
TRUST LAND CONSOLIDATION PROGRAM
REGIONAL TRIBAL CONSULTATION

Taken at 10200 Quil Ceda Boulevard, Orca Room 3, Tulalip,
Washington.

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SEATTLE DEPOSITION REPORTERS

600 University Street, Suite 320

Seattle, Washington 98101 PH: (206) 622-6661

1 TULALIP, WASHINGTON; FRIDAY, SEPTEMBER 16, 2011

2 8:38 a.m.

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4 MELVIN SHELDON: Good morning, everyone.

5 We're going to get started, so I want to first of all
6 welcome everyone. My name is Melvin Sheldon. I'm the
7 chairman of the Tulalip Tribe. I want to again welcome
8 you all to Tulalip.

9 You honor us with your presence today for the work
10 that you're going to do, and this work that we're going to
11 do together. That you came here to Tulalip, we're very,
12 very honored.

13 Just a little bit about Tulalip, we are a 22,000 acre
14 reservation formed in 1855, and we have 4,100 tribal
15 members, many of them on the reservation, some that
16 aren't. We have one tribal member that lives in
17 Washington, D.C. That might be Tracie Stevens.

18 As we come together, we're going to also present to
19 you a song that honors our elders, our teachings, and our
20 culture, and that will be a short explanation of the song.

21 So as we do our work today, I think that we agree
22 that we walk together arm in arm. And we thank you for
23 stepping up and heading BIA and overseeing a 26-billion
24 dollar industry and the challenges that we all as tribal
25 leaders know what that means.

1 To our chairmen, we thank you for coming here and
2 being here this morning for this important dialogue as
3 well as our elected council members.

4 We have our elected council member of Tulalip. He is
5 our elder on our board today, and special honor to him, 28
6 years on the Tulalip council. Don, could you raise your
7 hand there? Could we give Don a great big hand?

8 One thing I know about serving with Don is many of us
9 as young kids when we did something wrong, our
10 grandparents grabbed our ear lobe and pulled it a little.
11 Did anybody have that happen to them?

12 Well, Don has helped my ear lobe grow a few inches
13 more because he's been trying to get my attention on
14 different issues, but we thank him for his contribution.

15 So to all of us, we welcome you to this little bed
16 and breakfast along I-5. Are there any first-time people
17 staying here? Did you figure out the showers?

18 Well, I've never encountered three shower heads, and
19 then a fourth one on top. And we found that people who
20 take a 10-minute shower actually end up with a 30-minute
21 shower.

22 But beyond that, we thank you for being here today,
23 and we've asked our tribal singers to offer us a song this
24 morning.

25 (Opening song and prayer.)

1 MELVIN SHELDON: Thank you. So that concludes
2 our opening. We turn it back over to Mr. Black and
3 whoever is quarterbacking the meeting this morning.

4 MEGHAN CONKLIN: Good morning, everyone. My
5 name is Meghan Conklin. I am associate deputy secretary
6 at the Department of Interior, and I am one of the
7 co-leads for Cobell implementation for land consolidation.

8 It's an honor to be here with all of you this
9 morning. I would like to thank Chairman Sheldon and the
10 Tulalip Tribe for hosting today's meeting and for that
11 beautiful opening song and invocation. It was wonderful
12 to get to see.

13 There's also others that are here today too that are
14 an integral part of the Interior teamwork on the Cobell
15 implementation that I want to point out to you: Mike
16 Black, who's the director of the Bureau of Indian Affairs,
17 and Mike Berrigan, who works in the Office of the
18 Solicitor. I'd also like to especially thank Tracie
19 Stevens for being here today with us.

20 A little bit later I will be running through some
21 background on the Cobell settlement and on the trust plan
22 consolidation program. I just want to especially thank
23 all of you for taking the time to be here with us today.
24 It's really a tremendous honor to be here with you for
25 this historic moment as we start our third consultation,

1 regional consultation on the trust plan and consolidation
2 program under Cobell.

3 Our main goal today is to hear from all of you. We
4 have yet to develop a plan on how to implement the trust
5 land consolidation program.

6 We really have a goal today of making this a
7 meaningful consultation, and to use all of the valuable
8 input and comments that you offer to us today to help us
9 develop our plan on how to implement this program in the
10 future, so I'm very much looking forward to hearing your
11 comments. And with that, I'd like to pass it over to
12 Michael Black.

13 MICHAEL BLACK: Well, good morning, everybody.
14 It's a pleasure to be back up in the Seattle-Tulalip area
15 again and to see a lot of familiar faces out and around
16 the table.

17 Again, I just want to echo Meghan's comments here. I
18 am Mike Black, director of Bureau of Indian Affairs for
19 those of you who don't know.

20 Just to echo those comments, today we're here really
21 to hear from you, to hear the meaningful input from the
22 tribes and the people out there that work with these type
23 of programs, know the tribes' priorities, know the
24 interests of the tribes, and what's best going to work for
25 you.

1 Some of you have been involved in the ILCA program
2 over the years, and have had some experience of how it
3 operated in the past.

4 We are not locked into any special process or
5 anything at this point. As Meghan said, we don't have a
6 plan right now. That's why we're doing these
7 consultations.

8 We really are trying to go out there and get the
9 input from the tribes as to how best implement this
10 program and make it work for the benefit of the tribes.

11 So I look forward to hearing from everybody today and any
12 other conversations that we have. Thanks very much.

13 MICHAEL BERRIGAN: Good morning. My name's
14 Mike Berrigan. I'm the associate solicitor of the
15 Division of Indian Affairs. I've been here for about 15
16 months and worked on Cobell implementation since that
17 time.

18 And as you all know, it's a very contentious
19 litigation. It's taken years, and we're still under court
20 orders. There's a lot of intricacies of what we can and
21 can't talk about.

22 So that's one of the reasons we're up here in this
23 consultation. I very much enjoy being back in the
24 Northwest. I was stationed at Fort Lewis for a couple
25 years in the '90s and love being back here, and thank you

1 for your hospitality.

2 TRACIE STEVENS: Good morning, everyone. My
3 name is Tracie Stevens. I'm a member of the Tulalip
4 Tribe, and I welcome you to my people's home.

5 Also, as a member of the administration team and a
6 member of the Department of Interior's team, I welcome you
7 to this consultation.

8 I know many of you know me in my capacity as the
9 chair of the National Indian Gaming Commission, but I'm
10 not here in that capacity today. I'm really just here as
11 a member of the administration team, and the Department of
12 Interior team, which I've been privileged to be a member
13 of for going on two and a half years now.

14 And so I welcome you all. And even though I am here
15 as a support member of the team, I'm not really going to
16 be here talking about any of the things that pertain to my
17 position at the embassy or any gaming issues.

18 Again, this is the Cobell. This day is for tribes to
19 talk about the land trust consolidation portion. And so
20 being from the Northwest, it's good to be here. It's good
21 to see all of again, and thank you.

22 STACIE SMITH: Hi, there everyone. My name is
23 Stacie Smith, and I'm here to just help facilitate today's
24 conversation. Before we go any further, I think it would
25 be helpful if we could go around the table and have all of

1 the tribal leaders and representatives of the tribes

2 introduce themselves.

3 And then we can talk a little bit about what's going
4 to happen today and then get to the presentation on the
5 background, and the rest of the day will really be for
6 hearing your input.

7 So as we go around the table, tell us your name and
8 your tribe, and then we'll have more time to do your
9 comments.

10 GARY AITKEN: Gary Aitkens, Kootenai Tribe of
11 Idaho.

12 DAN GLEASON: Dan Gleason, Chehalis Tribe.

13 PHILIP HARJU: Phil Harju, Cowlitz Indian
14 Tribe.

15 RUTH JIM: Good morning, Ruth Jim, Yakama
16 Nation.

17 JOANNA MOREK: Joanna Morek, Nez Perce Tribe.

18 JEANNIE LOUIE: Jeannie Louie, Coeur d' Alene
19 Tribe.

20 ERNEST STENSGAR: Good morning, Ernie
21 Stensgar, Coeur d' Alene Tribe.

22 FAWN SHARP: Good morning, Fawn Sharp,
23 President, Quinault Indian Nation.

24 GREGORY ABRAHAMSON: Gregory Abrahamson
25 Spokane Tribe.

1 BRIAN SVEC: Brian Svec, Makah Tribe.

2 BROOKLYN BAPTISTE: Brooklyn Baptiste, Nez
3 Perce Tribe.

4 CHARLES MORIGEAU: Charles Morigeau,
5 Confederated Salish and Kootenai Tribe.

6 RAY PIERCE: Hello, good morning. My name is
7 Ray Pierce. I'm vice chair of the Kalispel Tribe.

8 MICHAEL FINLEY: My name is Mike Finley,
9 chairman of the Confederate Tribes of Colville.

10 HARVEY MOSES: Good morning. My name is
11 Harvey Moses, Jr., Colville Confederated Tribes.

12 STACIE SMITH: Thank you, everyone. So today
13 is the third of six regional consultations on the
14 consolidation of the Cobell settlement.

