bigger questions. But besides testing and getting numbers, what does it imply for our communities and the welfare of the people that depend on that

water for the farming, the livestock and all of that? It's not only for the Navajo people, but for our neighbors upstream - the off-reservation communities like Farmington, Aztec, you know, downstream. I think these are something that we are now facing. Again, like I said, I have no clue which way to go. These numbers are being put before us saying it's okay, but we have no clue on what does it mean.

I think these are some of the real questions that we look at and say what does this mean for us because on the reservations, we are landlocked. We have no place to go. We got to stay there. And I say I'm going to continue to farm, but can I safely say that my products are safe? I had assumed that they were safe before, but now the question is up here. What have I been selling? We had somebody talk to us about liability. These are some of the things that are now just surfacing, and I think these are big social and other kind of questions that we have. And the testing that you're talking about, what kind of results can we expect besides these numbers? I think that's a really important question of what do we expect from these numbers and how does it guide us in the future. Thank you very much.

Mark Rose: And thank you for those comments because now what I have is information on what you are looking for. And as we talked with the EPA about this agreement, here are the things

we - the community - is looking at and expecting. So hopefully our information will be useful and the data will be useful to identify some of the questions that you've asked.

Gilbert Harrison: What kind of information are you expecting from these testing results? Specifically, what are you looking for not only at this time period but what are you expecting that information to reveal for the future? That's what I'm sort of asking. Thank you.

Mark Rose: Yeah. I don't have the full answer on that. I'm not the expert on that. We've got the money side of things. But I think to help answer that question, the data will hopefully look at what is out there now, what may have been in the past, what needs to be done to address that issue if there are issues in the future. That's where on our end, on the agency side, we can come in with those conversation practices to hopefully help address those.

Mark Wadsworth: Thank you, Mark. I sure appreciate it.

Mark Rose: Sure. Then you're ready for the next speaker, I guess.

Mark Wadsworth: Yes, we got him.

Mark Rose: Thanks for your time. I enjoyed it.

Mark Wadsworth: Oh, thank you. Maybe we'll see you in Las Vegas or wherever or whenever is the next meeting.

We're going to switch the schedule. I've talked with Jerry and also with Angela. We'll go ahead and stay on our 11:10 agenda #11 - Imported Beef Standards. Dr. Chip Wells, veterinary medical officer; Animal, Plant, and Health Inspection Service at USDA.

Go ahead, sir.

Fred Pfaeffle: Good morning. My name is Fred Pfaeffle. I'm deputy assistant secretary for Civil Rights. I just wanted to, first of all, apologize for coming in late. I wanted to let you know that our office is now here represented. I will not be able to stay the whole time, but we do have a representative, Reid Strong, that will come here to the table with your permission. So I'm sitting here for Dr. Joe Leonard and I just wanted to let that be known for the record. Thank you.

Mark Wadsworth. We'll go ahead and go to the next agenda item. Is Dr. Wells here? Go ahead, Gilbert.

Gilbert Harrison: Is this for Chip Wells, Veterinary Office? Excuse me. One question I have, and I've just finished talking -- huh?

Female Voice: He hasn't arrived yet.

Gilbert Harrison: Well, just take the question back to Dr. whoever. It's just the issue I've addressed, the spill that's caused by this toxic fuel coming down, it says here in the area

of the veterinary medical officer. You're going to retake this information back to him.

Mark Wadsworth: Pardon me. But he's a part of the Council for Native American Farmers and Ranchers. I imagine he's part of the quorum.

Gilbert Harrison: Oh, okay.

Mark Wadsworth: Just for a clarification on that. [Off-mic conversations] You know, we're not the only ones that are on Indian time. That's great. I'm glad to see you here, Dr. Wells. Yeah, you're on board. [Pause 33:23 - 35:23]

Chip Wells: Thank you. Good morning. I'm Dr. Wells. I'm with the APHIS Veterinary Services Regionalization Evaluation Staff which is part of the National Import and Export Services. So this morning I'd like to talk a little bit about our process of regionalization. It's a process that we've been using a little bit over 15 years now. Basically, regionalization is an obligation under the World Trade Organization's sanitary and phytosanitary agreements and other trade agreements such as the NAFTA or North American Free Trade Agreement. As such, it must be based on science. Regionalization normally includes either a qualitative or a quantitative risk analysis.

Jerry McPeak: Sir, before you go any further, with what you're talking about I'm taking that you don't mean geography.

Chip Wells: It could be. Regionalization is the way that we recognize a geographic or any geographic land boundary identifiable by either geological, political, or surveyed land boundaries. For instance that could be a national entity like a country; part of a national entity such as a state, a zone, a county, or a municipality; parts of several national entities that are combined into an area or a group of national entities combined to a single region. So an example of that last one would be like the European Union which will be a group of individual countries. Did that address your question?\*

Regionalization evaluations are initiated in response to either a request from a foreign government for a change on how APHIS recognize their disease status, or it could be in response or our response to an outbreak of a disease of concern or a change in the animal health infrastructure of a region or a country. In either situation, the evaluations are conducted following a consistent process although time and data requirements may vary based on a number factors including the disease and the infrastructure of the region. Basically the process consists of data collection and evaluation, verification through site visits to the region or country, a formal risk analysis, and then recommendations made to management for risk mitigation options and if supported, rulemaking or regulatory action.

The Regionalization Evaluation Services evaluates a region for eight factors, which are defined in our Code of Federal Regulations. The standard evaluations that we normally do which is looking for disease freedom or a commodity-based evaluation, if the region cannot be considered free of the disease, follow the eight factors that are outlined in the Code of Federal Regulations Section 92.2(b). These factors include the scope of the evaluation being requested, the veterinary control and oversight of the region, the disease history and vaccination practices, the livestock demographics and traceability, epidemiological separation from potential sources of infection, the diagnostic laboratory capabilities, surveillance practices, and emergency preparedness and response. So those are the eight factors for the standard evaluation.

We also have the ability to evaluate a region that is historically free, and those are covered under six factors which are also in our Code of Federal Regulations and the citation is the 9CFR 92.2(c). The first three are exactly the same as the standard ones - the scope of the evaluation, the veterinary control and oversight, and the disease history and vaccination. The other three are a little different and that's looking at their disease notification, their detection, and their barriers to disease introduction.

After the initial evaluation of the data, an APHIS site visit team prepares to visit the country often in addition to staff from the Regionalization Evaluation Service team. It may include other personnel from the National Import and Export Services, laboratory experts from NVSL, epidemiologists and statisticians from our Center for Epidemiology and Animal Health in Fort Collins, international field personnel, and animal health program experts. The composition of this team is tailored specifically to meet the needs of that particular evaluation.

APHIS conducts these site visits to gather and validate the information that we've already gotten, and gather new information, and to identify any additional needs for data or information to complete the risk analysis. Normally what we do is that we target high disease risk issues, critical pathways, and control points identified through the document review, as well as intelligence provided by USDA field personnel in the region.

The risk analysis considers all the information that has been gathered, its information and data provided by the government of the region under evaluation, the scientific literature and other published and unpublished reports, and information gathered during the site visit. The risk analysis is presented in a format recommended by the World Organization

of Animal Health. The analysis identifies risks and defines mitigations. It assesses the effect of the mitigation measures in place and potential mitigation measures as needed. The risk analysis provides the scientific basis for any rulemaking or regulatory action.

Once the risk analysis is complete, it undergoes a review process - and that's an internal review by both the APHIS and USDA officials which conduct both a technical review. The Office of the General Counsel conducts a legal review, and several APHIS and USDA offices are involved in the policy and economic reviews. That may include the Office of Risk Analysis and Cost-Benefit Analysis, the Office of Management and Budget, the Office of Budget and Policy Analysis. Once cleared by the department, a notice is published in the Federal Register of the availability of the risk analysis for the public review. And I'll describe that process here in a little more detail in a second.

Once the risk analysis is completed, Veterinary Services provides recommendations to APHIS management. The recommendations are based on several factors that include the results of the risk analysis, the animal health situation of the region, mitigations that have been effective in similar situations, and international standards. These recommendations are applied consistently on both a regional and commodity basis

although adapted to address the specific circumstances of the region under consideration.

In general, the options are either opening the market or discontinuing the evaluation or delaying the evaluation. Opening the market with appropriate mitigations is recommended when the risk is negligible or low. And the mitigations depend on the results of the risk analysis. Discontinuing the evaluation occurs when a risk is unknown or high. And when this occurs, Regionalization Evaluation Services recommend ways for the region to reduce the risk and reinitiate the evaluation when the recommendations are met. And this meets our goal for APHIS to facilitate trade of animals and animal-derived products while reducing the risk of introduction and spread of certain foreign animal diseases into the United States. APHIS accomplishes this by regulating the conditions for importation of animals and animal-derived products, recognition of the animal disease status of foreign regions for which APHIS reserves the option to verify that conditions within the region are maintained over time and requirements for disease reduction and medication.

Changes to a regulation are made through a regulatory process that requires publication of a notice in the *Federal Register* of any regulatory action under consideration. Such actions include rulemaking. That would be the proposed final rule approach with a proposed rule, followed by a period of

public comment which is then followed by final rule, if indicated. And then recently, we have begun to use what is called a notice-based approach which is used to add or remove a region from currently published lists of disease status recognitions. That's a little more nimble of a process so that we still do the notice. We still have the public comment. But it can be done more quickly in changing the list that APHIS publishes on the website.

Our website has more detail on the eight factors. There are some examples of the submissions that have been received from countries that we have previously conducted evaluations and more general information about this process. It's available through our website if you go to the usdaaphis.gov [sic] and then follow the links through animal health to international trade. So I thank you for your time and this opportunity. And we'd entertain any questions.

Male Voice: What's the status of the current avian [sounds like] outbreak where the egg prices kind of went up? Is it under control now under your criteria that you were just talking about?

Chip Wells: You're talking about the highly pathogenic avian influenza outbreak in the U.S. Our staff, Regionalization Evaluation Services, helps to try to funnel the information to our trading partners who have requested it. The status of the

disease and the outbreak itself is, of course, managed by our emergency management folks which is a different division. So I've had to defer to them to respond specifically to the status. I do know from reading the published materials that we've not had any outbreak since I believe the very early part of June. And I believe all the control zones for the outbreak this year have been lifted. And of course, we're very concerned about potential for the virus to come back with perhaps the migrating birds this fall. But any more specific information, again, there's a lot of information available on the USDA APHIS website right on the very front page, but specific questions about the outbreak, I think I'd have to defer to our emergency management folks to address.

Male Voice: Go ahead, Porter.

Porter Holder: Porter Holder, Choctaw Nation over here. Are we importing beef from Argentina right now?

Chip Wells: I'm not certain. I'd have to check on that. I believe that rule was finalized. And I think there is a period before it's implemented. But that was not one that I was involved with. So I'll have to get back to you with that.

Porter Holder: Okay.

Chip Wells: I can explain the process for how we go about evaluating them but the specifics on that particular question, I would have to confirm and get back to you.

Porter Holder: Isn't Argentina still one of the countries that have the mad cow and hoof and mouth disease, still left in it? I mean what research I've done, they tell me, except for one little corner of the country and that's where this beef is coming from. But importing beef from that country into America, wouldn't that be a little bit like say building a prison that holds pedophiles next to a grade school? Sooner or later, somebody's going to drop the ball and that's not going to be a good result, end result. I don't understand that why we even entertain the idea of importing beef from countries that still have these diseases. I mean you're messing with my livelihood there. I don't want this in my cow herd. I mean it would put me out of business. So if you could follow with me on that, I would appreciate it. Thank you.

Chip Wells: Certainly, and then if we go back to the earlier slide when I talked about how we approve a region, a couple of points is, one, it is an obligation under the WTO sanitary and phytosanitary agreement, that we remove trade barriers for countries that are at negligible or low risk. It's how we interpret it. I think the actual language says acceptable level of risk. We interpret that as negligible or low. We also require certain mitigations which further reduce the risk to what we're comfortable and acceptable with. And we do that because that facilitates trade. For us to keep many of

our agricultural businesses in business, we have to make sure that we have a free trade policy. So that means not zero risk but acceptable risk or negligible or low risk. So we do everything we can in these evaluations to ensure that, to use your analogy that prison is pretty air tight. It's still a risk, but we think it's manageable.

Porter Holder: I understand that. I understand that with your integrity, my integrity, we're not going to let that happen. But somewhere down the line, we're going to get somebody in the position who does not have the integrity that they should be there. And they're going to drop the ball. I really can't accept low risk or minimum. I accept no risk. I mean, I just cannot understand why we are even entertaining that idea. Thank you.

Mark Wadsworth: Yes, Jerry. Oh, I'm sorry. Gilbert had it right before you do.

Gilbert Harrison: Thank you, Dr. Wells. I wanted to ask a question. I'm from New Mexico. And recently, you probably heard about the spill in the Animas River. Now, the concern there is some of the toxic wastes and things that have come down the river, and the heavy metals particular, the arsenic and some other metals, the concern is how does it affect the health of some of the animals along the river - beef, horses, sheep, and other animals like that? Do you have any information on what

kind of effect those kinds of material, toxic wastes may have on the domestic animals? Thank you.

