



## Consultation Report-Out

### USDA Farm Bill Implementation Tribal Consultation<sup>1</sup> Nugget Casino Resort June 27, 2019

#### ENCLOSURE: Minutes

##### A. Introductions

- Introduction by Diane Cullo, Acting Director, Office of Tribal Relations (OTR).
- This is the second of two tribal consultations on the Agriculture Improvement Act of 2018 (Farm Bill).
  - The first was held in May 2019 in Washington D.C.
- Comments will be received by Tuesday July 2<sup>nd</sup> at 9pm eastern.
- Opening Prayer by Janet Weed.
- Recognized the Native Farm Bill Coalition for its role in Farm Bill and the unprecedented 63 tribal-specific provisions in the Farm Bill.
  - It is important to realize though that Indian Country is not just entitled to these 63 provisions, but rather have access to programs and services throughout the Farm Bill.
- The success for implementation rests not just on USDA's shoulders, but on Indian Country's as well. Ask questions, start the conversation, and make sure that federal government employees are working for Indian Country.
- Please do not forget that USDA is just a phone call, email, or letter away.
- USDA has been working closely with the Senate Committee on Indian Affairs (SCIA).
  - During a recent meeting, OTR asked that the Secretary's version of the OneUSDA presentation be applied to its constituency nationwide.
  - OTR requested that whenever the Senate Agriculture Committee schedules a briefing, that they specifically include SCIA.
- Farm Bill implementation is being led by Deputy Secretary Stephen Censky.
  - Deputy Secretary Censky served as a consulting official within 30 days of entering office in 2017 at a meeting held during the National Congress of the American Indian.
    - One of the topics that came up was where OTR should be within USDA, and it became clear to the Deputy Secretary that OTR should remain in the Office of the Secretary (OSEC).

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<sup>1</sup> In a normal consultation, it would be government-to-government, but the tribal leaders at the table did not object, and in fact encouraged, participation from the audience.

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- OTR is still based in OSEC and reports directly to the Secretary. OTR collaborates and coordinates with a partner office that is on the same line that also reports to the Secretary called the Office of Partnerships and Public Engagement.
- The Secretary is vested in the success of this office. He has made more than five trips to Indian Country during his tenure and is the first Secretary of Agriculture in more than a decade to participate in a tribal consultation.

### **B. Food, Nutrition, and Consumer Services (FNCS)**

#### **Title IV**

**Consulting Official: Food and Nutrition Service (FNS) Regional Administrator (RA)  
Jesus Mendoza**

#### *Introduction*

- FNS started to discuss some rules unrelated to the Farm Bill. A consensus among tribal leadership was reached that because this consultation is about the Farm Bill, the conversation should just remain about the Farm Bill.
  - The issue of lactose intolerance was brought up and how no substitutes for milk were provided in child nutrition programs. RA Mendoza and FNS staff stated that lactose-free milk is part of the school lunch program, so that option is available.

#### *Self-Governance Authority*

- A tribal leader talked about the authority for Food Distribution Program on Indian Reservations (FDPIR) to enter into self-governance contracting, instead of waiting for appropriations to come through, seeing if there is any room to use existing funds to start administering now.
- The tribal leader also brought up that tribes should be in control of the self-governance procurement under FDPIR. Having to adhere to USDA protocols after being given control is not in the true spirit of self-governance.
- The tribal leader also wanted to make sure that USDA works closely with the Food Package Review Group, looking at traditional foods that should be added to the FDPIR food package and can be produced effectively. Continuing to consult with tribal leaders and the FDPIR board is very important as well as having adequate funding. It was disheartening to hear that USDA could only move on with programs that have funding. It is USDA's job to advocate for the type of funding that tribes need to run these programs. The goal is to collaborate to find a happy medium.
  - Acting Director Cullo stated that Acting Deputy Undersecretary (ADUS) Lipps has committed himself to quarterly consultations that he usually attends. He has been to more than five consultations, agreed to monthly conference calls to discuss Farm Bill implementation.
  - USDA cannot advocate, but it can offer technical assistance to Capitol Hill when asked.
- Is there going to be a consultation about the FNS realignment of regions?