15 The first two took place, one in July in Billings,
16 Montana, and the other last month in Minneapolis. And
17 there's going to be three more over the next couple of
18 weeks in Albuquerque, in Phoenix and in Oklahoma City.

19 And the goal of the regional consultations is to make
20 sure that as many tribes as possible participate in the
21 conversations. However, any tribes are welcome to come to
22 any of the consultation sessions. So if you are
23 interested in coming to any of the future sessions, please
24 feel welcome to do so.

25 There's also the opportunity to submit written

1 comments. Everything that's being said here today is
2 being recorded for a transcript. It's also being
3 summarized, so that at the end of the process we'll be
4 able to have a summary of everything we heard orally and
5 also of the written comments themselves.

6 So this is the information. The written comments are
7 going to Michele Singer's office, and all of the
8 information I think was available in the federal register
9 notice as well.

10 I just want to quickly walk through what we're going
11 to do today. We had some introductions and some welcomes.
12 We'll go back to Meghan and her team.

13 They will give you a little bit more of an overview
14 of where we are with the Cobell settlement, and the land
15 consolidation component of that, and also the layout of a
16 couple of initial options that they developed really just
17 as a way to get the conversation going so that they can
18 really hear input from you on what you think of those
19 options, but there's also a number of other issues that
20 have come up that they're also very interested in hearing
21 your feedback on.

22 So we'll go first through these preliminary goals and
23 strategies and options that they're raising, and then talk
24 about all the other components.

25 Just to give you a sense of the structure of the day,

1 these are government to government consultations. So the
2 morning is really meant to be focused around government to
3 government interactions, that is, representatives, leaders
4 of tribes speaking on behalf of their tribe to the
5 government officials from DOI.

6 That doesn't mean if you're not at the table you
7 can't speak, but what we ask is just one person per tribe
8 at the table. And you are all welcome to call on someone
9 else who can speak on behalf of the tribe as well.

10 So just as a courtesy, we'll try to have one per
11 tribe at the table, but feel free if you have other
12 officials or people that you delegate that you'd like to
13 speak on behalf of the tribe during the morning session to
14 just call on them and they can do so.

15 The afternoon session will be open to all
16 participants to speak. So tribal leaders can continue to
17 speak in the afternoon session, but we'll also be open to
18 land owners, to tribal organizations, to other tribal
19 members, to members of the public, and we'll have some
20 microphones that we'll bring out for the afternoon
21 session.

22 So everyone will really have a chance to speak and to
23 share your thoughts, your inputs, your comments, your
24 questions with the Department.

25 And we suggested a couple of topics. That doesn't

1 mean that you're limited to speaking about those topics.
2 As Mr. Berrigan said, there are some limits to what the
3 Department's able to speak to at this time, but there's a
4 number of topics that might be of interest to you around
5 land consolidation and the land consolidation program that
6 is being put together, so you're welcome to speak to any
7 of them.

8 If you have time constraints, particularly those at
9 the table, if you have time constraints and you know you
10 need to leave, just let us know so we can make sure to get
11 in all of your comments before you go.

12 It might be helpful just when you want to speak to
13 raise up your placard onto its side so that I'll have an
14 indication, and you won't have to sort of raise your hand
15 or try and get my attention, and that way I'll make sure
16 that everybody that wants to speak gets a chance to do
17 that.

18 Just a couple of meeting guidelines to help us be as
19 effective as we can, we want to try and share the floor.
20 Be concise. We have a fair amount of time. We have the
21 whole day, but we want to make sure that everybody is
22 really able to get their comments in.

23 We want to be respectful to others. We know that
24 there's some strong emotions. There's been some very
25 challenging history behind here, so the more we can focus

1 on the problem, tough on the problem, but not tough on
2 people.

3 Speak one at a time. There are microphones all
4 around. They're pretty sensitive, but if you happen to be
5 between the microphones, just scoot it over to you in
6 order to speak. And when the red light's on, you'll know
7 you're being heard.

8 And then be constructive. The Department is really
9 anxious to hear your thoughts, your recommendations, your
10 input. They really need to hear that to be able to shape
11 a program that is responsive to your needs.

12 So the more you can give them things that they can
13 use, the more helpful it's going to be for everybody. So
14 feel free to share your concern and your frustration, but
15 as much as you can be constructive and specific with your
16 ideas and for what you'd really like to see, I think
17 that's going to be as helpful as it can be for the
18 Department.

19 So with that, the only other ground rule I'd like to
20 say is if we could try and silence your phones, put them
21 on vibrate. If you do need to take a call, just step out
22 to do so so that it doesn't disrupt everybody else's
23 conversation.

24 So I'd like to then open it up. And if we want to
25 start by going around, the tribal leaders and

1 representatives at the table can start by speaking a
2 little bit. First, I'm going to hand it back over to
3 Meghan, and we will give you a little bit of background,
4 and then we'll open it up to the tribal leaders.

5 MEGHAN CONKLIN: So I'm going to walk through
6 a quick PowerPoint presentation and give you some
7 background on the Cobell settlement and on the trust land
8 consolidation program.

9 When you checked in this morning with Michele Singer,
10 you should have received a packet of information. This is
11 all information that we had published on our website and
12 sent out to tribal leaders.

13 We first announced this consultation that gives you
14 some background information on some preliminary goals that
15 the Department is putting forward as ideas on the goals
16 for this program, and I wanted to discuss that with you in
17 this consultation and some other background on the land
18 consolidation. So I just wanted to point you to those
19 materials and get started, so let's go to the next slide.

20 As many of you know, the Cobell settlement was
21 approved by Congress on November 30th, 2010. This was the
22 result of a lot of work to get the legislation passed, and
23 it took about a year to get Congress to approve the
24 settlement after a lot of work by Secretary Salazar and
25 the administration.

1 There's two major components to the Cobell
2 settlement. The first is 1.5 billion for class members to
3 compensate them for their historical accounting, trust
4 fund and asset mismanagement claims. This portion of the
5 settlement is being handled by the plaintiffs in the
6 Cobell litigation.

7 The second portion that's being handled by the
8 Department of Interior and what we're here to talk to you
9 about today is the 1.9 billion dollar fund for the
10 voluntary buy-back and consolidation of fractionated land
11 interests.

12 One important point that we want to make, and I know
13 a lot of the tribe leaders are concerned about is making
14 sure that we keep administrative costs low as we go
15 forward with this 1.9 billion dollar fund.

16 It is a requirement in the Cobell settlement that up
17 to 15 percent, which comes up to 285 million, can be used
18 for administrative costs, and no more than that. As we go
19 forward, we're very cognizant of that in the Department.

20 Another key piece as an additional incentive for the
21 land consolidation program is up to 60 million dollars
22 will be set aside to write scholarships for higher
23 education for American Indians and Alaska Native Youth, so
24 this is a very important scholarship fund that we can
25 discuss today as well.

1 So if you look at the decrease of 285 million for
2 administrative costs and the 60 million dollars for the
3 scholarship fund, a total of 1.615 billion will be used
4 for the land purchase, the land consolidation program.

5 So within the settlement documents themselves, there
6 are a number of purposes that are identified for the land
7 consolidation program.

8 And for any of you who haven't seen a full copy of
9 the Cobell settlement, it is available on the Department
10 of Interior's website, but I just wanted to pull out some
11 of these specific purposes that are critical here, the
12 first being applying fractionated interests in trusts fee
13 land, including administrative costs relating to such
14 acquisition.

15 An important point, and I know a lot of tribal
16 leaders have issues with unfortunately, the funds cannot
17 be used for the purchase of fee land.

18 Second, for every land sale, a portion of the sale
19 will be set aside for a scholarship fund for Natives
20 American youth up to 60 million dollars.

21 And it can be used for the costs associated with
22 supporting the work of the Secretarial Commission on trust
23 reform. And this is more of an aside, although many of
24 you may be aware that at the time the settlement was made,
25 Secretary Salazar put out a secretarial order announcing

1 the establishment of a Secretarial Commission on trust
2 reform. And the Department established the commission
3 formally a few months ago to set up a federal register
4 notice for people to recommend people to sit on the Trust
5 Reform Commission. Those documents are all available on
6 the Department of Interior's website.