Chip Wells: I'm as aware of that as what I read in the newspapers and in the media. That's not an issue that I personally am involved with, nor the staff that I work on. So I would have to defer that we have had to ask the appropriate person to answer your question.

Mark Wadsworth: Within APHIS, every state office has a VS or a veterinary services division, especially dealing with sheep, cattle, horses, and stuff. Maybe that so you could get him and contact with.

Chip Wells: I'll certainly try to find the most appropriate person in APHIS that can help you with that.

Mark Wadsworth: Yes, Jerry McPeak.

Jerry McPeak: Thank you, Mr. Chairman. This has nothing to do with the fact that we're Indians. Since you're here, do we have anyone now who is excluded from importing, exporting beef to us here in the U.S.?

Chip Wells: If I understand your question is are we excluding any beef --

Jerry McPeak: Imports.

Chip Wells: Imports from regions in the world? Yes.

Jerry McPeak: Because of disease?

Chip Wells: Because we haven't evaluated them. Presumably, because of the disease. So if you look at our list of diseases of concern in the Code of Federal Regulations, for instance, foot and mouth disease is we consider all the world affected, unless we specifically list them as to their status of negligible risk. So any that we have not evaluated, we consider affected. Only those that we have conducted a risk assessment and evaluation and have recommended that we make that designation and that has gone through the regulatory process including the public comment period, including the risk analysis. Only those would be listed.

Jerry McPeak: Opposite of that, are there countries now -- I know there's political reason, but is there disease reasons why we can't export to some countries? Are we being excluded from some countries for disease reasons, not political?

Chip Wells: That's a tough question. I don't know for sure the answer on that. I can say that for disease reasons, I think the most recently in terms of beef would have been our BSE status. We have worked to get that declaration and that status, and we've worked to remove all the trade barriers that exist in regards to that disease. I'd have to check. But I'm not sure whether any of those still remain. Again, I'm sorry. I work on a very small area of imports, but your question is certainly one I'll try to get an answer for. What might be inherent in your

question, I think you raised the word "political." Are there non-scientific reasons under the guise of animal health that might be out there? And well, I think you read the papers as well as I do and can connect the dots. But we work hard with our trading partners to be sure our regulations and their regulations are based on science.

Mark Wadsworth: Just a for instance, okay, we're starting a relationship with Cuba back over. Are you guys in the process of doing the reevaluation of Cuba's export ability on products and animals?

Chip Wells: To my knowledge, there has been no request by the government of Cuba for recognition. On our part, I don't know whether we have requested opening the markets or not. But that would be the two things that would trigger something as either we receive a request from the government of Cuba for an evaluation of their status or we request of the government of Cuba that we want to open markets and send some of our products there.

Mark Wadsworth: Thank you. Yes, Mary.

Mary Thompson: Thank you, Mary Thompson speaking. Does APHIS anticipate an emergency responds as a result of the Animas River spill contamination to plants and animals and is APHIS prepared?

Chip Wells: Again, I'm the wrong person to answer that question. I don't know who else is on the agenda that would be a more appropriate person to refer that to. But that would probably be a question for the Deputy Administrator's Office or our emergency management.

Mary Thompson: Okay. So I misunderstood. APHIS only evaluates risk of disease to animals or no, commodities introduced for import?

Chip Wells: I'm sorry. I'm a veterinarian. And I'm totally focused on the animal side of it.

Mary Thompson: Okay, [cross-talking].

Chip Wells: To answer that question is that, no, APHIS is involved both on animal health and plant health. And I said that the most appropriate person perhaps to refer your question to would be the Deputy Administrator. And I was thinking in terms of animal health. But the administrator of APHIS would be the one that can probably answer your questions directly in terms of both animal and plant health related to that particular spill and our preparedness to respond to any subsequent ones. I am really in a niche. I cover regionalization, evaluation for animal health for the purpose of supporting trade. If I step outside of that, I'm really stepping into other people's expertise. And I don't want to misdirect you. I'd have to defer the question to them.

Mark Wadsworth: Is the deputy currently Ron DeHaven, Dr. Ron DeHaven, or is he no longer?

Chip Wells: He's no longer the deputy administrator. John Clifford is the deputy administrator for Veterinary Services.

Mark Wadsworth: Okay. Yes, Sarah Vogel also has --

Chip Wells: Ron DeHaven, I think has gone now, and he's the executive director of the American Veterinary Medical Association.

Mark Wadsworth: He's a good person.

Chip Wells: He'd love to hear from you anyway.

Sarah Vogel: This is a question that I think is in your niche. I was curious. Since the passage of NAFTA whether the rates of tuberculosis in the United States herd that national region, our group, our region, has increased because at the time of passage of NAFTA, there was a fair amount of tuberculosis uncontrolled in Mexico. That was one of the concerns of the people who were opposed to the passage of NAFTA. I was just wondering what's happened since with TB in the United States.

Chip Wells: It's a very good question. And again, I'm going to have to get back to you with an answer because I don't know my --

Sarah Vogel: I thought that *would* be your niche. Mexico of course is our major trading partner and TB is the disease that your agency worked for 100 years to try to get rid of.

Chip Wells: Yes. I'm not aware that there has been any problem. My understanding is that we've continued to decrease the incidence. But that tuberculosis is a program disease, not a foreign animal disease. My niche is foreign animal diseases.

Sarah Vogel: But if a disease is eradicated in the United States and endemic in another country, would that not be something to prevent?

Chip Wells: Yes, it would be.

Sarah Vogel: I think that you would have to. TB was found in a few livestock on the Texas border with Mexico but nowhere else. I was just wondering what's happened since.

Chip Wells: Well, I do know that we are working closely with our counterparts in Mexico on their controls and ensuring that it doesn't present a risk of exposure introduction back into the U.S. But your specific question on incident rates is something that I'm not familiar with and would not answer on the spot.

Sarah Vogel: Yes.

Chip Wells: But it is a good question. And we can attempt to get you an answer on that.

Sarah Vogels: I think like in general, the questions that you're going to get back to us, if they could get back to Leslie and then she could fan it out.

Mark Wadsworth: Thank you. I appreciate that.

Chip Wells: I might need some help summarizing these questions. I don't know if Josiah [phonetic] -- can you help me get those questions so that we can get answers back?

Josiah: I have had to step out of the room to take care of some administrative tasks on behalf of the council. I defer to another member or I'm happy to reflect on the minutes.

Female Voice: Dr. Wells, I have the questions.

Chip Wells: You do, very good. Thank you.

Female Voice: We'll submit those to you. Thank you.

Chip Wells: Thank you so much. I do want to thank you for this opportunity. I'm sorry, I wasn't able to answer more of your questions directly but I want to be sure you get the best answer and the most accurate answers. So I prefer to handle it this way. Again, thank you for your time.

Mark Wadsworth: Okay. We're going to jump around with the agenda, go back to Angela Peter. She said she has basically about 10 or 15-minute presentation, then we'll do our lunch. But she had to step out for a second here. So Dana just went to check on her, see she'd be able to come back. Do we have the ability to meet in the cafeteria at a place Leslie or Josiah?

Leslie Wheelock: I think that's what Josiah was talking about.

Mark Wadsworth: Okay.

Leslie Wheelock: [Indiscernible] a place in the cafeteria [indiscernible].

Josiah: The reservation for the cafeteria, as far as I'm aware, is pending approval but we have no other conflicting schedules for setting up a reservation.

Mark Wadsworth: Okay. We all come from reservations. As a part of our next subject matter, we'll go into the Private Wildlife Management with Angela Peter.

### **Private Wildlife Management**

Angela Peter: Thank you. I submitted a bill. It was kind of late, I apologize. But this is a bill; tribal organizations are asking to take over some aspects of wildlife management. In Alaska, tribes don't have anything to do with the management. It's all the State of Alaska. The state doesn't acknowledge tribes exist, which is very interesting. But there are several support of AFN, which is the Alaska Federation of Natives, and Congressman Don Young who is the oldest running congressman in Alaska.

I'll just give you a breakdown that currently the state manages most of the land and water. We have a board of fisheries and a board of game that are responsible for most of the policy and allocative decisions. The Alaska Department of Fish and Game is responsible for day-to-day management, and the federal government also plays a management role on the lands

under its jurisdiction. One of the native corporations is the largest landowner in Alaska. And it just baffles me to know and that we don't have any say in the things that makes us who we are.

Porter Holder: Repeat that? Who did you say was one of the largest --?

Angela Peter: Doyon is the largest private landowner in Alaska.

Jerry McPeak: But you said native somebody was one of the largest. Did you say that?

Angela Peter: Yeah, native corporation.

Jerry McPeak: That's what he was talking about? I understand.

Angela Peter: Yeah.

Jerry McPeak: Native corporation?

Angela Peter: Yes, the native corporations. I think it's 13 regional, and then every village has a corporation and then you have tribes. So it's just interesting. But I wanted to bring this up, and I don't know that it would be anything that could go towards to the secretary or anything. But I just wanted to make sure that the council understood the challenges in Alaska, which I'm sure you guys probably have. I haven't [sounds like] give you a lot of information, but this would be --

Jerry McPeak: I've got a question.

Angela Peter: Yes?

Jerry McPeak: Okay. Having made the trip up there partly for this very reason, I still didn't get a total grasp of it. For one thing, I don't know that I understand the differences of the villages and the tribes sometimes. And when I ask the people up there, I didn't get a very good answer either. The second thing is are you telling me that the villages own land, actually own, possess deeded land and they have the deeded land and the tribes also have -- I don't [indiscernible] deeded land, but they have land that would be like reservations given to them?

Angela Peter: Well, no. Okay. There were tribes up to 1971. And then there was a big push to get the oil from Prudhoe Bay. And so, the state and the tribes made an agreement called ANSCA, the Alaska Native Claims Settlement Act. They created 13 regional corporations in Alaska. And the tribes have other tribal corporations. But now, the tribes do not own any land. The corporations were given the land to take care of the land in trust. So it's a very mixed up system.

Jerry McPeak: Okay. So, may I, Mark --

Mark Wadsworth: Yes.

Jerry McPeak: -- follow up on that? So you're using the word "corporation," like we have incorporated towns perhaps and

Oklahoma doesn't have but I know some -- so when you're saying "corporations," and you're saying this treaty or compact, whatever you have, and those corporation were all Native Alaskan people who guide these corporations? Is that true?

Angela Peter: Yes.

Jerry McPeak: Follow up.

Mark Wadsworth: Yes.

Jerry McPeak: And then the land that they are overseeing has some kind of boundary?

Angela Peter: The State of Alaska manages and owns all of the natural resources in Alaska, all of the animals, all of the fish. So the corporations and the people ultimately don't have no say. Like for instance in Tyonek, you know, I'm a big subsistence person on salmon. They make the rules on salmon. We don't get no say. On moose hunting, they make the rules. We don't get no say. But if it wasn't for that fish and that moose, we would not be the people who we are and who we were for thousands of years.

Jerry McPeak: I'll follow up again.

Mark Wadsworth: Yes.

Jerry McPeak: As you know, in our very, very first meeting, I got in on this thing. I'm with it. Even after my trip up there, it wasn't clarified very much. Okay. So my original question was, so your corporations are advisory groups,

management groups but there is no land involved. Is that  
[cross-talking]

Angela Peter: No. There is land.

Jerry McPeak: There is land?

Angela Peter: The corporations were given land in trust for the tribes. Yeah. Those corporations, I don't know the total amount they own, but our private landowner is Doyon is the largest. That is a corporation, a native corporation. So we own land but we can't manage anything on it. So this is what this bill is about. We want to have a say in the management of the resources in and on our land, which is something you guys have a hard time understanding I would think so.

Mark Wadsworth: I think what we're trying to understand here, too, is when you're saying "trust," is it trust for the Bureau of Indian Affairs?

Angela Peter: No, no. No, I don't know if it's trust. ANCSA created these regional corporations to take care of the assets that they were giving based on the ANCSA, the settlement act. They got monetary funds and they got land. And so, the corporations, as opposed to all the 200 and some tribes, they formed corporations. And so, that's what I was saying.

Mark Wadsworth: And part of this, they gave you the land but it's just basically a word because they didn't give you any management capability of the land that they supposed gave you.

Angela Peter: Yeah.

Mark Wadsworth: So what we're trying to do with this bill is say, hey, give us back our rights that we feel that we deserve and should have within this bill. And I see us as a council, this wouldn't be a recommendation that we could make to the secretary, but maybe just the letter in support, maybe from the council that we want to see management in the aspects of these corporations --

Angela Peter: And maybe it wouldn't be [cross-talking]

Mark Wadsworth: -- [indiscernible] something in that asset.

Angela Peter: Sorry. Maybe, would it be better if I got some more information and gave it to everybody via e-mail or whatever, if that's what you guys want.

Mark Wadsworth: That will work, but I think that also Gilbert has, and then Sarah.

Gilbert Harrison: Thank you, Mark. I think this is appropriate. Down here, there are 48, I think we have self-determination. And I think this bill is basically in line with that. It not only determines, you know, the use of the land but also the resources of the land. That's what self-determination is all about. So I think it's something that's appropriate. Thank you.

Angela Peter: Thank you.

Mark Wadsworth: Sarah?