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- The topic was discussed by ADUS Lipps a few weeks ago at a consultation during the National Association of Food Distribution Programs on Indian Reservations (NAFDPIR) meeting in Philadelphia, Mississippi. On July 17, FNS is going to hold a consultation in Phoenix, Arizona.
- There was a conversation about how FNS defines traditional foods. FDPIR has a committee that identifies traditional foods, which sometimes changes, and it includes bison, blue corn, wild rice, and salmon. What may be traditional food for one tribe may not be for another. It is important to make sure to work with tribal leaders, NAFDPIR, and the constituents to see how these foods affect them and what the best area is.

### *Staffing*

- There needs to be a priority of staffing up in Indian Country. In one case, a tribe has 11% of the land base and receives 11% of the funding, but it does not have 11% of the full-time employees. This creates a workload issue and impacts participation and access to programs.
- There is also a problem with food coming from commercial vendors that is expired. RA Mendoza said that USDA has no control since it is commercial vendors, but there is a website where individuals can file complaints. If there are expired USDA foods, please let FNS know.
- It was also asked if the food in the store was eligible for purchase with WIC or food stamps, because, if that is the case, FNS should be concerned.
  - Director Cullo said FNS would follow up to make sure it was not an FNS program.
- Acting Director Cullo emphasized that, according to ADUS Lipps, no decision had been made and that his intent is “to serve Indian Country better.”

## **C. Rural Development (RD)**

### **Title VI**

#### **Consulting Official: Rural Utility Service (RUS) Administrator Chad Rupe**

### *Introduction*

- Working hard to help Indian Country is part of all its infrastructure efforts.
- RD manages \$225 billion worth of assets and loans and has over 40 programs.

### *Broadband*

- It is estimated that at least 34% of the lack of access to the Internet and e-commerce lies within Indian Country. Indian Country is one of the most underserved or unserved areas for broadband and impacts areas such as economic prosperity and self-empowerment for the tribes.
- One of the biggest changes is access to grant funds. Before it was commercially unviable to go into several areas of the country just due to distance and the fact that businesses could not make a profit.
- By opening grant funding to people with giving five points of preference on a ReConnect program, it has allowed people to go and achieve opportunities that were once

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unavailable, and this impacts everything from healthcare to education to business. It impacts every single aspect of life.

- There was good representation from Indian Country in the first two rounds of ReConnect funding that have closed. RD is working on underwriting those, doing site evaluations.
- RD continues to work on improving its service.
- Section 6302, Establishment of Technical Assistance Program. Though they were not all tribally specific, there were over 60 changes to RD. It gives authority to work with OTR to develop a technical assistance program to help tribes and tribal entities better access rural development programs.
- There was a question about upgrading the specific system a tribe had in place.
  - Mr. Buelow said he would need more information but had her contact information. Rodney Peach handles the electric side, and cited section 6506 which covers the expansion of 911 access.
- A tribal leader stated, not trying to put out larger tribes, but a majority of tribes in Indian Country are rural.
  - Mr. Buelow replied that relationships start with picking up the phone and talking to somebody.
- An attendee said that some of the economic requirements are not necessarily suited for tribes.
  - Administrator Rupe used to be a small-town banker so he knows the need that tribes have. He believes RD is taking its lessons learned across the board from this pilot program and developing recommendations to look at to make changes and make it a little bit friendlier to apply.
- A member of the Hoopa Valley discussed not being able to use leased lands as collateral.
  - Administrator Rupe said it is important to understand the differences between farm service agents and rural development. Part of that touches the Farm Service Agency (FSA) versus what RD does to help provide value to the food production.
    - Mr. Buelow also added that part of a technical assistance program is a staff that is well prepared to deliver programs. RD recognizes that there are challenges in underwriting loans and security loans on tribal trust land but is still a small fraction of the type of work that RD specialists do. In order to be more successful, we need to have a better trained staff for that type of underwriting. The question to tribes is how RD can better train its staff for that type of specialized lending. This could start with cultural training, but it very quickly gets into very intense underwriting training.
- A member of the United South and Eastern Tribes (USET) said a lot of the conversation has been focused on the relationships with tribal programs and supporting tribal programs, but there are thousands of individual Indian producers. USDA has a responsibility to do outreach and increase access to use the programs. According to the 2012 National Agricultural Statistics Service's Census of Agriculture there are over 6,000 Indian producers in 13 states. 2017 Census information should be available sometime in August, and there is a thought there will be a growth in the tribal agricultural sector. The

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Census is burdensome and even though tribes try to have people take it, people can suffer “survey fatigue.”