7 We have not made any formal decisions on who's going
8 to be sitting on the Trust Reform Commission. It's a side
9 issue, but I just wanted to mention that since it's up
10 here as well.

11 I just want to go through a few of these in terms of
12 legal facts, and then you'll hear from my colleague Mike
13 Berrigan. Maybe, Mike, if it's okay, I'll yield to you
14 now if you want to add anything from the Department on the
15 settlement.

16 MICHAEL BERRIGAN: Certainly. Two main points
17 that probably should be emphasized is we're still under a
18 court order. The case is still not yet finally approved,
19 and that's an important point.

20 Although Congress approved the settlement, the
21 President signed it, under the terms of the statute and
22 the agreement the money does not flow out of treasury
23 until we have final approval, and final approval means
24 that all appeals have been exhausted, so at that point
25 everything become final.

1 So until that happens we're still technically in
2 litigation, and that's important because there are a
3 number of court orders over the years of litigation that
4 prohibited Interior officials from communicating with
5 potential class members and anybody with an IIA account.

6 We're still under those court orders, so we literally
7 had to go to Judge Hogan and ask for an exception to those
8 court orders to allow us to conduct these land
9 consultations over the last three months, and he granted
10 that exception.

11 So sometimes we'll get questions about the nature of
12 the settlement and so forth, and it's really not
13 permissible for us to get into that. What is allowed is
14 the land consolidation discussion, and that's what we're
15 having today.

16 This week on Tuesday, the D.C. Circuit Court of
17 Appeals granted plaintiffs' counsel and the United States
18 both requested expedited briefing on the appeal, trying to
19 hurry it through the appellate process, and they granted
20 that.

21 And so briefs will be filed in the next couple of
22 months, and it's likely that we will have oral argument in
23 the D.C. Circuit sometime at the turn of the year, and we
24 hope then to have a decision from the D.C. Circuit by
25 summertime.

1 So that gives us a rough timeline with a little more
2 certainty than we had in Minneapolis about when we might
3 get the appellate decision out, so that's really the legal
4 status. We're trying to plan these consultations to go
5 under the land consolidation piece, but we still don't
6 have the money able to be spent until the settlement
7 becomes final.

8 MEGHAN CONKLIN: All right. Thank you for
9 that, Mike, and that's really an important point here that
10 until all appeals are settled or any appeals are settled,
11 we aren't able to begin implementation of this program.

12 At the request of tribal leaders, we did get from the
13 Department of Justice, as Mike mentioned, approval from
14 the judge to begin these tribal consultations. It's very
15 important that we begin the formal government to
16 government discussions.

17 A couple of other important points here about the
18 Cobell settlement, the settlement sets out a 10-year
19 timeframe, during which all funds need to be expended.

20 I will say that depending on how things work out with
21 the court process, I do know a lot of the tribes have
22 expressed some concern about taking the full 10 years on
23 the program.

24 Secretary Salazar says he doesn't like moss to grow
25 under his feet. He wants to be very assertive in

1 implementing the program, and we'll do our best to get
2 this accomplished, but the settlement itself requires that
3 it be 10 years.

4 Another good point is that the land consolidation
5 program requires following the statutory authority set
6 forth in the Indian Land Consolidation Act, and the Indian
7 Land Consolidation Act is described in the law as follows:
8 To acquire as many fractionated interests as economically
9 feasible, and to consolidate these lands in the tribal
10 ownership to promote and enhance tribal
11 self-determination, economic, social and cultural
12 development needs.

13 As I mentioned, in your packet, our team that we have
14 in charge of working on Cobell implication, we've
15 identified several potential guiding principles for moving
16 forward with the Cobell land consolidation program.

17 And one of the things we'd really like is to get your
18 input today on these guiding principles, or any other
19 issues that you believe are important as we begin to
20 develop our plan.

21 As Mike said, we have not developed a plan prior to
22 today, which is why we wanted to come to get your input
23 today so that we can use all the valuable input you offer
24 to us today to help develop those plans moving forward.

25 So here are a few of the goals that we've identified.

1 There are three of them, and I want to say from the outset
2 that these goals are not listed in order of importance. I
3 want to make sure that everyone knows that. The first
4 goal, and this is consistent with what's required of us in
5 the Cobell settlement is to reduce land fractionation in
6 highly-fractionated areas.

7 I think all of you should have your little pie chart
8 in there to identify the different regions and sort of the
9 concentrations of where the fractionated areas are.

10 And then the second goal is to implement a plan that
11 is time and cost efficient. As I mentioned earlier, we
12 have a limit of 285 million on the administrative costs,
13 and we have to be aware of that. And while we have this
14 10-year window that we have to complete the program in, as
15 I said, we have to be able to do as much as we can early
16 on in the process.

17 And the third goal, and that's why we're here today,
18 is to learn more from all of you and consolidate land in
19 the area of tribal preference.

20 And the next slide is when we go through some of the
21 potential strategies for addressing these goals. So one
22 potential strategy is to prioritize highly-fractionated
23 lands. Another potential strategy is to target IIM
24 account owners.

25 A third potential strategy is to target land owners

1 having the most number of purchasable interests, and a
2 fourth potential strategy is to target land owners having
3 the most number of tracts.

4 Looking at the potential goal of implementing a plan
5 that is time and cost efficient, one potential strategy is
6 to target lands requiring minimal prep work prior to
7 offers being made. So this would be land with sort of
8 existing information on them.

9 Another good strategy is to target tracts which have
10 land owner consent. We do have a number of land owners
11 who approached the Department who are interested in
12 selling their land interests. And strategy seven is to
13 target tracts with the largest interest per owner.

14 In looking at this goal about which I think we're
15 going to discuss a lot today, consolidating land in areas
16 of tribal preference, which we know through the
17 consultation process, some potential target tracts are
18 tracts that are identified by tribes. And another
19 potential strategy is to target tracts with economic
20 opportunity for tribes.

21 So in terms of our next step with this program, as
22 Stacie mentioned at the outset, we are doing six regional
23 tribal consultations so that we're able to reach out to
24 everyone across the country. We've already completed one
25 in Billings and Minneapolis, and we have two more coming

1 up after this one.

2 We want to incorporate all of the input we receive
3 from all of you through these government to government
4 consultations, and from that develop a Cobell
5 consolidation program implementation plan.

6 We're not certain yet, but we will definitely
7 continue the dialogue through outreach and potential
8 additional consultations. And then once we are able to
9 achieve final approval of the Cobell settlement, we will
10 then proceed with implementation, and that's it for the
11 background today.

12 Again, I am looking forward to today's consultation
13 and all the comments from all of you today. Thank you.

14 STACIE SMITH: Okay, great. So now we're
15 going to open this up to comments from tribal leaders. If
16 you want to start by talking about these goals, these
17 potential goals, these potential strategy, it sometimes
18 helps to try and have one topic at a time to also talk and
19 dialogue with each other and build on what each other say.

20 So if you wanted to start focusing on that and then
21 we'll get into some of the other issues next, we could do
22 it that way.

23 MICHAEL FINLEY: I'll try my best to keep on
24 track. We have a lot of questions and comments from
25 Colville on this topic, and I want to make sure that we're

1 as effective as possible.

2 STACIE SMITH: I just want to say one thing.
3 Those are also in your packets. So if people want to look
4 at them as you go, it has a little bit more detail and
5 description about what each of those are. So feel free to
6 turn to your little handout, and it gives you a little
7 more information.

8 MICHAEL FINLEY: Thank you. Once again, I
9 want to make a general comment. I guess we've been
10 watching this very closely, and we waited at the
11 appropriate times on this.

12 And we have various resolutions asking for specific
13 changes to this specific portion, which were largely
14 ignored for various reasons that were told to us at the
15 time.

16 Having said that, we're moving forward and trying to
17 take advantage of the situation or of the benefit of the
18 program that's there right now.

19 We have concern that the ILCA program has the
20 wherewithal to handle this amount of money given the fact
21 that in any given year the Bureau of Indian Affairs hasn't
22 handled any more than 35 million a year, and it's my
23 understanding that there's some title issues that have yet
24 to be resolved.

25 And so we're talking about a lump sum of 1.9 billion

1 stretched out over a period of 10 years, and that's just
2 under 200 million a year. You can understand our concern
3 of why we think that there's a chance this thing may not
4 happen the way we'd like it to happen.

5 I guess I'm somewhat disappointed that the Department
6 doesn't have a plan. At the same time, I feel good that
7 there's consultation taking place, asking us on what plan
8 the Department should consider as this moves forward.