Sarah Vogel: I've just glanced at it. Correct me if I'm wrong, did this bill has to do with management of the wildlife?

Angela Peter: Yes.

Sarah Vogel: Like the fish, the moose, any other animals. But if somebody wanted to farm using the land as such, then the corporation could manage a lease of the land, for example?

Angela Peter: Yeah. They can do that. Actually they deed the land to Tyonek, the Tribal Conservation District.

Sarah Vogel: Yeah. And I think there are parallels to, you know, Game and Fish Departments in the Lower 48.

Jerry McPeak: You're saying you all can farm that land?

Angela Peter: Yeah.

Sarah Vogel: So when she said we can't manage anything. She's referring to fish and --

Angela Peter: Fish and wildlife.

Sarah Vogel: -- four-legged critters and --

Angela Peter: Basically, what we live off.

Sarah Vogel: Yeah.

Angela Peter: I mean, what we've lived off for thousands of years, we have no say in.

Sarah Vogel: Right.

Angela Peter: And --

Sarah Vogel: So that's what this bill is doing to increase the authority and the power of the Native Alaskans over wildlife.

Male Voice: Which --

Sarah Vogel: Down in the Lower 48s, I think that the tribes do have authority over hunting seasons, like wild rice harvest, but that's a bad example, but other practices.

Angela Peter: Yes.

Mark Wadsworth: But also, this coincides too, is that EQIP is a part of wildlife habitat in setting a program. Also, that there is funding available through USDA for those efforts to manage moose, and we had that discussion way back in the very beginning. But also we had the discussion which we haven't heard back from our comment was, how NAS was available to quantify subsistence as being an ability to recognize as producers. You know if they had over \$1,000 worth of moose meats, salmon or whatever it'd be if they would qualify to be able to apply for a USDA grants through EQIP as individuals. And we have never gotten that response back yet either. And yes, Mary had another comment.

Mary Thompson: Thank you. Comments and questions, the corporations are eligible to produce federal programs?

Angela Peter: Yes.

Mary Thompson: EQIP different programs?

Angela Peter: Yes.

Mary Thompson: The corporations do?

Angela Peter: They're landowners.

Mary Thompson: Uh-huh. So the federal government recognizes I guess their jurisdiction or their land and them as possessors, landowners?

Angela Peter: Yeah. They are landowners.

Mary Thompson: I'm just curious and baffled why the state would not recognize their jurisdiction to control the land base that is in their name. And so, just as, I guess, a word of encouragement or support that I hope that this body can at least find some of the right ears to bring this matter to their attention that maybe you will help to get things resolved. And to me, it just seems like a matter of recognizing the jurisdiction of the corporations and the tribal members in Alaska by the State of Alaska.

Angela Peter: Yeah. And that's going to be interesting.

Mary Thompson: Thank you.

Angela Peter: The one thing that we're really working on is that we are finding that the natives in Alaska are having to break the law in order to feed their people off their own land. Something has to be done.

Jerry McPeak: You mean like when they fish?

Angela Peter: Yeah. Yeah, exactly. So they fish, even one of the representatives did, Al Kukashian [phonetic], they got arrested because they --

Mark Wadsworth: Yes, Jerry.

Jerry McPeak: Mr. Chairman, we went through this on our very first meeting. I remember being very, very interested and I get that and it's another reason why I went up there. I visited so many legislators while I was there, too. I want to be truthful with you in some responses. You have a tremendous non-understanding for the folks who are just living there, it just baffles me. But pardon where I'm headed. I remember from three years when we discussed this, for us, your corporation, ANSCA [sounds like], what we'd call tribal lands, right?

Angela Peter: Yes.

Jerry McPeak: And I think that's part of your problem in communication is that, these Lower 48 folks were never hearing that. You're saying corporation and they're not --

Angela Peter: Yeah.

Jerry McPeak: -- hearing tribal. And number two, didn't you say back at that time -- if I may continue. I'm sorry, sir.

Mark Wadsworth: Go ahead.

Jerry McPeak: By what you say, you also can't control who hunts or fishes on that land. Is that true also?

Angela Peter: Uh-huh.

Jerry McPeak: You mean like anyone can kind of hunt or fish?

Angela Peter: Yeah. They got the game units. And actually, the Game Unit 16B is our Tyonek Tribal Conservation District. And the Fish and Game make the rules.

Jerry McPeak: For what it's worth, we in Oklahoma also abide by the states' fish and game rules. But we have a very few people who are subsistence living. That's not our squirrels and deer even though we have some people who really rely on heavily, not to the extent, I guess, that you guys do. We have some natives who do. I have some kinfolks who do. But now at Oklahoma, we hunt deer's 13 months out of the year. So if you're Indian, they just don't jack with us.

Angela Peter: Okay.

Mark Wadsworth: Okay. Angela is going to give us some more information on this. When was the deadline, I guess, that you need from [cross-talking]?

Angela Peter: Oh, I don't need a deadline. I just want to bring this issue to --

Mark Wadsworth: Okay.

Angela Peter: And then, you know, because I just got this as well.

Mark Wadsworth: Okay.

Angela Peter: And I just want to let you guys know what you guys probably already know, how I feel on it. Thank you.

Mark Wadsworth: I appreciate it. Well, it looks like it's lunchtime, and I guess we'll break and go to that. And then we do have to be back here during public comment period. That will be -- where are we at? 1:30.

Female Voice: Yeah. Comment period begins at 1:30. But let's try to be back here at 1:15. So from now until 1:15, we're adjourned. We're going to take a lunch break, and we'll all go over together to the south building across the street. And we have a room reserved in the back of the cafeteria. And then we have some administrative items that we're going to discuss, those that I gave you this morning.

Mark Wadsworth: Yes. We'll, go ahead and convene right now. Gilbert Harrison.

Gilbert Harrison: Mark, on this public relations or public comment period, over the last couple of years, we really haven't had that much success except for when we have it out at Vegas. I don't know how we can improve getting the word out that we are having a meeting and getting people to come and provide comment during the public period. Maybe it ought to be a little more emphasis, a little more effort to announce that we're going to have a meeting and a public period, a public comment period. I know there are a lot of issues out there but we're not getting

the word out that we're having a meeting and we're going to be accepting the public comments. So I think that's been the experience that I've seen here. Thank you very much.

Mark Wadsworth: Sarah Vogel?

Sarah Vogel: This is a question perhaps that Dana could check. But it seems to me that one of the barriers to people presenting public comment is that Washington DC is pretty far away from most of people's places. It's likely that no one would want to have the expense of going all the way to DC and speaking at one hour, so my question is can we also encourage written?

Dana Richey: Yes.

Sarah Vogel: Can we encourage a call-in like an 800 number where people could call in during the public comment period? Because then I think we would get more participation with letters or phone calls than we do with people in person.

Mark Wadsworth: Go ahead, Dana.

Dana Richey: To address the suggestions of Gilbert Harrison and Sarah Vogel, what I will do is revisit the language and the *Federal Register* notice that announces this meeting and rephrase or see what I can do to massage that language so that it does encourage written comment and see about making available a call-in number, an 800 number for anyone who would wish to join us for that comment period.

Mark Wadsworth: Jerry?

Jerry McPeak: Thank you, Mr. Chairman. I'm sometimes guilty of the one that talks about the elephant that's in the room. At some junction, we have to be responsible for our own actions. And I agree about the folks getting here. I also think that we ourselves are lackadaisical in our efforts to be heard. Part of our culture as a group perhaps, it isn't even agriculture. It doesn't matter if you're -- and why [sounds like] agriculture? We're okay with just leave us alone. Having said that, Skype is so easy, but we have multiple video conference calls. And I know like our tribes in Oklahoma. And what I'm looking at is I need to take responsibility for getting out to those people and telling them. But if we have an opportunity for the conference calls, even if you're just going to do the calls while we're here and it's not the video conference call. It is the conference call. Some of us can take more leadership in getting those people to participate or at least, letting them know that we're having it. But I think we need to be more introspective. In our time that we've done this, I have several times bit my tongue in that I didn't want to offense someone. But at some juncture, we need to be responsible for ourselves. We can't expect to be hand delivered; we shouldn't expect to be hand delivered everything.

I'm the guy that talks about the -- you think email is around the world. I'm here to tell you it's not out there. So I know I sound like I'm coming from both sides of this. But we need to be responsible for ourselves. At the same time, making things, facilitate the situation you're talking about to make it at least more easily accessible because I wouldn't have come to Washington DC to make a comment, noway in thunder. We've done that but I hope we'll also be responsible for ourselves.

Mark Wadsworth: Mary Thompson?

Mary Thompson: Thank you, Dana. When you look into the *Federal Register* and the notice of this public meeting, and maybe before the next public meeting to be held at the next board meeting, that you could shoot us some type of statement, PR or notice and maybe can then sit down from what's printed in the *Federal Register*. But then I would be able to share it with the folks that I have contact with. Thank you.

Dana Richey: What we will be doing in an advance of the December meeting is doing a save-the-date. And we'll be sending that out more broadly than we did for this meeting, all right, internally as well as externally.

Male Voice: What will that be, Dana? What --

Dana Richey: Save-the-date, save-the-date and perhaps for the external, Mary, what we can do is put some additional background information drawn from the Federal Register so that

people know what the purpose of the meeting is and what the opportunity is. Thank you for that suggestion.

Mark Wadsworth: Well, seeing as there's no one here at this time, if I may and I don't know whether the appropriate person to answer the question. But kind of one of our biggest comments was more funding for both extension programs for tribes. And I guess I kind of like to know if we've gotten anymore situations resolved in that issue or what are the barriers that we're facing on that. But it was one of our biggest comments from the very beginning. I don't think we fully have an answer to anyone at this time other than have to pass it through Congress for more funding is what I've heard. But seeing as that, I think, it's one of the issues possibly we should address again at IAC to see it because you'll have all the FRTEP representatives. Again, that would be probably one of the groups of people through our notification for public comment we ought to get to also because they're the people on the ground and should be able to get it to the appropriate tribal membership within the FRTEP area. Yes, Sarah?

Sarah Vogel: Items number 13, the secretary should seek an increase in FRTEP funding as May of 2014. And number 14 was the secretary should support a repositioning of FRTEP to allow for additional funding while eliminating competition. I believe that there's been some discussion maybe with the congressional

liaison who is here all day. But I don't think he's here now about a FRTEP fix in Congress. I personally just blanked out when I try to get attention to this issue by Senator Heitkamp. I just didn't hear back. And then I did hear that her representative was going to meet with Leslie. But I didn't hear back after that meeting. So, I think Leslie maybe could talk a little bit about FRTEP and where it stands. But both items 13 and 14 say they're in process and they're exploring this. So I do think that's a very good point. I think it would be good to know where it stands, what's to be done. This is a very, very, very big issue. I guess I missed it. But I guess the secretary said he wanted more money for extension but so do we. I think it was a year-and-a-half ago, I said I would talk to Senator Heitkamp, which I did. I put them in touch with all the USDA people but no bill. I thought I'd made a pretty good sell job to the Heidi but I guess it didn't work.

Mark Wadsworth: Gilbert?

Gilbert Harrison: As a public comment, I wanted to comment on a couple of things here that we're experiencing on Navajo. Some of the statistics show that we have very few applicants. It's basically I understand also that Arizona, the northern part of Arizona, the local USDA offices may be closing because there's "inactivity." And we heard Noller saying that the representatives in these communities, Chinle, Kayenta, and all

of that, yes, they are. But I understand there are discussions to close those offices because of inactivity. And inactivity is not based because we don't have a need. We have a need but inactivity is caused by the bureaucratic processes that show up not only caused by USDA in particular by the EQIP program but also within some of the bureau procedures. And I express this, a couple of times here. And also within the Navajo Nation, our own procedures and it turns off a lot of people. It basically does because in a lot of cases, we're like Third World countries. And these people come for help. There needs to be help. But when they see all kinds of paperwork, all kinds of requirements, they sort of walk away. So it's inaccurate picture to say there's no need. And I don't know exactly how we can approach this or if anybody can approach this because every agency has their "regulations."

There's an effort being placed, I understand, between the bureau, the tribe, and USDA to streamline some of these. But then, again, these efforts have been going on for some time. There's no progress made because nobody wants to give and take. This bothers me. The statistics show we have very few applicants within our region. That's not because of need. It's because of the way the system is set up. I express something this morning about the issue of financing. The issue of, you know, all the requirements that are basically streamlined to

help the people off [sounds like] the reservations where you can have access to financing. You can have access to a lot of things. But on trust property, trust land, it's completely different.

This is something that maybe is beyond me. But there is an issue out there, a big issue and it involves these agencies. That's something that we've been trying to figure out. Where do you get started? How do you get started to hopefully persuade these agencies - the policies and procedures and paperwork. Either it needs to be made user-friendly or combined or streamline, something? That's a general issue that I wanted to share with the council here. And over the course of yesterday and today, I mentioned some of the ramifications of these policies and procedures. I'm not sure all Native Americans and other tribes have this issue. But I know in Navajo, we do. And I think people that live on trust lands, reservations, those kinds of things still hold true.