- Acting Director Cullo pointed out that the Farm Bill did establish a New and Beginning Farmer Coordinator position as well as a Youth Outreach Coordinator position. It is important to take this information back to USDA to make sure USDA is looking at establishing those positions formally, that we include how best to communicate with all constituencies to make sure we are including the 6,000 producers in 13 states to have access to all programs that are available at USDA.
- The second big area is the Farm Bill provides more refinancing authorities. This is new authority to come back to RD and refinance loans of service providers of utilities like electricity and telephone service.
- The third area is in respect to the broadband program. Congress made at least seven changes across RD’s broadband authorities.
- The Value Added Producer Grant Program is being combined with a program from the Agricultural Marketing Service (AMS). It has been rebranded as Local Agricultural Marketing Program (LAMP). It helps producers, tribal or non-tribal, take a product that they are producing, such as corn, lamb, or fish, and add value to that and market that product to cut out the middleman. The producer retains more of the profit from those types of products and they are producing on their farm or ranch or from a river. Traditionally, there have been some challenges in that particular program with tribal producers. USDA has clarified some of those and made some fixes. The program is not changing but rather being consolidated with an AMS program.
- A tribal leader stated that he is in the process of implementing a butcher unit and having a produce market. Something needs to address the inspection process should tribal members serve as food inspectors, and how will USDA assist Hoopa Valley in implementing the food inspection.
- A tribal leader said it would be good to do training with them on exactly what that looks like, so that way they would be able to help in outreach our people as well.

### **D. Title 10 Horticulture: Marketing and Regulatory Programs**

#### **Title X**

**Consulting Official: Diane Cullo, Acting Director, Office of Tribal Relations**

#### *Traditional Foods*

- Support the growing of traditional foods.
  - There are health and cultural benefits by including more traditional food in food packages.
- Some traditional foods are cultivated, not grown, so it is important to protect the land those foods grow in and to protect access to that land.

#### *Industrial Hemp*

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- A tribal leader discussed concern on how long it is taking the hemp regulations to come out.
  - Mai Dinh from OGC explained the rulemaking process and where AMS is in the rulemaking process. The hems regulations are currently with the Office of Management and Budget.
- Tribes are looking for guidance on how to proceed until regulations comes out and what to do after regulations come out and waiting for hemp plans to be approved.
- A tribal leader emphasized growing local and buying native products. There is concern about tribes that are growing under 2014 Farm Bill authority and how they can grow under new regulations.
  - Mai Dinh explained that the 2018 Farm Bill provides that the 2014 pilot programs that were authorized in the 2014 Farm Bill will continue to be authorized until one year after USDA establishes the USDA plan.
- The case of Big Sky vs. Oregon was discussed, where the State of Idaho stopped a truck transporting hemp grown in Oregon to Colorado.
  - Mai Dinh pointed out that USDA is not a party to the case, and, in May, the General Counsel of USDA issued a Notice of Trade that prohibits states from interfering with interstate commerce of hemp being produced under the 2014 and 2018 Farm Bills.
- A tribal leader requested specific hemp consultation with AMS.
  - Acting Director Cullo said she would follow up with AMS about the consultation request.
- A tribal leader requested info about hemp testing.
  - Acting Director Cullo said she would follow up.
- There was a question about interagency and government collaboration about hemp issues.
  - Acting Director Cullo explained that USDA is working on identifying the high priority areas in which cross-government consultation can take place.
  - Mai Dinh with OGC clarified that USDA is required to work with the Department of Justice in regard to hemp and has done so.

### *Other Topics*

- The importance of interdepartmental collaboration to protect traditional foods was also mentioned.
- A tribal leader emphasized the importance of using traditional ecological knowledge to support USDA's service in Indian country. That knowledge can be used to help USDA develop their regulation to support traditional practices. Also, the definition of farmer needs to be updated to allow inclusion of traditional practices such as bartering.
- Comments were read into the record regarding hemp, hiring a federal Indian law expert, not defining tribal territory, tribal colleges, government to government relationships, and economic development

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### **E. Title 8 – Forestry**

**Consulting Official: Diane Cullo, Acting Director, Office of Tribal Relations**

- It was requested that the USDA issue a statement that clarifies that tribes can retain receipts from the US Forest Service land under the Good Neighbor Authority Program
- A tribal leader requested consultation on the Farm Bill in Tongass National Forest and Chugach National Forest.