9 We have several questions on what the tribe's
10 participation and involvement will be. One of the things
11 that we did ask for in the resolution that the NCAI before
12 us approved is that the tribes have the ability to
13 contract.

14 Having said that, I realize that in the ILCA program
15 there are limitations to that, and a specific contract is
16 not possible, but other measures need to be taken on
17 interpretation of that language.

18 And we're hoping that our tribe will have a greater
19 ability to help administer these funds because no one
20 knows better than us on what lands should be considered a
21 priority with regard to our respective resolution.

22 History will show that the ILCA program did little to
23 consult the Indian tribes in the past on these matters.
24 As we move forward, in order for us to better facilitate
25 and administer this money, we need to consult -- the

1 government should consult the Indian tribes on how to
2 better handle those issues.

3 I guess moving forward, I have another issue. It's
4 hard to stay on track with this one specific issue, so
5 maybe I'll be afforded the opportunity later, but there's
6 the perception of some that certain programs will cut
7 funding with anticipation when this Cobell is approved.

8 I'm talking specifically about the cadastral surveys.
9 It was totally cut. We have issues with cadastral surveys
10 with fractionated allotments. My family are one of them.
11 My grandfather passed away leaving his allotment to my
12 father and various members of his family. That went
13 through probate and was approved.

14 Today that's still an unsettled issue, and I have to
15 reopen probate because the cadastral surveys were never
16 done appropriately. And BIA didn't make sure that those
17 were double checked or whatever you need to do or what
18 have you, but now we're having to recontact my father and
19 his siblings to try to get this issue resolved.

20 Since that's happened, some of the other
21 beneficiaries, some of his children he left that land to
22 are now gone, so that creates a whole other problem.

23 So as we try to get these available, get these ready
24 for this money to be in place, there are a lot of tribes
25 that are similarly situated where the cadastral surveys

1 still need to be fixed.

2 And when you cut that money out, where's that money
3 going to come from? Those beneficiaries will be left
4 without the opportunity to sell their fractionated
5 interest to the tribe.

6 But because of the mishaps in the process, they're
7 having to go through this process again. And I know there
8 are other examples on our reservation. There are other
9 allottees that are similarly situated.

10 Those are just a few of the concerns we have. I'll
11 stop there, and maybe I'll have an opportunity to add more
12 later, but I just wanted to throw that on the table for
13 time being. Thank you.

14 STACIE SMITH: Thank you.

15 GREGORY ABRAHAMSON: Thank you. Greg
16 Abrahamson, chair of the Spokane Tribe. I also have a
17 list of priorities that will be echoed quite a bit today,
18 but I appreciate the opportunity to meet and have this
19 consultation with the tribes to where you haven't had a
20 plan yet, and we may be able to have some input.

21 And trust responsibility, who will provide the funds
22 for the administrative costs to implement the purchase
23 program? The trustee should transfer the funds to the
24 tribes.

25 Income on settlement funds, who benefits from the

1 investment or interest on the 1.9 billion? We need
2 improved communications between the agency and tribes and
3 its members to explain the options, legally, politically,
4 financially, and administratively.

5 Is there some sort of timeline that we know that our
6 comments will be adhered to or listened to?

7 And the five commission positions, are they going to
8 represent all regions? And with them that are in there,
9 the decision hasn't been made yet, so will the tribes have
10 the capability or the ability to weigh in on the
11 nominations?

12 That's all I have right now, and the Spokane Tribe
13 will be submitting a written testimony at a later date for
14 this, so thank you.

15 STACIE SMITH: Thank you. I think the
16 Department officials will try and take a couple comments,
17 and then we'll come back and try to answer and respond to
18 some of the questions.

19 FAWN SHARP: Before I begin my remarks, I'd
20 like to first of all thank Chairman Sheldon and the
21 Tulalip people for once again inviting us to their
22 homeland and a beautiful and very powerful song this
23 morning. It was a good way to open up this session.

24 So I truly appreciate and want to thank the Tulalip
25 people for their hospitality, kindness, and it's always a

1 good day for us whenever we conduct business on our lands.

2 We are going to be offering a PowerPoint presentation
3 with recommendations from Quinault Indian Nation. In
4 preparing for today, I looked at the date of the General
5 Allotment Act of 1887, and it occurred to me that we are
6 going to be marking 125 years next year since the Dawes
7 Act, over a century and quarter of federal management.

8 And I want to make the case in our presentation today
9 that from 1970 when the United States began to turn court
10 from federal control, federal decision making and entered
11 into an era of self-determination, it opened up an entire
12 future for Indian people.

13 And we've seen significant strides in the successes
14 in Indian Country since Congress got behind the idea of
15 putting tribes first and foremost with the decision-making
16 authority and the ability to administer programs as they
17 deemed fit.

18 And one of our recommendations that we really want to
19 emphasize today is something that was raised by my
20 colleague from Colville.

21 We too recognize that the terms of the Cobell
22 legislation precludes administering the program through
23 self-determination provisions, but we also recognize that
24 there's a great deal of authority in other provisions that
25 Congress has allowed for Indian tribes to administer a

1 program, whether that be through a cooperative agreement
2 or memorandum of understanding.

3 And we believe that given the historical track record
4 of 125 years and the successes that we've been able to
5 accomplish as Indian people is that for years we cannot
6 ignore that option, and that we need to seriously consider
7 that option because Indian people are directly connected
8 to the land.

9 And we are developing programs that are not to be
10 implemented in silos, silos being our efforts at home, and
11 whatever the United States thinks is appropriate in
12 Washington, D.C.

13 We believe that every revenue stream that comes into
14 our reservation lands where solving this major crisis has
15 to be consolidated. It has to be an integrated approach,
16 and it has to be first and foremost determined at a tribal
17 nation level.

18 So with that, I would like to invite our technical
19 advisor up. Dr. Gary Morishima has prepared a PowerPoint
20 presentation. We've provided written testimony that goes
21 into some details of seven different components of what we
22 believe would be an absolute essential ingredient into any
23 post compact or agreement.

24 So, Gary, would you please step forward?

25 GARY MORISHIMA: Good morning. I'm going to

1 try to be very brief here. First of all, my name is Gary
2 Morishima, technical advisor of national resource
3 management for the Quinault Indian Nation.

4 I think that the comments today and from our review
5 of the transcripts of other hearings that have been held,
6 there are three central issues that seem to arise over and
7 over again.

8 The first is how is the Interior going to go out
9 implementing this program? Secondly, how are priorities
10 going to be established on which properties to acquire?
11 And lastly, who is really best situated to administer the
12 program?

13 A little bit of history, the Quinault Indian
14 Reservation is located on the Pacific Ocean in the Olympic
15 Peninsula. It is comprised of 200,000 acres,
16 predominantly forest land.

17 The history of the land owners on the reservation,
18 the reservation was set aside in the late 1800s to provide
19 a permanent homeland base for the Quinault people.

20 Under the General Allotment Act and a series of other
21 litigation and legislation, the Quinault Reservation was
22 wholly allotted. And it may be a little difficult for you
23 to see, but what was once a totally tribal communally
24 owned reservation was broken up into 2,340 individual acre
25 allotments.

1 That left the Quinault Nation without a land base of
2 its own. And except for our boundary area of the Quinault
3 Reservation, the northbound area was erroneously excluded
4 by the surveyor.

5 But since the time of allotment it has become
6 increasingly complex. We now have a mixture of fee and
7 trust lands. Fractionation increases our management cost
8 and the difficulties of managing the resources and
9 protecting the fish and wildlife and cultural resources
10 important to the nation.

11 It decreases our ability to productively manage the
12 land and resources, and reduces the availability of
13 federal funding to provide services and manage resources
14 because so much of that funding goes to administration.

15 The land owner patterns are left without an economic
16 base. It's threatened the ability of the Quinault Nation
17 to preserve the native community as a permanent homeland,
18 and it's reduced the ability to protect the cultural and
19 community resources like fish and wildlife and water, and
20 protect environmentally sensitive areas.

21 And one of the most important considerations is that
22 this fractionated ownership pattern has jeopardized the
23 very political sovereignty of the Quinault Nation. As I
24 mentioned before, it's greatly increased the cost of
25 management and administration.

1 Recognizing the need to consolidate land, Quinault
2 Nation leadership back in the 1960s established land
3 consolidation as a principal priority, and has developed
4 an integrated approach to consolidation of reservation
5 lands.

6 With this background, where does land consolidation
7 under the Cobell settlement fit? It's really a piece of
8 the puzzle that has to be put together to consolidate land
9 for the Quinault Reservation.