Angela pointed out some other issues within the state. Their situation's a little different. Mary also said that her situation's a little different. I guess I'm not sure where we should bite, just take a first bite. They say how do you eat an elephant? You take a one bite at a time. I'm not sure where to take the first bite. It may be on the foot of this elephant. They could just stomp us out. But I don't know. I'm just

grasping in the air. This is an issue out there. Again, don't let it fool you by saying there's no applicants and everything's hunky-dory. There is a bunch of needs out there. But in our effort to help in a lot of ways, we're turning folks away, that's basically it.

The other thing that scares a lot of people besides paperwork is at the end of the project, there's a 1099 issued by USDA and you have to pay taxes. That's why I was saying the engineering folks engineered the thing so high. Let's say you have a grant of \$100,000 to do a project, all of a sudden at the end of the road, he get a 1099 from USDA. Now, you owe taxes on a \$100,000. Hey, guy. How would anybody here want to be hit with a \$100,000 bill from IRS? If you just look at it, they say you owe \$30,000 to \$40,000 on the \$100,000. It's hard to say.

These are some of the common issues that we are faced out there. And I do get turned away. Like we said, USDA says they want to pay for environmental issues. Yes, but they say go ahead and find somebody to do that for you. But guess what? You find it. Those people are saying, "Pay me first." It's those kinds of common issues that exist out there, that turn our people away from USDA. That's a general comment I want to share from the floor. So thank you very much.

Mark Wadsworth: Just kind of as a side comment to that concern, maybe we're approaching that in a wrong way. And I'll

just speak out loud on this is that, yes, you get that \$100,000 to put this practice in. But remember when you receive that 1099, you also should have the cost of all the materials, supplies, labor that you had in. And that's going to go against the \$100,000 that you received. I think that maybe that's why what we need to say is that you're not going to get taxed on \$100,000. But because you had expenses against that and just to let those people realize that you do have to keep records or you will receive --

Gilbert Harrison: Thank you, Mark. One of the suggestions that we had come up with is let's say on trust land. The federal government holds title to the trust land. In effect, you're sinking all that money into federal government lands even though they say it's tribal land. You are putting that money into federal land, government land so why should you even be issued a 1099? That's another concept; we said why. But there are no good answers. Let's say on Navajo. That's a trust land. If we read the BIA regulations, it says, if you put anything into the ground, that becomes real property. In other words, you put a well in, if you put a pipe underground, it becomes attached to the ground itself, and therefore, part of that BI realty. Do you see what I'm saying? So we're saying that we never own it. We don't operate it. I mean, we operate it but we get no tax break on it. Why should we be paying on the 1099?

It's just like this building here. When somebody sinks a building in here, it becomes part of the United States property. And you can't take it with you. You can't sell that. So these are some of the issues that we have kicked around before. Everybody says good luck, take it to your accountant. Thank you very much.

Mark Wadsworth: And just FYI on that sort of situation, too, within the IRS code basically, if you can prove that you own land and I'm understanding that a lot of tribes, individuals don't own any land on their tribe. But for the individuals that do own their own land and they put those projects on those, that parcel of the land and they derive income from that land, it is non-taxable. Yes, it's just one of those other situations that maybe we should let people -- yes, as long as it's within the boundaries of the reservation and trust. But it has to be specifically owned by you or the individual that's putting it on there.

Gilbert Harrison: Yes, one other issue that we face, too, it's similar to base property. If you apply for an EQIP program, one of the things that's required is you have to have control of that land. And if it's a government land, tribal land, yes, you have control to the extent that you have a permit. But you never give up nor the tribe itself never gives up that piece of land. So we've been trying to convince USDA,

the Navajo Nation as a reservation owns land, we just use it. Therefore, it's really hard to prove that you control the land. You can do anything you want to with it. You're governed by 25 CFR.

Yet that question continues to come up. Like I was saying if we have an open range where the several families use that water well and they want to apply to improve that by digging a new windmill or something, somebody has to apply and somebody has to show that they control that land so that, that well can be improve the welfare of follow ranchers or whoever use it. Well, it's a community type of thing. So who has control of that land? All the Navajo nation does. But those are the common issues that we have to talk about, try to resolve. We do in some cases, yet it seems to be repeating itself. All of a sudden, the control of land comes up.

Those are the kind of things that we and the field experience. And we have said how can we make it a standard policy for EQIP to say if you're doing someone a reservation, it's an individual basis, all of that. Some of these things should be user-friendly. So those are some of the things that we face out there. It's a tough issue. Like I said, one of these days, I'm going to retire. Don't feel bad if you don't get a postcard from me or an email from me. Thank you very much, Mark.

Mark Wadsworth: You bet. And you do open up some of the past experiences. And I'll just relate this about our reservation. We are basically 60 percent owned by the tribe, 40 percent owned by the tribal members. Out of the 540,000 acres that we own, we own close to 98 percent of that is in trust status. What we found out in the past was that we have very high production in agriculture out on our reservation irrigated full-blown circulars [sounds like], a huge aquifer that's able to grow Idaho potatoes to sugar beets to ag grain, alfalfa. And in the past, what we had was a situation in which we had non-Indian farmers coming out and leasing our land. This was even happening during my lifetime where people were leasing this high production land for like \$40 an acre.

Well, during that timeframe also, there is federal government programs like PIK, payment in kind, [indiscernible] I believe was another subsidy payment that was paying these non-Indian producers on our tribal land \$40, \$50 an acre in itself. In essence, they were using their subsidy by the federal government to pay for the lease rate to our tribal members. So we really try to get a hold of that situation and get the value of our lease rates to reflect even the government payments that are received by the non-Indian producers because they would always come to us with a situation. I'm putting in the circular and improving this land and digging this big well. This is

going to cost me so and such, such dollars. You guys got to take this in account when I'm leasing your land that I had a big, huge expenditure. But the thing that they left out was that, well, yeah, you've got to write that expenditure off also. We didn't.

So it was with all this type of communications that we as tribes were unaware of or had no clue that it was going on. I'm just talking like back in 1995, '96 and this isn't too far in history sake. And I guess to express to the individuals out here, the USDA has been doing these programs ever since the 30s, way back when tribes were never really included. They didn't get the first language until 1990, and really just haven't started utilizing these programs I'd say in the last past decade. So we're sitting there 80, 70, 90 years behind in the aspect of utilizing these programs. So when we're asking for these special dollars being set aside for tribes or individual people, I think that's because we're trying to catch up. We're still not there. That's the reason why I think one of the reasons why we're here today. And it has helped our tribe, our lease rates are going up considerably. It's just 10 times that we receive income. Other than that, anybody else got anything? Go ahead, Jerry.

Jerry McPeak: Thank you, Mr. Chairman. Since we started three years ago, I was probably the hardest critique of some of

the things here at the USDA. I want to compliment the BIA for showing up at the meetings now. I stated at one time, BIA being the road block so often. BIA has been showing up and that's commendable. We appreciate it. I don't think it's exceptional. I think it's what's expected but be sure to pass that along to the folks that it is important. And I hope that you'll continue to be or someone in the past they be also at Las Vegas. As well as the agencies within the USDA, the arms of the USDA are also here for us to talk to each other. We do that all the time, [indiscernible] all the time. We just don't get to talk to someone else sometimes.

The first year, my head it almost imploded the first meeting we had, because I got so tired listening and talking heads. I've been around government some, and now, it doesn't work that way. There's feedback. There's you tell and we tell you. It's just now beginning to work as I think it should have worked from the beginning - perception. So as you talk, the other arms that are within USDA, it's important to us that you are here. We noticed when you aren't and we aren't here. As I told somebody privately, my daddy always said that, "You know, when someone tells you they don't have time for something, they are still trying to get the stuff that are more important to them to do than come and see you." So thank you. Thanks for being here.

Mark Wadsworth: One more recommendation I'd like to make, too, since tribes are starting to become more and more attuned to management of the resources in agriculture, I think that probably as a subject matter maybe we should have the agriculture and marketing service come and address the council. I believe that they have been trying to do some work with us. It's in the notification for conference calls through them that came through, I believe, Josiah and all of them through to us.

I think that they would be a real good asset to captivate because these are the ag-econ people, the ag business people in which when we are looking as possibly a tribe; in your case, you are purchasing a large ranch or whatever it may be. Helping them develop possibly a business plan or a business model, but also in effect being able to put a good hard figure to which actually how much Indian effect we have on the national economy. How many head of cattle does Indian Country bring to the plate? How many acres of grain do we help to the society? I just think that if we had those numbers, too, it would just help us in the future to apply for other programs and justify just how much we've also contribute to United States. Maybe AMS could be at the next meeting. I appreciate that. Go ahead, sir.

Sarah Vogel: Do you mean ag marketing service? Okay.

Mark Wadsworth: Yes, Gilbert.

Gilbert Harrison: Mark, another suggestion I might make to the council here, too, is in our tribal ag council they have some of the basic objective that we are trying to do. Maybe, we should have them sit on this, just sit in our meeting, sit as nonvoting members, just ask them to sit on it because they have a lot of contacts, they have a lot of pull on some of the issues we talked about. And they have other resources that we don't access to, maybe it just nice to have Zach sit in on our meeting as a nonmember, as a resource. Thank you.

Leslie Wheelock: Mr. Chairman, this is Leslie. They are invited to all of the meetings. We don't kick them out. We give them half an hour just stand up and talk and Zach occasionally will stay for the better part of the meeting. So it might just be making sure that he knows he is welcome to stay. I mean Janey [phonetic] is welcome. Anybody is welcome, these are not closed meeting.

So it's not that we're saying you can't stay for the meeting. You are right, they are resources. They are extra ears for us and extra boots on the ground. There are a couple of others that actually reached to recently in order to make sure that they know when the meeting is, know that it's open. If they want time to talk, they come in and talk. So if you ever have somebody, another organization like that, we are happy

to reach out to them just to make sure they know when the meetings are. Thank you.

Mark Wadsworth: Yes, Gilbert.

Gilbert Harrison: Mark, maybe a little formal letter under your signature to invite them to sit in through the course of the meetings to Zach would be beneficial. Thank you.

Mark Wadsworth: I would just like to expand that to any nonprofit group. We passed, as far as I'm concern, just the one resolution that you brought before us, Sarah, on the ombudsman. Did we have any others who are sitting on the outside that we want to make or I'll entertain those, but go ahead, Sarah, sorry about cutting you.

Sarah Vogel: No. I deserved to be cut off every once in a while. I just wanted to add an anecdote to the comment about how late some USDA programs have been brought to reservations. I don't consider myself all that old, but 1996 which is 20 years ago, I left being commissioner of agriculture. I went in to private practice. I think it was my first year, so it might have been about 1997, the Standing Rocks Sioux Tribe hired me to review their first ever agreement with the National Soil Conservation Service. That's for things like shelter builds and piping for water and so on. It was a very big deal, but it was 1997. I was floored, just floored that it was just that late. And then after that, I think NRCS sent somebody with tons of

local knowledge and had a really super person working on the reservation, living down there, but it just started in 1997.

That is just an anecdote to illustrate perhaps that where Native American regions or throughout the reservations or whatever have been, brought late to party. Perhaps special rules, instead of 50 percent match for NRCS; it could be 25 percent or something like that. Maybe that's something that a USDA could explore. Obviously, we need to have regulations changed [indiscernible] statutes. But time is of the essence, 20 years ago, babies are now 20 years old. But when you think about it that's a whole generation lost, and we can't afford to waste anymore generations. I think that would be a good thing. Maybe, we could even put that into a resolution.

Mark Wadsworth: Yes, Mary?

Mary Thompson: Thank you, Mary Thompson, speaking. Sarah you're suggesting a resolution to reduce the match criteria based on the lack of activity within some of the tribal governments with some of the programs and looking at the policy changes needed to accomplish that.

Sarah Vogel: Oh, this would not be for tribes necessarily. I think this is much more individually oriented but with the NRCS for example which is huge need - cross-fencing [sounds like], water development, tree planting, pipe lines like Gilbert talks about all the time. There is so much work that needs to

be caught up on. Plus, because of the challenges that people face on reservations, there might be even fewer resources to make those matches. That's what Gilbert has been talking about. Conceivably, a reduced match would be a good idea on reservations.

Mary Thompson: And to follow up, Leslie and Dana, that could be something that could be explored to see what statute or which policies would need amending. Also, I had maybe halfway jokingly made a comment earlier about the forestry service doing a little bit of research or looking into their policies, whether it's regional policies, back up the ladder [sounds like] to the statutory regulations regarding the definition of - what was it - base [sounds like] property. Now that I think about it, on the more serious notion, I think that those policies as they come down to the regional level should be looked at to see where that breakdown is that might benefit the ranchers that this is really affecting. Is that something that this council would look at as a resolution? Is it along the orders of the resolution [indiscernible]? Do you have any comments?

Male Voice: Not on that. Not on that, not on the Forest Service issue per se [sounds like].

Leslie Wheelock: This is Leslie. A couple of points, we have 264 programs in USDA that have rather substantial amount of stuff behind them. Shifting through all those, we've gone

through a number of them in a course of putting the Farm Bill regulations out. Most of these regulations, we sat in on the reviews of most of them to the extent there was discretionary ability to do anything. Some of them were proactively changed in order to accommodate some of the concerns that had been raised here as well as during our trips to Indian Country.