### **F. Research, Education, and Economics (REE)**

#### **Title VII**

**Consulting Official: Diane Cullo, Acting Director, Office of Tribal Relations**

- A tribal leader emphasized the importance of USDA consulting with tribes to work with tribal colleges and universities to facilitate participation in research, extension and teaching efforts.
- The Intertribal Agriculture Council believes that there should not be any more eligible applicants for the Federally Recognized Tribes Extension Program (FRTEP) funding without an increase in funding.

### **G. Office of Tribal Relations (OTR)**

#### **Title XII**

**Consulting Official: Diane Cullo, Acting Director, Office of Tribal Relations**

- Acting Director Cullo provided an update on the status of the Tribal Advisory Committee (TAC).
  - Acting Director Cullo received documentation from the Department of the Treasury regarding its Tribal Advisory Committee. It was signed as recently as March 2018
  - OTR will continue to communicate on the status of the chartering and the establishment of the TAC.
- A tribal leader emphasized the importance of treating tribes as sovereign nations and continuing true government to government consultation.

### **H. Closing Prayer**

### **I. Adjourn**

**Next Steps: OTR has developed an action item matrix to address items that require further action. OTR will reach out to appropriate agencies for feedback and distribute the results when completed.**

### **ENCLOSURES:**

- **USDA Farm Bill Consultation June 2019 Attendees**

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**Tribal Leaders and Consulting Officials**

<b>Name</b>	<b>Organization / Tribal Affiliation</b>
<b>Amber Torres</b>	Walker River Paiute Tribe
<b>Anita Jackson</b>	Warm Springs Tribe
<b>Anthony Broncho</b>	Shoshone Bannock Tribe
<b>Dallas Smalls</b>	South Fork Band
<b>Danielle Oxendine Molliver</b>	Sokaogon Chippewa Community
<b>Dawn Jackson</b>	Organized Village of Kake
<b>Elveda Martinez</b>	Walker River Paiute Tribe
<b>Glenden Smith</b>	Warm Springs Tribe
<b>Janet Weed</b>	Yomba Shoshone Tribe
<b>John E Robbins</b>	Hoopa Valley Tribe
<b>Jolene Thomas</b>	Fallon Paiute Shoshone Tribe
<b>Kami Miller</b>	Moapa Band of Paiutes
<b>Luis Neuner</b>	Karuk Tribe
<b>Margie Hutchinson</b>	Confederated Colville Tribes
<b>Margot Dyer</b>	Fallon Paiute Shoshone Tribe
<b>Rodney Muke</b>	Duckwater Shoshone Tribe
<b>Shellay George</b>	Yomba Shoshone Tribe
<b>Tamika Fasthorse</b>	Fallon Paiute Shoshone Tribe

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<b>Terri Rios</b>	Hoopa Valley Tribe
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**Other Tribal Members and Organization Representatives**

<b>Name</b>	<b>Organization / Tribal Affiliation</b>
<b>Ashleigh Rxico</b>	National Congress of American Indians
<b>Blake Jackson</b>	Indigenous Food and Agriculture Initiative
<b>Chris Georgacas</b>	Goff Public Inc
<b>Colby Duren</b>	Indigenous Food and Agriculture Initiative
<b>Delaney Mercer</b>	Department of Health and Human Services
<b>Erin Parker</b>	Indigenous Food and Agriculture Initiative
<b>Jacob Schellinger</b>	National Congress of American Indians
<b>Jerry Pardilla</b>	USET
<b>Katherine Minthorn</b>	Intertribal Agriculture Council
<b>Zach Ducheneaux</b>	Intertribal Agriculture Council

**USDA Consulting Officials and Representatives**

<b>Name</b>	<b>Office / Agency</b>
<b>Carl Etsitty</b>	USDA Animal and Plant Health Inspection Service
<b>Diane Cullo*</b>	USDA - Office of Tribal Relations
<b>Estelle Bowman</b>	USDA Forest Service
<b>Jeff Harris</b>	USDA – Office of Tribal Relations
<b>Kelly Clark</b>	USDA Rural Development
<b>Linda Cronin</b>	USDA – Office of Tribal Relations

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<b>Mai Dinh</b>	USDA Office of General Counsel
<b>Melyssa Navis</b>	USDA Forest Service

\*Indicates Consulting Official

Note: some individuals on the sign in sheet only attended part of the meeting, and some individuals that attended did not sign in on the sign in sheet and, therefore, are not listed.