10 As President Sharp indicated, the proposal is for the
11 Quinault Nation to enter into an agreement, whether that's
12 an MOU or a cooperative agreement, but basically enable
13 the Quinault Nation to administer the land consolidation
14 program on the reservation.

15 From the nation's standpoint, the Quinault Nation is
16 much more suited to administer this program than the
17 Department of Interior. The Quinault Nation has
18 government that has very close relationships to land
19 owners. It has tribal policies, priorities and
20 stewardship obligations for the community as well as for
21 the individual land owners.

22 The Quinault Nation has a vested interest in ensuring
23 that the procedures that are developed for implementation
24 of the land consolidation program are efficient. And
25 lastly, of course, our people, being our homeland, have

1 local knowledge of the land and the resource values.

2 The Quinault Nation is highly motivated to ensure the
3 land consolidation is done in the most efficient and
4 effective way as possible. And the Quinault Nation, as I
5 mentioned, has over five decades of experience with land
6 consolidation.

7 The Quinault Nation helped administer the land
8 consolidation program on its reservation up until the time
9 when the land consolidation funding would be eliminated in
10 2007, and at that time it had over 3.2 million dollars in
11 fractional interests that were ready for the tribe.

12 We believe that the Cobell land consolidation program
13 should be centered in two major areas. The first is, as
14 Meghan had indicated earlier, to consolidate lands for
15 Tribal Government.

16 But the second is an important aspect of land
17 consolidation, and it should be given some consideration.
18 It is to provide some support to help individual land
19 owners consolidate fractional interests, and stop further
20 fractionation of the interest that they hold.

21 And the purpose of consolidation for the Quinault
22 Government is to provide and secure a permanent homeland
23 for our people, to provide a sound economic base, protect
24 environmental and cultural values, protect communal
25 resources, and reduce the cost of administration, for

1 helping tribal members basically to provide mechanisms to
2 facilitate the acquisition and trading of fractional
3 interests to make the small fractional interests that are
4 usable now into more usable parcels, to explore the
5 opportunity to develop management property, to help those
6 individuals understand all the terms of valuation and
7 fractional interests, how to time acquisition and sale of
8 fractional interests, and lastly, to provide some
9 assistance in the preparation and transfer of property.

10 Components of the proposal are, first of all, the
11 ability to acquire any fractional interest in properties
12 that are held in trust, whether those fractional interests
13 are in trust or fee, surface or mineral, regardless of
14 size.

15 Secondly, that those interests be acquired with no
16 liens. It didn't make sense for us and for the Department
17 to trade one problem for another by setting up a lien
18 system under the Indian land consolidation program.

19 The third component is a mass appraisal system. This
20 is a component that will substantially reduce the cost,
21 and time to value fractional interests.

22 Quinault is working with the central office of the
23 Bureau of Indian Affairs to try to help amass an appraisal
24 system that is suitable for appraisals on our reservation.

25 And the fourth component is the acquisition of

1 interests in accordance with the land consolidation plan
2 that form the basis for prioritizing interests for
3 acquisition of the plan to be approved by the secretary of
4 Interior, and serve as our mechanism to get all the
5 various actors and players in the land consolidation
6 efforts working off the same page.

7 The fifth point is to ensure that we have the
8 administrative controls to assure accountability in the
9 expenditure and administration of the program.

10 The mass appraisal system, I'll just give you a few
11 comments on that. It is being designed for the situation
12 at Quinault, primarily focused on timber lands. It takes
13 full advantage of the current technology and information
14 base to manage our lands and resources.

15 As I mentioned before, a feasibility study is
16 underway. We're developing a proof of concept prototype.
17 It's being designed to enable query by parcel or by
18 individual property owner.

19 And we're designing it to incorporate threshold
20 values, which is if the value of the fractional value
21 exceeded a certain amount, then it would automatically
22 trigger the necessity for formal land and timber
23 appraisal.

24 It would also incorporate a lower limit in that many
25 of the very small fractional interests on the reservation

1 have very minimal economic value, and as such they have
2 very little incentive for individual land owners to sell
3 those and dispose of those interests.

4 So we're suggesting that the Department consider the
5 lower limit with the option to use some minimal value of
6 interest for fractional interests to provide that
7 incentive to enable us to consolidate more of the smaller
8 fractional interests. That essentially concludes the
9 presentation.

10 FAWN SHARP: Thank you, Gary. As you can see,
11 the Quinault Nation has a long history of administrating
12 and prioritizing land consolidation. We recognize through
13 many leaders throughout the last half of the last century
14 how important this is.

15 And we have put a lot into hard lessons learned, and
16 we're eager and anxious to see that this opportunity that
17 we have, 1.9 billion dollars -- we don't know if during
18 the course of our lifetime there'll be that level of
19 appropriation through Congress, or at least at this scale
20 and magnitude of dollars available.

21 So we see this as a very precious and historic
22 opportunity, and we're willing to embrace it with a lot of
23 thought and solid management principles. And we're just
24 happy to have this opportunity here this morning. We
25 thank you, and we look forward to a continued dialogue.

1 So on behalf of the Quinault Indian Nation, I thank
2 you for this opportunity, and we look forward to future
3 discussions.

4 ERNEST STENSGAR: I'm Ernest Stensgar. I'm
5 with the Coeur d' Alene Tribe.

6 We've seen the erosion of our land, so it really hurt
7 us to see our members sell their land. A lot of those
8 tracts were lands in trust that the Bureau allowed to go
9 out of trust so that they could be purchased in a fee
10 process.

11 We feel that we can develop a program and run a
12 program of land acquisition that would be in the best
13 interest of the tribes and would comply with the rules and
14 regulations that are set up by the commission, but we
15 would certainly like to have that chance to be able to do
16 that.

17 JEANNIE LOUIE: I don't have anything in
18 writing at this point, and I just want to offer a few
19 statements. Back in 1974, I worked as a realty clerk for
20 the Bureau of Indian Affairs, and then in '75 up until
21 2005 I worked in realty for the Bureau of Indian Affairs.

22 And we were talking about -- when you work in realty,
23 going from a realty clerk or realty specialist in those
24 many years, about 30 years I would say, we go through the
25 knowledge of learning about the Dawes Act, the histories

1 of the tribes.

2 And we become very compassionate because as you know
3 back in the day with the Bureau of Indian Affairs, it was
4 mainly non-Indian individuals that were there.

5 And when the Indian Land Consolidation Act of 2000
6 came out, in the amendment some of us that worked in
7 realty at the time, we thought where are these directives
8 coming from? Where is this policy coming from?

9 Because we work at the local level, we thought, you
10 know, if those that drew up these policies were at the
11 local level, they would realize the struggle that our
12 Native people are having with policies that are written
13 and designed for them, when actually it's not. It's for
14 the management that the government is doing. It's to
15 eliminate the hardship on the government. Those weren't
16 put out there to assist the Native people.

17 And with the Indian Land Consolidation Act, the two
18 percent SG was proven to be unconstitutional because it
19 was taking without paying for it.

20 So then the Federal Government set up this office and
21 hired contracted individuals with the tribes because when
22 the SG action took place, the income that was derived from
23 that allotment that SG had already gotten from the tribe,
24 that interest, then those monies were deposited to the
25 tribe's IIM account and not the individuals so that they

1 needed to be returned to the individual that owned them.

2 The government set up the office to contract with the
3 tribes. They contracted individuals to remove that money
4 from the IIM account and transfer it back over to make it
5 right.

6 And the reason I'm bringing that up is that it has
7 already been mentioned about contracting with the tribes
8 to assist in eliminating the fractionated interests, and
9 this is something that needs to be done at the local level
10 so that the tribals leaders, the tribes can do these
11 things at the local level.

12 And also I would like to mention, as has been
13 mentioned, the appraisals set for timber cruising. We
14 have a sad nation with OST in the appraisal process today
15 with the land purchases, with the gifts, everything that
16 we are trying to accomplish.

17 All the transactions in realty are stagnated, and we
18 have been saying this for several years now that we cannot
19 get appraisals on a timely basis.

20 So here we're going into purchasing fractionated
21 interests for this consolidation, and how are we going to
22 eliminate that problem with the appraisals? That's a
23 major question.

24 A number of tribes can and have the ability to
25 contract with Indian land appraisers. But even when that

1 was brought out at some point, it was sent down to the
2 appraisal office just for review, and they sent it back.

3 So we have paid for that appraisal, which doesn't
4 come cheap, and only to have it turned away from the OST
5 appraisal people. So there's many several issues that
6 need to be addressed, and I'm grateful and thankful that
7 our tribal leaders are here to express their views.