We have folks who had been in these meetings, folks whom we've asked questions off and raised this issue to look at this and say here's a problem? I've never imagined that I would hear somebody who is not an Indian talking about fractionated lands. But even in discussions that weren't on the highly fractionated land provision of the Farm Bill, we have been talking about fractionated lands. We had a really long tough meeting with BIA just trying to get everybody's heads wrapped around what we're talking about and how BIA worked with them and how we worked with them and so on. I know that you don't know that happened.

But that's kind have been the internal work through the extent that things, like what Mary just raised, could be specific about certain issues based maybe one of those issues. I think your resolution is probably we would like to see some effort on determining the local effect of the regulation. We'd like to see the statutory provision that the regulation comes from. And we'd like somebody to come in here and talk to us about how it's applied. That's I think what you're asking. I

can write that in a more concise and precise way. But it's always very helpful to us to be very precise in which things we're asking about like the secretary said, tell me two or three things that you want me to look at and let me go work on that. That is to say, go find all the regs that affects tribes and tells us what we could do to fix them.

Mary Thompson: Leslie, I hear what you're saying and I'm trying to let that keep sinking in so I can be more specific whenever we are talking about a resolution. But sometimes it's just so big and so all-encompassing that I just can't get down to the specific. But in this case, I think what they were talking about was the definition of base property and how it differed on the regional level than the DC level and would that be specific enough?

Mark Wadsworth: Sarah.

Sarah Vogel: I'd like to unwind it a little bit and circle back to the idea of the NRCS. I think the NRCS and the improvement programs that it has are critical. Probably all over the Indian Country it would be a very high priority. It's right up there with credit. So rather than putting these off, what I would like to do is suggest that we have a subcommittee formed on the issue of the match at NRCS and access at NRCS programs. I'd volunteer to be on that. I think Gilbert will, perhaps others. We could meet in between and perhaps Leslie

could facilitate somebody from NRCS sending us the key regulations on that point, the match. And then at our December meeting, we could come back to the council with some sense direction. Is it something that could be done at the agency level or is it something that has to go Congress or are there other ways to address this problem? I think that would be pretty productive. December is right around the corner.

Leslie Wheelock: Sarah, excuse me which program or programs?

Sarah Vogel: I'm talking about the match.

Leslie Wheelock: Right but which? There are different programs with different matches.

Sarah Vogel: Well, I'm talking things like water development, fencing, piping, EQIP. Does EQIP address all of those things that I just mentioned?

Leslie Wheelock: Yes. Actually, it's a large umbrella program that includes EQIP. So, yes, it does.

Sarah Vogel: Okay then the umbrella program and the things about like improvements of land and of course the trust maybe Catherine [phonetic] should be on that. Then maybe in a couple of months we might have something constructive to propose as opposed to saying, here's a problem and letting it just be out there.

Mark Wadsworth: If I may just for one comment. I think on this deal, too, is that NRCS has its responsibilities so does FSA. One of the pictures that we haven't got to and I talked with Jim about this, probably Val, you need to hear this also is that you together manage conservation programs through FSA itself. Not only just lending but you have some conservation programs that are inside there that you coincides with NRCS that are directly related. We as a council need to see which programs you're talking about? Are they working and are they hitting Indian country? I couldn't tell you if CSP was an NRCS program. I know EQIP is an NRCS. CRP is yours and both [sounds like] and I think we need that sort of picture made clear on that because I'm not even quite sure whose --

Male Voice: I mean that would be an easy presentation for me, Mr. Chairman -- Val Dolcini with Farm Service Agency. That would be an easy presentation for the two agencies to make at the December meeting wherever that might be to talk a little bit about federal conservation programs from the Department of Agriculture's perspective. What the cost-shares for those programs are. Specifically, how they work in Indian country, successes that we've had, examples of good outreach, examples where we might be able to use your help a little bit more.

I want to introduce Linda Cronin who has been sitting in the corner for the last couple of days. Linda just returned

from Arizona where she met with folks at the Navajo Nation, Gilbert, and went to that office that you were referring to there. We have a number of dedicated outreach staff around the nation who focus on under-served populations and other groups that have not historically been able to take advantage of USDA programs much. You know, there's a real opportunity I think for us to help educate the council a little bit more at the next meeting with regard to what we do, what the agency, what conservation service does, and what we do together.

Jim Odens: Mr. Chairman, Jim Odens [phonetic]. I'd even take that maybe a step further. At lunch time, there was some discussion about working on re-authorizing or re-establishing the committee after the court order expires. That might be an opportunity to add an NRCS representative to the council because it seems like the conversations I've heard and the recommendations I've seen, it seems like there is a lot more focus on NRCS programs. It might be really beneficial to get someone from NRCS on the council just like we are from FSA because it seems like that's another key part of what's going in Indian Country. I don't know what the practicalities of that are, but I'm thinking that once we're past the point of the court ordered composition then it might be possible to expand the council in that way.

Mark Wadsworth: And I would also like to include Forest Service because a part of the USDA budget, they're considerable part of the whole US Department of Agriculture, aren't they?

Jim Odens: Yes, they are.

Val Dolcini: And maybe given the scope and depth and breadth of the department, you know, 17 agencies, over 100,000 employees, maybe there is kind of an at-large USDA representative seat that could be entertained. I don't want to give Leslie a whole bunches of new assignments here. Is that you? But it's an opportunity to hear more regularly from the Forest Service or there was a good APHIS conversation this morning. He could answer some things but couldn't answer a lot what Porter was getting to. There's an opportunity I think for other USDA agencies to weigh in and provide a little bit more expertise and insight to the council's work.

Jerry McPeak: I have a question about that.

Mark Wadsworth: Yes, Jerry.

Jerry McPeak: The rest are coming from the government myself, are these voting members of the council, if they are, that's the question.

Leslie Wheelock: Are these what?

Jerry McPeak: These people we're talking about bringing in, would they be voting members of the council?

Leslie Wheelock: This is Leslie. That's up to the council if you want to make them voting members. We have Catherine not a voting member but invited by the council to be on the council. Our FSA people are voting members. I'm a voting member.

Jerry McPeak: I will be very concerned about overloaded - no offense - with government participation and --

Leslie Wheelock: You're worried about us outvoting you.

Jerry McPeak: That's exactly right.

Leslie Wheelock: Oh, Jerry, I don't think the federal government would outvote the Indians, do you?

Jerry McPeak: You folks are all [indiscernible].

Mark Wadsworth: Well, seeing that we still haven't had any public comment, I'd like to hear just from the people that here now the kind of agenda items, I guess, we would like to have included in the next meeting. Would you like something like that Leslie or go ahead with what [cross-talking]?

Leslie Wheelock: I think before we do that, one of the things that I'd like to do is go back and revisit. Sarah, it sounded like we we're putting together kind of yet another subgroup or subcommittee to work on some of the specifics that I think would address what the secretary had asked for.

Sarah Vogel. It was the secretary's call [sounds like].

Leslie Wheelock: Oh, I'm sorry. One of the things that was raise was the double cropping concern with Interior, a

mismatch in term of how we deal with this situation. The secretary said, "If you give me a few very specific things that need fixing, I can take them and see if I can fix them." So I think that the area of discussion that Mary and you started, kind of kick off, can possibly surface some of those things potentially better and faster than what we've been doing here and probably by the December meeting. As was mentioned in the secretary's comments, we don't have a lot of time to push some of those things through. So if we had a subcommittee working on it, we might be able to surface a handful. Maybe we've got a handful. We've got basic ridge [sounds like]. We've got your grazing. We got some Forest Service things that still are unanswered. And we've got the double cropping and some other things that have come up during this meeting.

Sarah Vogel: Speaking only to idea of the NRCS, I would think it probably would be good to have someone from the NRCS, and then also someone from the USDA FSA, the conservation side to be on that subcommittee. Perhaps, after this meeting that could be organized and that was not on the grazing based unit issue. I think Reed [phonetic] did a fair amount of research on that earlier. He could possibly add to our collective insight on that. I had another idea, too, but it's gone away. I will remember it later.

Mark Wadsworth: I think that there are a few questions on the remaining agenda. We have about five more minutes of that period to still remain open I guess. So, we'll fill that up and then Jerry would like some time to address at 2:30 the native chartered schools, rural roads and dangers in the Native American Indian lands. We will do that at 2:30 timeframe.

And just a side comment on the I think the language to NRCS programs mainly involves not co-share but cooperative agreements because they've gotten away from the co-share kind of scenario is what I understand in most of their programs. Just my comment to this is I know that there has been so much effort in the past to get those percentages for Native Americans up to the level that is rightfully. So I would then in no way be in support of trying to lessen those percentages. Currently, in some of the cases, people will get as high as 90 percent cost allowance through some of the cooperative agreements. I would in no way want to be involved in recommending that that go down to 25 percent. That is just my comment.

Sarah Vogel: Yeah, yeah, good point. Good point.

Mark Wadsworth: I guess last and finally too, to get back to the MOU with the BAER Program with the Forest Service, the memorandum of understanding that was in agreement to that, just as again another background, and you guys probably heard me say this before, but on my reservation I was able to go to a Forest

Service BLM BAER training. And that's the burned area reclamation, or burned area emergency reclamation projects through the Forest Service and also through BLM, and also through the DOI Forest and Wildlife Service. So there's three pots of federal money at that time that was available when we had these extensive fires that happened across the country.

And I can just see right now on the Colville Reservation, this is going to be a huge concern because they've had close to 70,000 acres burned within their reservation boundaries. And one of the things when I went to that meeting - this is back probably in 1998 - my issue was that I was the only tribal representative basically there at that meeting that was put on by the Forest Service and we had to kind of invite ourselves to attend. And then when I did attend that, it was this same scenario about, okay one of our concerns is that some of the funding through DOI to the BIA for forest fire, wild land fire concerns, generally gets used up immediately every year.

And if you're depending on, generally for the most part, tribes in the Southern portion, Southwestern portion of the United States generally have more fires than the tribes that are in the Northwest or East. And they have a sooner fire season than basically what occur in our area. That generally, that funding is all used up within that year by the time it reaches to the Northwest. And my comment and question, both to BLM and

to the Forest Service was, well okay, what if we expend all the money that has been utilized for these projects within DOI-BIA funding? Can we apply for your funding?

And it was the same thing well, no. You guys are tribes. You've got to deal with DOI. You've got to deal with BIA. And it was the same kind of barrier that we always got when we went to a lending deal, you know, when we went for a lending. No. We can't help you. You've got to go to BIA. And I guess that was the importance of getting this MOU in place, is that, just to open that door that tribes have the ability to apply for Forest Service funding or BLM funding, if the funding through BIA is exhausted and having that opportunity and that door open. And I don't know what the process of that MOU has been, but maybe we could get something on that in the future also. Go ahead, Val.

Val Dolcini: Mark, Val Dolcini with the Farm Service Agency. Just on a related note, you know, obviously western wildfires have been extraordinarily horrific this year and they're still fighting fires in California and scattered throughout the other states in the northwest and far west. You know, fires are being controlled and contained, thankfully. There are lots of USDA programs that can provide assistance post-fire. You know, obviously we want to get those fires extinguished, but then there are livestock indemnity programs

for cattle deaths. There are feed programs for feed losses, tree assistance programs where orchards and other stands have been burned or you know, destroyed in some fashion.

I know there are a number of Indian producers in those states, those five or six states that have been particularly impacted in the last several months. And you know, Dana and I can follow up with the council and keep folks aware of what programs are available, in the hopes that you can share that information with impacted tribes. We've certainly done that with OTR and Leslie's team here as well, but there's a fair amount of assistance that we can provide folks who have been impacted by recent wildfires.

Mark Wadsworth: It is 2:30. Public comment period is now over with. Jerry McPeak, we're back on to your schedule line item: Native Charter Schools and Rural Roads and Dangers in Native American Lands.

Jerry McPeak: Mr. Chairman, thank you. Actually, we're not going to digress. I want to cover that also, but we also have Randy Johnson here on the double cropping and encouraging - I felt like that we had a commitment, Leslie. I felt like we had a commitment from Mr. Secretary about looking into that with the BIA. Did you get that same feeling from the conversation?

Leslie Wheelock: Yes, sir. I did.

Jerry McPeak: So I find nothing, if I could, Mr. Chairman. The gentleman behind us is Randy Johnson. He is the lead with Hubs. Is there anything you want to add to any of that, Randy, with his permission?

Mark Wadsworth: Go ahead, sir.

Randy Johnson: Not a lot to add. We had a meeting in Kansas. Rachel attended and the topic came up that the NRCS programs to cover crops and double cropping couldn't be used on BIA lands, at least in Oklahoma. We're trying to figure out if that's just statewide or otherwise. We in the Hubs have contacted, through our climate people and BIA, trying to find answers. The people we need to talk to are all putting out fires right now so we haven't been able to establish those discussions, but we hope to do that. And the encouraging thing is what I heard yesterday as well, is if we can't make progress, we can take it secretary to secretary. If you have any questions, I'm here to answer.

Rachel: Randy.

Randy Johnson: Rachel.

Rachel: Did somebody fill you in on the background of the secretary's comments yesterday?

Randy Johnson: I was here.

Rachel: You were here, okay. Thank you. We will put that together.

Randy Johnson: Yeah. And I sent a memo to a few people and CC'd somebody from his office, so he might be aware of this situation already.

Rachel: Okay. Thank you.

Mark Wadsworth: Kathryn?

Kathryn: I just did want to call the council's attention to the fact that we do have a representative from BIA here in the back, Dave Edington, who joined for the double cropping discussion, so he's here. And if there's, you know, anything that the council would like to discuss while he's here.

Leslie Wheelock: Invite him up to the table. Come on.

[Cross-talking]

David Edington: My name is Dave Edington. I'm the rangeland management specialist for the --

Leslie Wheelock: You need to use the microphone, we're on the record.

David Edington: My name is Dave Edington. I'm the rangeland management specialist for the Bureau of Indian Affairs here at central office in Washington. We got a call from Kathryn's office asking that I would -- somebody be here for this meeting, and I was the one that was available. That call came in Friday. I did some research, called some of the agencies, Indian agencies in Oklahoma, talked to the regional realty specialist for Eastern Oklahoma --

Gilbert Harrison: Could you talk into the microphone, please?

David Edington: -- region. There is no statutory requirement or prohibition for double cropping. There is no regulatory prohibition of double cropping. I've looked at some of the language in the leases. It says you cannot take a second crop. That doesn't mean that you cannot plant a cover crop. In fact, some of the stipulations in the standard leases require you to plant a cover crop. So when I did talk to the agency personnel I asked him if anybody from NRCS had discussed the situation with him. The three people I had talked to said that they had not been contacted about it. So there seems to be a problem with discussing these problems with the people on the ground who are responsible for writing the permits, to make the --

Jerry McPeak: I'll respond to that. They have been discussed about it. Someone in the BIA has told us we can't do it. Someone has had the discussion, sir, out there on the ground. Item number two: this is not necessarily rangeland. This is farmland and it's not just a cover crop. Two things: we, being Indians can make more money off of it if we were able to charge them for farming another crop, along with the fact that we could have soil practices also to help us in soil conservation with those practices. But BIA has been discussed

with - I don't know. I'm not sure who you talked to, but I'm telling you, those folks have been talked to. Now that's the worst.

And it's like the last time I talked to Mr. Black [phonetic]. We took six years about getting something; he did something in three months. So those folks have been talked to, because we're being told no, we can't do that. And we have actually even found a way to handle it, although it may be not Washington D.C.'s way. We kind of tend to do that out there where we're from. But this issue, I wouldn't want you to walk away from here thinking this is a non-issue because it is absolutely, totally an issue for us. No problem.

What we were wondering about is we don't know for sure if it's an issue in other states at all. All right? Did this thing just evolve? It kind of appears that it kind of evolved in Oklahoma. Is that what you're gathering, maybe from --

David Edington: Like I say, I was contacted last Friday. I had received an email. Sean Hart, who is our climate change specialist, sent me an email saying that he had talked to somebody from Oklahoma in one of these climate change adaptation groups and they said that they had their problem. I sent it to the realty officer because realty handles leases and handles leasing policy. She's been gone, and so like I say, I was assigned to come here. The research I did, the people I talked

to, said that they had not been approached on the issue. They also agreed that there are lease stipulations that require cover crop. I also imagine that there would be a grazing on winter wheat question.

If you were me, I would personally consider that a standard practice and not a double crop. But I would expect that the beneficial owner of the Indian land, either tribal land or individually held lands, to be compensated to the full value of what is being taken as a rental situation, not as a --

Jerry McPeak: But from our standpoint, sir, also you want full value. We want full value too. But if BIA is standing in our way of getting full value, we'll take what the hell we can get. And that situation is we're having to take what we can get, because BIA is saying it's illegal. Well, we can find our way around it, but it's not a good thing to do because like you said, we're not enjoying the full benefits. We being Indians are not enjoying the full benefit of being able to charge them for making the second crop, if we so desire to let them do that. And we're not saying we want to do it on all the territory or on all the grounds or all the lands. But we're saying on some lands, it's not only beneficial to the Indians, but it's beneficial to the land. It's a conservation measure even for the land sometimes.

And I understand, you know, you got this thing Friday. I can't imagine showing up. You tell me Friday, and was it lack of preparation on my part doesn't constitute an emergency on yours, but I wouldn't want you to leave here thinking this is not real, because it's real.

David Edington: Well, I'm not saying it's not real. I'm just saying that my research into the situation says it certainly doesn't need to be raised to the level of the secretaries because just a meeting with all the realty people to discuss why they feel that there should not be double cropping --

Jerry McPeak: In that case, Mr. Chairman, we need to have a resolution. I didn't feel like we had needed to after the secretary was in here. Secretary Vilsack indicated that it was something that needed to be done. That's been part of our problem, sir, and we've had the BIA come in here now because BIA has been, rather than being something that helps us with our agriculture production, there's something that hinders us from agriculture production because this is standard agriculture practice in Oklahoma. It's not even a revolution. We've been doing it since we got through the Dust Bowl. It's been a good thing for us to do.

We've been paid to put sericea lespedeza on our land. We got paid for a while not to produce corn, to not raise hogs.

That was a hell of a deal. So this is not a new thing for us. This is a farming practice that we've been doing for decades, that now BIA is saying that we, as Indians, can't charge for it and/or the people that lease the land from us can't do it, which is from an agricultural production and land preservation standpoint, is beyond our comprehension how that would not occur. And this is exactly where we are. It is at the secretarial level. It's absolutely at the secretarial level because the crap [sounds like] we're getting at home, if I can put that much crap on my land, would raise more stuff because they're telling us they can't do it.

So we don't really have time, sir, to go from county to the next guy to the next guy. There's so much bureaucracy between us and up here, we can't get there. So if we can get it to the secretarial level they can make a decision in about 15 minutes on this probably, because I really don't think your people are going to have a difficulty making that decision. It'd be really good. But for us to wait another two years, the whole dad-gum thing that's created will already be outdated, and that wouldn't exist anymore by that time because truthfully, we're at 15 months, 14 months. That's truly what the world really is right now. So we can kick this thing around. You know what we'll do, it'd be kicked over the next football season.

Mark Wadsworth: So I guess, David -- Mark Wadsworth, Shoshone-Bannock tribes. We'll gather for a whole agency work with Robert Compton now, the regional area and with the Northwest region. Also we got a new superintendent, Randy Thompson who just currently got placed in there. We kind of had this issue in our local agency, that there was an internal kind of policy that you could only lease for one purpose. I think we've gotten over that hurdle, but by hearing you today saying that there's no statute, no definite regulation to prohibit that, that's great. You know, that's what we needed to hear. You know, because I'm not saying that it was an issue that is not as -- I don't want to belittle the issue because for some reason, it came about. And I think hopefully, we've settled it because in the future, we're all looking for both for the benefit of the land and the benefit of the landowners and tribes.

David Edington: Well, I would like to remind you that from a desk in Washington, I would not second-guess the professionals in the field. And if they do have a legitimate reason for putting that stipulation or making that prohibition, then I'm not promising that it can be taken away, but it's something that can be worked on. But if you want to raise it to the secretary level, more power to you and you know, I'm cool.

Mark Wadsworth: Also, I would just like to say that with the new range con in our area, he's doing a heck of a good job, so I just wanted to let you know.

David Edington: Thank you.

Mark Wadsworth: Any other --

Jerry McPeak: We still have a quorum here. I guess, from this gentleman's statement, perhaps we do need to have a resolution asking Secretary Vilsack to look into this, even though he's already said he would. I hate to do that because he is aware and willing, and he seemed to be equally appalled. But if our spokesman for the BIA seems to think that it doesn't reach secretarial level, Leslie, I don't want to be disrespectful to the Secretary of Agriculture. So I'm looking for the appropriate thing to do.

Leslie Wheelock: This has already been raised. It's obviously bothering people. He knows about it and it's been raised internally as well. I think following through with it is at this point, a good idea.

Jerry McPeak: At this point what?

Leslie Wheelock: A good idea to follow through with it.

Jerry McPeak: With the resolution?

Leslie Wheelock: Yes.

Jerry McPeak: Okay, that's good to know. Let's go ahead and make the most of it.

Mark Wadsworth: Yes, Mary Thompson.

Mary Thompson: Thank you. Mary Thompson speaking. I'm sorry. What was your name again?

David Edington: David Edington.

Mary Thompson: David Edington, I'm hearing you say that you found no statute or resolution prohibiting double cropping.

David Edington: No statute or regulation.

Mary Thompson: Or regulation. And from Mr. McPeak's perspective on the ground in Oklahoma, it is being prohibited. So I'm looking at that communication gap somewhere between D.C. and Oklahoma, and maybe that's what needs to be looked into to see how and why the law is being read one way in Oklahoma and interpreted the other way in D.C. And that communication, or lack of communication, may be all that it is. I don't know, but it seems to me that needs to be checked into. Thank you.

Porter Holder: Who did you contact in Oklahoma that told you this wasn't a problem?

David Edington: I talked to -- nobody said it wasn't a problem. I called them up and I asked them where their standard stipulations came from and they said --

Porter Holder: Who are they?

David Edington: I called an individual in Shawnee and Chickasaw - Shawnee, Chickasaw and then the regional realty specialist in Eastern Oklahoma.

Porter Holder: Shawnee Chickasaw is not his name, is it?

David Edington: I'd have to look up the names again. I just asked them to send me the stipulations, which they did, and I just wrote the name of the agency across the top. I was trying to see - is this widespread? Is this standard? And when you look at the language in this instance, you cannot take a second crop. So you know the issue at one point was that a cover crop planted for no till had all of these benefits and I approached it from that. But I also realize that it's standard practice in much of Oklahoma, other parts of the Great Plains to graze wheat and then also get a grain crop and livestock forage from that same crop. Like I said, if it were me, I'd consider that a standard practice and I would expect the people who assess the value of that to take that into consideration and that would be held. That lease would be written. But that's me.

Porter Holder: Can you not send that down to Oklahoma? I mean, with your position --

David Edington: That's not -- I'm a rangeland management specialist. I have authority over nobody. I can advise and I can tell them, you need to look at this because there's nothing statutory about it. There's nothing regulatory about it. It was a good idea when it was written, apparently. It is clearly less of a good idea now as an across-the-board practice. It

might still be a reasonable thing to put in a lease. What is in the lease now, as far as I'm concerned, does not prohibit a cover crop. But if there's a specialist out there who insists, from their experience, their education and their investigation through the literature that it is a stipulation they wanted there, I would not - like I say from my desk in Washington - tell them they can't because they're the specialists we hired to make those recommendations. The agency superintendent can override that if they want to.

Porter Holder: Who would that be?

David Edington: Each agency has a superintendent. There's a list on the bureau website.

Mark Wadsworth: Gilbert.

Gilbert Harrison: Mark, maybe it might be advisable if we can request from BIA to put this down in writing because we're just getting some verbal responses. I think it would be good if we were able to get a response in written form and submit to the council here, so that we have a consistent and single answer. Thank you.

Jerry McPeak: Thank you.

Mark Wadsworth: Yes, Jerry.

Jerry McPeak: Thank you, Mr. Chairman, I really think we're battering around something that's just going to occur. I felt really confident when Secretary Vilsack left, that he was

also -- you could see that he was emotionally shocked that that practice was not allowed, even if we wanted to put a second crop on there for a profit. We really don't need the BIA protecting us from ourselves. We're not stupid. We know whether or not we're making money on leasing our land out or not. And the fact that the BIA wants to tell us, that is offensive. But I also felt such as though I think we can culminate this, Mark, Mr. Chairman, just by asking Leslie Wheelock to formulate that request as a resolution. Would that be appropriate?

Leslie Wheelock: I think that would be appropriate. I do have a question for the council, however. Mr. Chairman?

Mark Wadsworth: Yes, Leslie.

Leslie Wheelock: One of the - and David you might know this - there have been historical lease provisions that restricted what was grown on land to a specific crop. I don't know that those lease provisions are still in existence, and I don't know how I would find out. I don't know if any of you have heard of such a restriction, and if you haven't, I'm not going to broaden that resolution to include that kind of a restriction. Dave, do you know of any kind of restriction like that?

David Edington: I don't know of any standard restriction like that.

Leslie Wheelock: Okay.

David Edington: The Central Office of Realty Specialist is a woman named Sharlene Round Face, and she's the person who's really going to have to deal with this. Personally, after hearing you talk here is that I would suggest you go ahead with you original idea because there seem -- I think you've pretty much discounted the BIA at this point, and that's certainly your prerogative.

Leslie Wheelock: Thank you.

David Edington: Thank you.

Mark Wadsworth: Yeah. Dave, from what I understand at the Bureau of Indian Affairs, you're basically talking as the range manager and we're talking about basically leasing, so it isn't your forte or expertise or area of that. Your position basically requires you at this talk, but we do appreciate you coming here and talking to us. If there's any more questions for Dave, we can go ahead and have those. But yeah, you're more than welcome to stay if you'd like, or if you've got a few more hours.

David Edington: Thank you. I think I'll go.

Mark Wadsworth: Okay.

David Edington: Thank you all very much.

Jerry McPeak: Again, Mr. Chairman.