8 And I hope that with this Indian consultation you
9 will listen with your heart, and that you will hear the
10 cries that have been cried for the past century about the
11 Native people, and listen and assist so that we can
12 together make a policy that will work for the Native
13 people because that's what this is for also, not just the
14 management. Thank you.

15 ERNEST STENSGAR: I want to make one more
16 point. We want the allotment treated fairly. They should
17 have the ability -- if my brothers and sisters want to
18 sell out their purchases, then we should have the ability
19 to buy them out, so I hope you take a look at that.

20 The other thing is we need a fair price. Are they
21 going to be forced to sell at the appraisal or to
22 negotiate for a better price? I think that's best.

23 Again, on behalf of the Coeur d'Alene Tribe, I want
24 to thank you.

25 STACIE SMITH: So I know we have a couple of

1 other tribal leaders and representatives who want to
2 speak. I think we're going to let the Department respond
3 to some of the questions and comments we've heard so far.

4 We're going to take a short break for people to get
5 more coffee and use the bathrooms. We'll come right back
6 to tribal leaders who want to speak.

7 MEGHAN CONKLIN: Thank you, Stacie. First of
8 all, I want to thank all of you. This is really
9 impressive. I want to thank all of you for all the work
10 that you put into these comments. This is exactly what we
11 need in helping us move forward.

12 And I just want to offer a few reactions to some of
13 the comments that have been offered. I know Chairman
14 Abrahamson, you brought up the issue of wanting more data
15 about land fractionation and a list of owners.

16 This desire by tribal members and tribal leaders to
17 have more data about land fractionation is something that
18 we're looking into right now. We're now hoping to provide
19 more data as we go forward, so we definitely heard you on
20 that issue.

21 And I wanted to thank Gary and President Sharp for
22 the PowerPoint presentation. That was really fantastic
23 work and really helpful. I'm really interested in
24 learning more about your ideas on the mass appraisal
25 system. I'd love to be able to talk about that and hear

1 more about your suggestions.

2 Clearly, how we approach the appraisal process in
3 this program is going to be critical. It needs to be
4 fair. It needs to be defensible, and a number of people
5 have raised the idea of using mass appraisals in this
6 program as a way to see more accomplishments and to keep
7 our administrative costs down, and so we're really
8 interested in talking to you more about that.

9 I also really like the point that you raise, and I
10 know that John Matthew also raised this point in Billings
11 about the idea of providing support to land owners to
12 prevent further land fractionation in the future. I think
13 that's a really good point that you made there.

14 I also wanted to address the lien issue. We've
15 gotten a lot of comments about this. We're required to
16 follow, as I mentioned in my presentation, the Land
17 Consolidation Act when implementing this program. We are
18 looking into the Department any flexibility there is that
19 we have in the application of liens as we use this
20 program.

21 So a lot of people raised concern about that, and
22 it's something that we're looking into further with the
23 assistance of our solicitor office about this issue before
24 us.

25 And then Chairman Finley, thank you very much for all

1 your comments. You've been really involved in this
2 program for a number of years, and it's great to have all
3 your comments today.

4 Your concern about the ability of the local program
5 to do this and your point about how in past years the
6 Department operated with 35 million in our budget, I just
7 want to assure you that we expect there will be an
8 interdepartmental team of people working on implementing
9 this program at the highest levels of the Department and
10 many other bureaus.

11 We have a number of us in the Department. We have
12 the Office of Evaluation Services, so there's going to be
13 a team of people assembled as well to work on this. And I
14 think that's a very valid concern that you raised there.

15 Those are just a few of my quick reactions. And,
16 again, I just want to thank you for all these thoughtful
17 comments, and I look forward to reading all your written
18 comments. So I want to turn it over to Mike for any
19 reactions he wanted to offer as well.

20 MICHAEL BLACK: Well, pretty much the same
21 things that Meghan addressed. Again, comments and
22 feedback have been exceptional today, and I appreciate
23 that. It's obvious a lot of thought has gone into it.

24 But just to address some of the things Meghan was
25 talking about, in our discussions within the Department

1 and the Bureau of Indian affairs, appraisal is going to be
2 a key to the success of this program. That's come out
3 with every consultation we've had.

4 When I've participated in the past, that's been a key
5 point made by all the tribes in all the consultations.
6 There are issues with appraisals right now and the
7 timeliness of getting them. And for this program to work,
8 we're going to have to make sure that that's effective.

9 Mass appraisal is something we've looked at
10 internally. We've had feedback from a number of tribes
11 throughout the process on different ideas and proposals,
12 and we look forward to getting anything anybody would have
13 to offer to it.

14 The contract at issue, there, again, that's one of
15 the things that is spelled out in the Indian Land
16 Consolidation Act, and we have our solicitors looking at
17 just what our capabilities are within that.

18 There's a number of facets within this program,
19 anywhere from the appraisals to the outreach to the
20 administration of the title work, and that kind of thing.
21 So there's a lot of different components, and there may be
22 different areas that we have in our communities. And
23 we're going to have to work in partnership with the tribes
24 and all the parties involved.

25 Going back to Chairman Finley's comment, the capacity

1 of us to operate this program as it was stated, I think
2 our biggest year was probably about 35 to 40 million
3 dollars.

4 Well, now we're looking at a 1.4 billion dollar
5 program over 10 years. That's a lot of money. That's a
6 lot of work that needs to be done.

7 So we're going to have to be creative probably in
8 some ways on how we implement this program to ensure the
9 success of it, but it's going to have to work, and it will
10 work one way or the other.

11 The perception issue, I heard this at the other
12 consultations as well. It's regarding the budget cut of
13 the cadastral surveys.

14 Just to be clear, the 285 million dollars for
15 administration of the ILCA program can only be used for
16 the ILCA program. Any cuts that may happen outside the
17 ILCA program, we cannot offset those dollars.

18 So it may come down over the next couple years due to
19 budget cuts, and we're in a pretty severe -- it could even
20 be considered a dire budget situation right now.

21 Upcoming in 2012, 2013, that's yet to be seen. We
22 don't really know yet, but any anticipated cuts are not
23 because of the implementation process, so I just want to
24 make sure that that's on the table as well.

25 I think that pretty much covers what I want to make

1 sure I address at this point, but we'll have further
2 dialogues. And, again, thank you. The comments have been
3 exceptional.

4 STACIE SMITH: So we're going to take a
5 15-minute break. And then we'll come back, and we'll just
6 continue with our discussion here.

7 (Recess taken.)

8 JOANNA MOREK: Good morning. Joanna Morek
9 with the Nez Perce Tribe, and it's good to see you all
10 again. I attended the first consultation discussion in
11 Billings, Montana, so I do have some questions and follow
12 up there.

13 I believe we all knew that the Allotment Act was
14 going to lead to this big mess when it was first created,
15 so we have a lot of concerns.

16 First, I would like to just make a recommendation
17 that we ensure we get a Northwest representative on that
18 commission because it will -- that person is going to be
19 very knowledgeable about the fractionation and the land
20 issues within the Northwest region where we know a lot of
21 the allottees are as well in fractionation issues.

22 And I'd like to know or see that what is ensured in
23 each of these consultations, that the tribes' comments and
24 recommendations are adhered to and they are in that plan,
25 and it's not just a listening session to listen.

1 And what I fear is the Federal Government has already
2 put things in place. That's why there's, quote/unquote,
3 the confidentiality, cannot discuss anything with us as
4 tribal leaders, but yet we're being told that we need to
5 buy these fractionations.

6 And what it is doing today is pitting the individual
7 land owners against the tribal leaders. And what hurts
8 the most is many of us that are -- and I'm only 27, but
9 the elders that are the land owners. We are land owners
10 as well.

11 So it has kind of put us in a turmoil, and we're
12 dealing quite a bit with our land owners. And I'm going
13 to go through a list of things that we have that are a
14 major concern.

15 I know that we have to move forward with this, and
16 I'll leave it at that. But 25 CFR 162, 226 for direct pay
17 is not being included in this settlement.

18 However, with that 162 it says that those tenants are
19 to have the documentation, and it should be included with
20 that payment. So for the third payment to everyone it
21 should be included.

22 And what the Bureau needs to do is request that
23 documentation from those tenants, so that the dollar value
24 will be included in that final payment, and I'm speaking
25 for our land owners. That's one of the questions we had,

1 so I'll get back on track to our land consolidation.

2 What the tribe is experiencing with the appraisals is
3 they are coming back a lot lower than five to seven years
4 ago. And I believe this is based on the yellow book. And
5 I'm not sure how many tribal leaders are aware of this
6 yellow book, but it's like across the fence.