Mark Wadsworth: Go ahead, Jerry.

Jerry McPeak: Again, I'd like to make a motion. Is that okay? Make a motion. Leslie Wheelock, compile or originate a resolution asking Secretary Vilsack to do what he already said he was going to do, which caused me some consternation because he's going to do it anyhow. Look, I guess formally, it sounds like from the response we got, we need to ask for it.

Mark Wadsworth: Is there any -- well, did you have a comment --

Jerry McPeak: And this is not just for a cover crop, by the way. This is not just about a cover crop. We double crop without the second crop being a cover crop.

Mark Wadsworth: So is there a motion on the floor there?

Male Voice: Yes.

Mark Wadsworth: Okay.

Male Voice: I move the motion.

Female Voice: Seconded.

Mark Wadsworth: It has been moved and seconded for the motion, as Mr. McPeak currently stated. Any further discussion?

Female Voice: Question.

Mark Wadsworth: It's been called to question. All those in favor, say aye.

Male Voices: Aye.

Female Voices: Aye.

Mark Wadsworth: Any opposed? Any abstain? The motion passes.

Jerry McPeak: Now for a less controversial subject.

Mark Wadsworth: Okay. Now, we're going to do the other one. Your turn.

Jerry McPeak: Thank you, Mr. Chairman. For what I hope and I think we'll build, and I didn't think that was going to be controversial, really. This is more a report because I've been involved with it extensively in both these subjects. It's if you go back to item number ten on today's schedule, with Native Charter Schools and Rural Roads and Dangers in Native American Lands. I'll approach the more controversial one first. And this is only a report because of me being so closely involved with it because of education.

As you all probably know, I came out of education for 27 years. There's a big push in Oklahoma for Native American charter schools, as opposed to tribal schools. How many of you have tribal schools? Do you have -- you all have?

Female Voice: BIA.

Jerry McPeak: You have a BIA school? That's for your tribe or for your kids?

Gilbert Harrison: We don't have a tribal school, but we have BIA controlled schools, we have public schools and --

Jerry McPeak: Okay. So you have BIA schools. That's for Indian kids.

Gilbert Harrison: Right.

Jerry McPeak: And that you have access to, where you are?

Female Voice: We have Berle [phonetic].

Jerry McPeak: You have public schools.

Female Voice: Yeah, public.

Jerry McPeak: Okay. And that's the difference, then. The charter schools can be public schools, but my statement is only as much for education. Porter here, his tribe and myself have a -- we agree on the concept. My approach is not the one that's the most popular in Oklahoma right now. I'm telling you this because it may come to you at some juncture. Charter schools are public schools that can be within a school district. They don't have to go by state rules or anyone else's rules. They can do whatever they want to, but they can also take on other kids.

So we have public charter schools down in Oklahoma. Our tribe, some of our tribes are pushing for a public charter school. What that does is then you can take, you can select children. You can select your Indian children out of these various communities or out of these various areas, and put them into this charter school. But a public charter school then, that money follows that kid. So we take those really smart kids

out, and that's what's going to happen. We put them in this public charter school. That money follows them, then we've got less money to feed the rest of our cattle. We've got less money to put into that kid who's average or below average. Do you follow what we're saying here?

The Chickasaws and myself, my own Creek tribe, is all about making a public charter school and letting that Indian kid be picked out of there for that. Many of us in Oklahoma see a lot of danger in that we see it working in the reverse effect, in that those children who are already at risk become more at risk. Those children who are already only average are getting less resources to them because those total resources that foot the whole group are coming out, and now then resources for that group is smaller.

And so that was the only thing - I wanted to report that to you, and that we're seeing that it had become a fad in Oklahoma, as it was in Arizona. And they had big schools, they cut back the number of schools in Arizona, charter schools, and they decided that maybe they weren't quite as good a deal as we thought they were. But it's something that you other states may be facing, and that is not like the BIA schools. The BIA schools, you have in your reservations and I'm not sure how they manage to run, and I'm not familiar with it, but I am familiar with the public charter schools.

Mark Wadsworth: Yes, Mary.

Mary Thompson: Thank you. For the record, I would just like to state that the Cherokee have a BIA school that I believe was 638 contracted, and we also have a tribally-funded Kituwah Academy, which is total Cherokee immersion. Thank you.

Jerry McPeak: Yeah. These are not -- they can first confuse the immersion schools or the BIA schools that we have. Are you ready for the next item?

Mark Wadsworth: Yes.

Jerry McPeak: Okay. The next item I have is - and most of these folks are gone now - we have in our area, we have come up with safety problems on public highways in our highly native areas. Do any of the rest of you have any problems that make your people any less safe than they would be than the normal public person would be? Because I'm not asking for something extra. No? Okay. Well we have some areas on our public highways where there's an inordinate amount of Native Americans who use that area, and they are inordinately unsafe, so it's become a thing. Again, I love the high state of education because it's the school buses and those kinds of things that I get concerned about. And that was probably I wanted to bring it up to see if you guys had any of those problems, those safety problems - issues with highways, the roads in your areas.

Leslie Wheelock: Excuse me, Jerry. Are you talking about highways and roads that are torn up, so they're unsafe to drive on? Or are you talking about people picking people up, or --

Jerry McPeak: That's a good question.

Leslie Wheelock: Animals on the road or --

Jerry McPeak: I'm really talking about speed and unsafe -- yeah, we're not talking about the condition of the highways.

Lord knows that the - what trail was it that came across Oklahoma? It's smooth in Interstate 40, as it crosses Oklahoma right now. Now, we're talking about unsafe intersections in particular, that four-lane highways that do not have limited access is particularly a problem.

In your area when I drove, I literally drove, as you know, from the southern end to the Arctic Circle. I wonder if you can do that or not. I drove that. You have such a sparse population; it wouldn't seem to be a problem because I drove like 90 miles an hour or something like that down through. You'd had to have something run over usually. And you damn sure better know where the next gas station is to you. When you're coming out of Fairbanks going south, don't pass a gas station.

But anyway, our problem is in summer, we're right in the middle of the state. We have a big thoroughfare that comes from Texas through Oklahoma to Kansas. They drive like I do, and we had some hills and it is not limited access. Anyway, we come

across there so we had some school crossing areas. Where school busses cross has become a big issue. I guess our population maybe is denser so therefore it creates a greater problem.

Okay, not a problem anywhere else. Thank you.

Mark Wadsworth: All right. It looks we're well ahead of schedule. Does anybody else have anything they want to bring up?

Female Voice: We do have [indiscernible] in here.

Mark Wadsworth: Would you like to introduce another person?

Sarah Vogel: See you in Las Vegas.

Leslie Wheelock: Bye. Have a safe trip.

Estelle Bowman: This is Estelle Bowman from the Office of Tribal Relations within the Forest Service.

Leslie Wheelock: Mr. Chairman and members of the council, we have such a far-reaching Forest Service that all of the messages that a forest service person could bring don't always get brought by the same person. So I asked Estelle to come in and give us additional updates from the Office of Tribal Relations. Thank you, Estelle.

Estelle Bowman: [Speaks in Navajo] That's my Navajo introduction. That is my Navajo introduction for our elder here and for any other Navajo relatives that might be out there. My name is Estelle Bowman, originally from Shiprock, New Mexico but

my dad's people are from Tohatchi. I'll give you my clans. I'm Zuni clan, born for the Red Running into the Water. And I give you my paternal grandfather and my maternal grandfather's clans.

I serve as the assistant director for the Office of Tribal Relations in the Forest Service. We're a relatively new office. We've only been in existence for ten years. But in that ten years' time we've managed to build some staffing levels which we had not have in the past. So I'm going to hand out some of the tools that we've been coming up with over the last ten years that we think are responsive to the needs of Indian Country as tribal leaders like yourselves. When you come to town, you tell us what we're doing wrong, what we're doing right, what we can fix, and what we can improve. And with the limited budget and resources that we do have, we've come up with some tools to help Indian Country and the service that we provide out in the field. So I'm going to pass these sheets around and when you get a chance, you can look at them and any questions you have about those, you're more than able to contact myself or Fred Clark who is our director. Our contact information is on the back.

I heard earlier conversations about email not being the best way. I'm also not a big fan of email so you're welcome to call us and have a phone conversation with us. And we're available probably not this week since the Pope is in town or is

getting here shortly that's why I'm sitting in for Fred today because he's teleworking.

One of the things that Leslie mentioned that there might have been some concern about was our tribal directives. So in the Forest Service, we have directives and it's a handbook and a manual. So the manual sets out the authorities and the statutes and the laws that govern us. The handbook is for the day-to-day operations, how to interact, and how to do tribal work. One of the things when I first came into the Forest Service four years ago was we had, probably, about 26 pages that said everything about tribal relations in the Forest Service. And in my experience that has not been the case. There's more things going on in the Forest Service than 26 pages can tell you. We don't want to bombard people with a lot of information but we do need you to see the connectivity within the Forest Service.

One of the recent - as we've gone through the issue of addressing sacred sites - one of the big things that we continue to say and we want everyone in the Forest Service to really believe this as an employee is tribal relations is everybody's work. It's not just the six staff that work in the Washington office. It's actually your forest supervisor out in the field. It's your district ranger that talks to the tribes day-to-day. It's the people that are in the research stations. It's the people that run the national forests and the grasslands. So

it's not just the six of us here in Washington D.C. that are doing tribal relations work. It's everyone's job in the Forest Service.

So what we did with the directives that have been out for two years for tribal consultation, the chief of the Forest Service did send a copy to every federally recognized tribal address that we could find through the Bureau of Indian Affairs database. We sent those out two years ago and said, "Here's what we're trying to do. Set up a consultation with the local folks that you work with day-to-day. Here's their contact information." It's been out for two years. We've had nine tribes come back with comments in the two years' time.

And then we went out for a 60-day public comment period which will end at 11:59 tonight. And that public comment period has been a good time for the non-governmental entities and the NGOs that represent Indian Country to take a look at this. And so we've been getting written comments back. So we're not sure how those are all going to play in but we have to be responsive.

The main thing we want everyone to realize and know about these directives is they're going to be a little bit more comprehensive than the 26 pages that we initially had. We're going to have a whole section on how to engage around tribal consultation. And they're in line with our planning rule that recently got published. They're in line with the department

regulations. They're in line with some of the recommendations that came out in our sacred sites report. So we've had to make some changes. Those will be in the directives as well.

In the handbook, we're going to talk a little bit more in depth about how to engage with tribes, the training that's required from federal employees. We're going to talk a little bit about how we interact not only with the National Forest Systems but we also interact with the research and development arm of the Forest Service. So it's a little bit more comprehensive and it gives you a better idea of how the forest system is structured, the Forest Service is structured and how you can find the different folks in the different staff areas.

Like range management, you heard from Ralph Giffen this morning. We worked with him quite a bit. Anytime tribal issues come up, instead of just popping on our desk, they start engaging in the conversation. And so we're bringing those folks to the forefront so they can bring their expertise to groups like this and that you can get information directly from them and not filtered through me. So we were very glad that he got the chance to come and engage with you again because I know he's been before this body before. We want to keep that dialogue going. And we're not the only ones that do tribal relations work. People like Ralph and other offices in the Forest Service can come and be before this body and answer any questions you

may have. So the directives are going to talk about how we engage as a whole agency, not just our office of six people.

Those will close and the process will be the 60-day public comment period will end. And what will happen is we'll collect all of the written comments that have come into us. We've already responded to the tribes that have sent in information to us. Those that we can incorporate, we will. If we can't incorporate, when we go out in the final rule, it will say what we did with that comment. And if we cannot include it for whatever reasons, we will have to put that in the response. So right now, it doesn't look like anything is with the ones we have from the tribes are going to be a problem to make some changes. Most of them were pretty positive responses, that they're finally understanding that it's a bigger issue than just a tribal program.

So after we receive all the comments tonight, then we are going to go back through and try to address the ones we can. We'll get a final out and we are hoping to have a final out by the end of the year. It depends on how large, how many comments can we get in today. And then we will publish it for a final rule and then you'll get to see what the final rule is. And hopefully it will provide better understanding of what we do at the Forest Service.

Mary Thompson: Mary Thompson. Just a quick question on this thing - this consultation is only on revising the handbook and manual?

Estelle Bowman: Yes, on our directives. So when the Forest Service, when we say directives, we're talking about those two things: the manual and the handbook.

Any questions for me? If not, I can just quickly tell you a little bit about the tools we have out for tribes.

Mark Wadsworth: Just one comment I'd like to make is that as a part of most of the efforts through the Integrated Resource Management Plan through the BIA, various plans have to be in place to complete the Integrated Resource Management Plan. Or actually, it was called at one time, the Agricultural Resource Management Plan. But depending on the tribe, they chose which name to use. Forest Service, forest plans, are also a requirement to put inside those. I guess as the Forest Service, I'll make a recommendation that you be cognizant of that or aware of it. That then maybe even have the opportunity to supply funding for tribes to develop their Forest Service management plans.

There is a minor budget through the Bureau of Indian Affairs for tribes that have forest but we're talking real low. I think that our tribe receives something less than 50,000 a year to try to work on the forest areas within our reservation.

I don't know that for the exact number but it would really help us in what we have from the Natural Resources Conservation Service. One of their objectives was, as a part of their responsibilities, was to do technical assistance to help with the Integrated Resource Management Plan. I'd like to see an effort or some sort of an opportunity for the Forest Service to help tribes for their forest service management plans or forest management plans. Yes?

Mary Thompson: Mary Thompson. Would it be appropriate to invite Ms. Bowman to sit in on our meetings as we address forestry concerns in the future or someone from the office? Thank you.

Mark Wadsworth: I think the discussion is in what we were talking about a little while ago was that once we're over the charter of the law, the [indiscernible] suit, then if we are a recognized advisory committee after that to restructure, include like NRCS and the Forest Service, but we wouldn't in no way want to prohibit you coming to our meetings because they are public. That is an open-ended invitation to you. Yes, Gilbert.

Gilbert Harrison: My name is Gilbert Harrison. [Speaks in Navajo]

Estelle Bowman: Stop telling jokes. He's my neighbor.

Gilbert Harrison: It's always good to hear somebody from your neighborhood that's up here in Washington to try to improve

our working relationships between the federal government and its agencies. As you're well aware of, you know, Shiprock and also including -- we're very small communities. I always say no mom and pop operations and many things that occur up here, many regulations, many rules are basically beyond us because it's so far away.

I wanted to say that we're glad to hear that you're revising some of these policies, handbooks, and items within the Forest Service to at least help the Native Americans including Navajos to take part in some of these programs and to get assistance that we need. So I'm sure that we'll be working together with your office and others from the Forestry Service in some of the issues that are before us. [Speaks in Navajo]

Estelle Bowman: So I just wanted to quickly go through this little sheet. We put this together initially for an environmental justice program to talk about how that impacts our Indian communities. One of the things they wanted to know, what are the tools and resources? We don't want to hear about budgets. We don't want to hear that we don't have enough money. We want to hear what you can do for us. And so we put this together with that in mind. And it's just tools that we came up with to kind of share information out to the field.

One of them, obviously, the big one is the tribal directives. We haven't had them revised in ten years so that's

a big ticket item. I'm pretty proud of that work. So hopefully we can move forward and we can always improve but we're working with that, we'll work through that to finalize that. The Tribal Forest Protection Act of 2004 - that was enacted to help tribes that have lands adjacent to national forests and grasslands. And if you wanted to do a contract or you wanted to do some work around conservation, restoration, you could contract with the Forest Service to do that to protect not only tribal interests but the forest interests as well. It's an authority that hasn't been very well used so we went out and we put money forward and we worked with the Intertribal Timber Council to put forward an analysis. They run it in the Bureau of Indian Affairs. This also impacts the BLM.

So they brought in some federal partners, some universities, some tribes that came to the table and did a two-year analysis of why we weren't using this authority. Then they came back with a recommendation of what we needed in the Forest Service to make this stronger. And so one of the big ticket items is they wanted training. And so we just finished two pilot trainings. We went out and we got some more money to the Intertribal Timber Council. We contracted with them. They worked with a group of folks to put together two pilot training programs. And that was a really unique thing for them to do. They brought in the actual forest supervisors and district

rangers with maps side by side with the tribal natural resource managers and went through the training, and said, "Here's a parcel of land that we both have an interest in. Here's what we want to do on the tribal side. Here's what we want to do on the federal side." It was a lot of roleplaying of how this could really happen. But it gave everybody at the table a good idea of how to start the conversation and have better and more meaningful dialogue using this authority.

So we're hoping, we did one in Spokane and we had 12 tribes, not necessarily from the area. But we had 12 tribes participate with their counterparts from their national forest. We had it in Albuquerque and they had a lot of interest there. And so some of those are going to come to fruition. We hope in the next two years that there actually will be some work on the ground using that training model. And now, they've asked for more money to do more training and we're working to see how we can do that.

We've participated in the last two Indian Forest Management Assessment Team reports. Every ten years, the Bureau of Indian Affairs is mandated to put out a report on the state of Indian forests and the Forest Service. We get mentioned in there. Our monies get compared to the monies that go to Indian Country. So we wanted to be part of the conversation. And so for three years, we loaned them one of our leading experts to be on this

team to go out and actually walk the ground with tribal leaders and tribal forest managers and look at the difference between how tribal management practices are and the Forest Service and then they put the report together - a pretty long process. We want to continue to be a good partner in making sure that report is available.

We put together a tribal grants and agreements guide. Everybody in Indian Country kept coming to us asking us for our tribal program monies. And we don't have a thing for tribal programs in the Forest Service. Tribes are eligible for a lot of services in the Forest Service but they're competitive. And so we wanted to get a guide out there that would crosswalk all of the programs tribes are eligible for. And it's a pretty easy read. It's about 15 pages. And it gives you step-by-step on how to get through the system and who you need to be talking to, which part of the Forest Service you need to be talking to for a particular project. So that's out and available. We have it online. If you need a hard copy, contact us, we'll get to it to you.

We have this new tool that's coming out. We keep saying that and hopefully soon it will be out. It's called the Tribal Connections Mapping Tool. It's looking at treaties, treaty lands, ceded rights and layering it with the National Forest System lands and then layering it again one more time with the

census current Indian lands. Using those three layers, it gives the Forest Service folks a really good idea on how to engage with which tribes they need to be engaging with. This is a particular interest to tribes that were removed from the east and may not have a direct interaction with the forest that used to be their ancestral lands.

So for instance, I worked on the Mark Twain National Forest in Missouri. We had a lot of tribes going through the Trail of Tears. Some of those folks may still have an interest in the lands there. And so using this mapping tool, anyone that comes on to work on the Mark Twain Forest can pick up this map online, go online, click on the Mark Twain Forest, look at the boundaries of the forest, look in there to see if there are any treaty rights, any tribes that were through there in the historical boundaries, and get an idea of who they need to be talking to, and kind of a welcoming back. We want you to come back and feel like you can be a part of the national forest.

So this tool is pretty exciting. It's cutting edge technology and I'm hoping that we get it out by the end of the year. It's going to be a really great tool, not only for the Forest Service. We're initially just using it as our learning tool. But now, we want to make it public. So that's kind of the last hurdle we're going over is making sure that everybody in the federal family that does GIS work is fine with the maps

that we're going to put out so that's where we're at. And then it will go public. Everyone will have access to it.

Our sacred sites report and our implementation, as a matter of fact, on Thursday, we'll be doing some internal training. That was, one of the big things that came back was Forest Service staff and leadership, you're not trained. You don't know. You're not there yet. You need to have the cultural sensitivity training. You need to have the understanding of what a sacred site is. You need to engage a little bit more in depth with Indian people.

The Forest Service is divided in nine regions. Each of the regions is doing a leadership training online for any of the line officers that engage with tribes. We've had two so far and they're really well-attended. They're internal. They're training up our staff. They're training our leadership. Region 2 has invited tribal leaders to be on the call. Region 8 down in Atlanta brought in two tribes that talked about their issues. And so we had a really good dialogue around that. And so the implementation of the report is to do the training and we're doing that now.

Research and development, there's a tribal engagement roadmap before when we were doing projects out in the field and everybody was doing their own thing and they thought it was great to include tribes. And then we had some tribal leaders

come back and say, we didn't know you were studying us. We didn't know you were looking at our traditional foods. We didn't give you permission, kind of. And so we kind of thought a little bit about how we were doing our research.

And we are a premiere internationally. We are a premiere leading agency for forestry research across the street in the Forest Service. And we're really trying to figure out how to do a better job of engaging the tribes before we start the research. How do we partner with the tribes as we go about this research? A lot of the stuff that's coming around climate change too needs to be part of that roadmap as we engage tribal communities. So we're doing a better job.

So they put out these seven goals that they want to reach as they go through this roadmap and engagement. We're looking at climate change flagships. They're happening currently. We've got a couple coming out. We're hoping that they'll lead the way to other ideas out in the field so other projects could come about.

A new thing that -- it was not new but from the Farm Bill. The community forest program was instituted and we've had two tribes successfully navigate the competition and get monies to set aside some lands. We're trying to get the word out to every tribal organization we know and we've just presented to the Intertribal Timber Council. We are working to get before the

National Congress of American Indians. We've presented to United South & Eastern Tribes. So we're trying to get more tribes engaged in this competitive program. But we know that there's two tribes that have been successful and we want to share those stories and maybe give some other tribes some motivation. You know, you can call up either of these two tribes and ask them how they managed the program and how they brought the partnerships together. So we want more tribes to take advantage of this.

And then there's our contact information. If you need anything, please call on us and we'll see what we can do to help.

Mark Wadsworth: You currently have a forest service advisory committee, don't you? And isn't there an Indian representative that sits on that?

Estelle Bowman: So the Forest Service has the planning role that we just finished and we're implementing and we're going around the country making sure that we know what we're doing in the Forest Service with the new plan and we're going out to communities. We do have an advisory council. It's a federal advisory council and there are actually -- well, there's one designated tribal representative. And William Barquin is the rep and has been pretty engaged in making sure that planning rule, along with our office as we reviewed it, made sure that

tribes were front and center in a lot of the things around traditional ecological knowledge, around making sure that public comment period was very different than tribal consultation, that the language around NEPA community engagement was different and set apart from tribal consultation. We're really making sure that there was a separation of those based on the political relationship tribal governments have with the federal government. He was pretty good about that. He's a trained attorney so he had those eyes on it as well.

Leslie Wheelock: Did you mention TBAG, To Bridge a Gap?

Estelle Bowman: So the Forest Service has two regions, 8 and 9, out of Atlanta and in the Northeast region that didn't have an annual conference, To Bridge a Gap conference. And they are pretty successful in bringing tribal leaders to the table to do actual consultations on any issues that are happening in those regions, to share with them information. It's expanded over the years so that it's not just the Forest Service we've invited. They've invited other land management agencies to the table to bring concerns. So I've attended one in Arkansas and they brought in two state agencies that were doing highways and didn't really know how to engage with tribes and so they kind of learned the process. And then the next year, they came back and reported how they started engaging successfully in partnering with tribes. So that conference happens annually and it's

happening in April of 2016 in Oklahoma. I'm sorry. No, I take it back. That one's in Louisiana, that we can get that information to you as well.

Mark Wadsworth: I appreciate it and thank you.

Estelle Bowman: You're welcome.

Mark Wadsworth: Any other concerns or actions from the council? Yes, Gilbert.

Gilbert Harrison: Mark, I just wanted to ask, Dana, you know if you can mail out the confirmed meeting dates and all of that, that would be very beneficial. And so with that, if there's no other comments, Mr. Chair, I make a motion we adjourn.

Mark Wadsworth: Motion to adjourn. Any seconds?

Dana Richey: Just a couple of quick caps.

Jerry McPeak: Where the hell did that come from? Where did that come from?

Mark Wadsworth: Yes, Dana.

Dana Richey: So there's a couple of things that I owe you. One is the form for travel. And so I'm going to try to -- actually, I will be going up to the Office of Tribal Relations when this is over and talking with Cynthia about that form so I can mail that out to you before I leave tonight. Also -- pardon?

Male Voice: [Indiscernible]

Dana Richey: I was going to email it because we'd like to get your receipts this week. So what I can do is if you don't have email or you prefer that not be used, I can fax it to you if you give me your fax number before you leave.

Jerry McPeak: If you want to get them this week, email them to me. I'll [indiscernible] them later.

Dana Richey: Okay. If you can see me after we adjourn then I'll get from you whatever your preferences are. Mary Thompson just suggested that maybe if you hang around a little bit, I'll run upstairs or maybe Josiah could run upstairs and get the form printed from Cynthia and let's just hand it out right now.

Jerry McPeak: Yeah.

Dana Richey: Okay.

Jerry McPeak: That's so much [indiscernible].

Dana Richey: Okay. [Cross-talking]

Female Voice: Nice to meet you too.

Dana Richey: Sure. Also, of course, you know, we've had a court reporter here both days. And so I'll be working with him to get the transcript. And according to the guidelines, I'll work with Mark to get that into shape for review and publication. And then I don't know if you want to review that or not. I've seen actually different guidelines. One says that each member reviews the minutes and then another document I saw

said it's just Mark and I. So if there is interest by the council members in seeing the draft minutes before they're published, okay. So historically, that is the way it has worked. Okay, will do. So I know that I'm to get that out. I think it's within a week or two. You'll have two weeks to review it and then we're to finalize it within a month today.

Mark Wadsworth: Are you mailing our packets to us?

Dana Richey: Your packets being?

Mark Wadsworth: This - they're only being emailed.

Dana Richey: Okay. If you leave those with us, make sure your name is on the front and any documents put inside the binder and then we can get those in the mail, too, to lighten your load home. Is there anything else before we take up Gilbert's wonderful suggestion to adjourn? Have I missed anything?

Mary Thompson: I appreciate seeing everybody here. And I thank you for your time and for putting up with me and for your assistance. And it's good to see the board members again. Safe trip home to everyone.

Mark Wadsworth: The motion to adjourn wasn't seconded yet.

Male Voice: I second.

Mark Wadsworth: Second. Any discussion? We'll proceed to the vote. All in favor, please raise your hand. All or anybody

opposed, please raise your hand. One objection. The motion passes.