7 You're not looking at the property per se or the
8 actual land for an appraisal because what is being left
9 out is going to be minerals, a lot of our traditional
10 food, which has a dollar value to us, not mainly dollars,
11 but a sentimental value and should be considered, but
12 there are a lot of issues with the appraisals that are not
13 being looked at appropriately even for tribes.

14 Appraisals, non-Indians receive a higher dollar value
15 in appraisals than the trust land. So, again, that's just
16 pitting the land owners against the tribal leaders because
17 they're saying we're the ones that are appraising their
18 land at a lower value so we can just buy it from them, and
19 that's not true.

20 We've been trying to let them know it's based on the
21 yellow book, and this is the Bureau and the Federal
22 Government is impacting or inflicting on tribes.

23 One example is we had a tribal land owner, who we
24 purchased his interest, and he received a letter two years
25 ago. It was valued at \$25,000. But when it came to the

1 table with the current appraisal, because they're to be
2 done every year, they're to be sold on a fractionated
3 interest, and that dollar amount was \$17,000.

4 Land value doesn't depreciate. It only increases
5 because of the valuable resources that are on it, so we
6 need to look at that through this land consolidation to
7 ensure everyone is getting a fair market value.

8 Our tribal land services two days ago have received a
9 list of all the two percent interest land holders from the
10 Bureau. And we're hearing today that we as a tribe are
11 going to be the ones to make those decisions, but already
12 that list was submitted to our tribal land services
13 department.

14 I tried to call home to see if the vice chair
15 received it because that should have went to the tribal
16 leaders and the tribe, so why it went to the land services
17 director is a concern because as of today I don't know if
18 allotment numbers as well as names are submitted with that
19 two percent list.

20 So with the Bureau doing that, what is the purpose?
21 What are we as a tribe to do when there's no funding
22 that's going to be allocated to us as a tribe? Because
23 I'm sure that's a pretty lengthy list of land owners, two
24 percent and less, the money I feel should be given to the
25 tribes and not administered by the Bureau.

1 Secondly, with that list and the concern that I have
2 or the tribe has, and I'm going to state possibly tribes,
3 at what point then do you step in as the Bureau and
4 purchase those interests if we don't purchase them and we
5 don't have the money to purchase them?

6 It's very clear and evident through the documentation
7 that we've seen that there's going to be liens on those
8 allotments.

9 In Billings we heard there's going to be the two
10 percent that the tribes will start purchasing as well as
11 five percent, and then from there it goes to multiple
12 ownership that the tribes are to purchase, and lastly,
13 even those that are the one hundred percent owners in an
14 allotment.

15 So basically it's eliminating every land owner an
16 allotment on the reservations. It's going to be in the
17 hands of the tribes. And that is a major concern because
18 I haven't heard that, and that's what I heard and have in
19 my notes from the Billings meeting.

20 And I know that we'd be looking at the property and
21 the land for economic development, but to me that's not a
22 way I think we need to work with our land owners and see
23 what they want because it is their family's bloodline,
24 their family's lands.

25 With the 15 percent fee, the administrative fee

1 that's going to be going to the Federal Government, I
2 believe that they need to be the ones again paying for
3 appraisals and the cadastral surveys because that
4 financial burden, many tribes cannot afford to pay for
5 those, especially when some of the appraisals will cost
6 over three thousand dollars.

7 And that's for a small two percent interest, and
8 these go up to five percent. How many times do tribes
9 have to find the money to pay for these appraisals?

10 So to me that is a big concern because, again, if we
11 don't buy those, then the lien comes in because we
12 financially cannot pay for those appraisals and surveys.

13 I was out there with one other issue that I was
14 thinking I really wanted to bring up if I could. If my
15 mind, my young mind remembers again, I will hit the mic.
16 Thank you.

17 STACIE SMITH: We'll have all morning to go
18 around with comments, so we could definitely come back to
19 you.

20 RUTH JIM: Today I sit before you talking
21 about land, land that is very precious to our people.
22 Currently, the Yakama Tribe has within the boundaries of
23 the reservation 1.397 million acres. Approximately
24 274,000 acres was allotted.

25 These allotted lands have from two to 200 land

1 owners. The lands range in value from \$600 an acre to
2 \$3,500 an acre for farmland, and business properties
3 having an even larger value. Exact ownership in dollars
4 an acre cannot be determined because the probate's still
5 in progress.

6 A program to buy back fractionated interests on our
7 or any reservation should be implemented by the affected
8 tribes, not the BIA. The affected tribes have firsthand
9 knowledge of its membership and the intricate details of
10 those relationships.

11 We are afraid that implementation, directions from
12 afar, would worsen good relationships between allotted
13 land owners and tribes and worsen bad ones.

14 Tribes should be granted the funds needed to hire
15 additional staff to implement the Cobell program as well
16 as their established programs. Absolutely no lien should
17 be placed on top of these where interests are purchased
18 from the Cobell funds.

19 In order for a successful, cost efficient and
20 timeline efficient program to operate, there needs to be
21 additional appraisals onboard or made available.

22 Where fractional interest holders are not willing to
23 sell to their tribe, but are willing to sell to another
24 owner in their property, a portion of the Cobell funds
25 should be made available to those individuals for

1 consolidating their interest to one family member.

2 Goals for determining target priorities should be
3 left to the tribes to decide and not the BIA. Tribes
4 fought for years for sovereign ability to make internal
5 decisions regarding their resources.

6 When the Yakama Tribal Council reviewed the
7 information provided along with the invitation to
8 participate in the government to government consultation
9 meeting, we could not find any language that gave
10 credibility to longstanding land consolidation programs
11 administered by tribal nations.

12 We are also concerned that the federal government may
13 take a percentage share for the administrative costs to
14 establish policies and guidelines for tribal buy-backs.
15 Buy-back programs on some reservations such as ours, those
16 programs already exist. And the priority should target
17 elders or terminally ill members, and also members that
18 own land on other reservations.

19 And administrative dollars, how much of these
20 administrative dollars are going to be for the tribe to
21 implement this buy-back program?

22 I would like to at this time thank the Tulalip Tribe
23 for hosting us to have this meeting here. This is a
24 beautiful resort, and I would like to thank you for coming
25 to listen to the Northwest Tribes. Thank you.

1 DAN GLEASON: I just had a small comment to
2 Quinault. I liked their presentation, and they said that
3 they were going to be working with their tribal members.
4 At Chehalis, all my grandparents, my uncles, aunts,
5 and my mom and dad both have eight acres there. I was
6 just wondering from seeing the presentation who's going to
7 work with us. Is it going to be the tribe, or is it going
8 to be BIA?

9 And that is my concern. We have a lot of other
10 members that have land down there, and I think that they
11 just hope that some of the smaller tribes will get to
12 participate in these funds. Thank you.

13 PHILIP HARJU: My name is Phil Harju from the
14 Cowlitz Indian Tribe. Ironically, I'm here with a tribe
15 that has not even one acre in trust at this moment because
16 of actions of the Federal Government, but this is an
17 important issue.

18 And I also want to thank Chairman Sheldon and the
19 Tulalip Tribe for hosting at this beautiful venue here,
20 and also appreciate all the people from the different
21 federal agencies for being here and coming out to the
22 great Pacific Northwest.

23 And I would also echo the call that there needs to be
24 Northwest representation on any committee or commission
25 that's going to overview these funds in this program.

1 I also want to thank all the other tribal leaders for
2 their great work here. They're very well spoken, and I
3 couldn't say it any better with the issues that have been
4 brought up.

5 I just want to talk about a couple process things in
6 regards to consultation, meaningful consultation. I do
7 appreciate that no regulations and rules have been passed.
8 And then as you come out to Indian Country and tell us
9 what they are, meaningful consultation I think does
10 require input from the tribes.

11 My only suggestion would be that for meaningful
12 consultation, it would be helpful for tribal leaders and
13 for tribes and for individual allottees and owners to have
14 some guidelines or some points from the Department of
15 Interior as to how they're going to administer this
16 program.

17 It would be helpful if you had some statistics or
18 some budget issues on how you intend on spending the
19 administrative funds that you're granted. The tribes
20 could comment on that, and also some guidelines or some
21 preliminary information for the tribes so that when we
22 have consultation, we'll know what -- my guess is you've
23 already made some decisions, and at least let us know
24 preliminarily how you're thinking about how certain things
25 are going to be done, how all these questions have been

1 asked.

2 My assumption is you're career foot soldiers, and
3 your bureaucrats have already made decisions. And we'd
4 like to know at least what they're thinking so that we
5 could comment on that meaningfully.

6 So for a meaningful consultation, we'd like to know
7 what the federal agencies have already thought about. And
8 I understand that no decisions or written rules or
9 regulations have been drafted, but I'm certain there's
10 been talk about how you're going to spend 1.4 billion
11 dollars and how you're going to allocate some of the
12 costs. And it would be helpful to know that ahead of time
13 before the final rules are done, so that would be my
14 suggestion.

15 I'd also just like to talk about -- I went to several
16 of what I call the plaintiffs' road show on the Cobell and
17 some of the promises that were made to the tribes at that
18 time, and I just want to make sure that some of those are
19 clear.

20 The scholarship portion I think is very important to
21 the tribes also, and I have great reservations whether the
22 Bureau of Indian Affairs and the Department of Interior
23 can spend 1.4 billion dollars in 10 years to consolidate
24 land.

25 You don't have a track record to show that you can do

1 that over the past time, so I don't want to see a dime of
2 this money go back to the federal treasury. It should
3 stay in Indian Country for the purposes that this
4 settlement was drafted for.

5 And if you can't consolidate the land, don't give a
6 dime back to the treasury. At least put the money back
7 into the scholarships and get them out to the trusts, or
8 go to Congress. If it's near the end of this 10 years and
9 you can't spend money consolidating land, get it back to
10 the tribes so that they can consolidate land.

11 So, again, my concern is I read the settlement. I
12 understand the legal implications. I think it's quite
13 clear that no money can go to the tribes right now under
14 the current settlement, but I keep an open mind.

15 If we're five years into this process and you can't
16 consolidate land, then we might want to consider giving
17 some of that money directly to the tribes and let them do
18 it.

19 Again, I have more faith in -- I have a lot of faith
20 in each of the tribal leaders and each of the tribes for
21 spending money and consolidating land and their expertise,
22 and they've spent a lot of time.

23 I think they have the ability to consolidate the land
24 and would be able to spend this money probably better than
25 the Department can.

1 So that's just my preliminary comments, and I'll be
2 looking forward to hopefully in the future before the
3 consultation is over getting some preliminary information
4 from the Department on what plans they've already made or
5 what they're thinking. Thank you.

6 JOANNA MOREK: If I may very quickly, my mind
7 recalled what I forgot. I really believe that we're
8 sitting at this table and offering our recommendations for
9 this land consolidation plan, but we should have had a
10 plan to look at, to see as Philip just stated.

11 You folks probably already have some things in place,
12 and we should be privy to that so we can make sound
13 decisions as a tribe in the fractionation issues and
14 concerns.

15 So I hope and pray that you will hold more
16 consultations after this regarding the plan so that it's
17 something that's not forced upon us, but that we have
18 input on what your plan is. Thank you.

19 STACIE SMITH: Sir?

20 BROOKLYN BAPTISTE: Again, Brooklyn Baptiste,
21 chair for the Nez Perce Tribe. Thank you for coming out
22 here and providing us an opportunity to have a
23 face-to-face dialogue with you in your position and the
24 decision makers.

25 I think a lot of the issues you probably heard and

1 will hear again throughout the consultation process, so I
2 just want to give you a few comments of our own from the
3 Nez Perce Tribe as well.

4 You guys now have an opportunity to make a huge
5 difference in something that was historically a broken
6 process, and it wasn't easy to get to this.

7 So here we are again trying to provide the best
8 comments we can to help guide this. But many people like
9 yourself, and I know Tracie, you guys understand Indian
10 Country, and that's a great thing because no one else can
11 help us but ourselves.

12 I understand you're here to learn, to learn more
13 about us, and I think you are. You've listened to some of
14 the comments here. And in the past you kind of see the
15 parallels of the same problems, the social issues. A lot
16 of the economic issues come from this situation.

17 And so you have upon yourself an opportunity to
18 listen, and I hope and pray that you will continue to
19 fight for us as tribes and to better our situations at
20 home because we know that the funding situation looks very
21 bleak.

22 We've been told that, but we also see it ourselves.
23 A recession is nothing new to tribes. We've been living
24 in a recession, and we've had to adapt our cultural
25 society and our spiritual beliefs.

1 So I want to say that I'm thankful also that you will
2 continue to fight for us and also continue to make a
3 difference for Indian Country and the lives of Indians
4 across the nation.

5 The historical things that have occurred that were
6 illegal were that most of the time they weren't done in
7 the best interest of the tribes, but to minimize the trust
8 responsibility and make it easy on the Federal Government.
9 And you now have an opportunity to make that change, and I
10 hope and pray that you will. So with that, I'll thank you
11 for all your hard work and appreciate your travels.

12 First, I'd like to reiterate the consultation process
13 itself needs to continue all the way until the end. True
14 consultation, as you probably heard before, the comments
15 and issues that we have, even when you start to develop a
16 plan, a finalized version of it, how it will be
17 implemented, we would be like to involved. That's true
18 consultation.

19 Again, it'd be great for us to continue to see those
20 things and understand it. And if we don't agree, at least
21 we'll understand the process, not coming to the tribe and
22 saying this is what we're going to do, what do you think
23 about it, and then going ahead and implementing it.
24 That's a tough format.

25 The tribes and their membership need clear

1 understanding of the occupants. The individual land
2 owners are going to need on-the-ground resources to be
3 able to understand their decisions that they're going to
4 make as far as whether they're going to sell their land,
5 and what it would mean, the impact it will have on the
6 tribes to divide those interests.

7 We need those resources on the ground, and I know
8 it's really tough to do that because there's so many
9 tribes. We definitely, the land owners need to be fully
10 aware of their issues, and sometimes tribal members need
11 help with their resources to try to get overflow of
12 information so that they have an opportunity to understand
13 what they're looking at and how it will affect
14 fractionation.

15 We all see fractionation is a serious concern, and we
16 know that wills can help real estate planning. It will
17 prevent a lot of the issues that we have, and we see that
18 as something that can help the tribes in some of those
19 issues, so this is like preventative maintenance.

20 So, again, I thank you for the opportunity, and I
21 hope your road stays blessed. And I know that you're on
22 the road a lot, but that you understand the gravity of the
23 situation, that you have a real opportunity to make good
24 quality change in the administration. You're in our
25 prayers, and thanks again for all that you do. Thank you.

1 STACIE SMITH: Thanks. I know we have a
2 couple other comments. We're just going to take a moment
3 and let the Department officials respond to some of what
4 they've heard, then we'll come back and do more comments.

5 MEGHAN CONKLIN: All right. I just have one
6 quick comment, and then I'll turn it over to Mike Berrigan
7 and Mike Black. I just again want to thank everyone for
8 their very thoughtful comments today. This is really
9 helpful, and I appreciate all the thought and time that
10 goes into your comments.

11 I know these issues are very personal, and I
12 appreciate very much all these comments today. Again, I
13 just want to emphasize about the Trust Reform Commission.
14 We did publish a federal register notice a few months ago
15 asking for nominations for the Trust Commission, but we
16 have not announced the membership of the commission.

17 And I just want to be clear that that decision is
18 still to be made, and we have received a number of
19 nominations from many of you here today, and I very much
20 appreciate you doing that.

21 We're going to be careful in reviewing the
22 nominations from Indian Country before any decisions are
23 made, so I appreciate all the comments that have been made
24 there.

25 And then I also wanted to bring up the scholarship

1 fund. Philip, I know you raised that. And to let you
2 know, there are a few requirements that we have to follow
3 in the scholarship fund that are laid out in the Cobell
4 settlement, one of which is the settlement requires that
5 the plaintiffs, Elouise Cobell and their representatives
6 nominate two non-profit organizations to administer this
7 60-million dollar fund, and two entities that have been
8 nominated are the American Indian College Fund, and the
9 American Indian Graduate Center.

10 And so we received a lot of information from both
11 organizations. Ultimately, it's Secretary Salazar's
12 responsibility to decide between these two entities, but
13 we are carefully evaluating the information we received
14 from both those entities, and I know a number of tribes
15 have weighed in on these organizations.

16 We're also looking at your comments, and no final
17 decisions have been made on which of these entities will
18 administer the funds.

19 There's also a requirement that there's a board that
20 will sort of oversee the implementation of this program,
21 part of which will require to consult with Indian Country
22 on some of the people that sit on this board, and that's
23 down the road. Again, that hasn't happened yet, but it's
24 something that we will get to I think as we get closer to
25 actual implementation of this program.

1 So I just wanted to give you those facts, and I'll
2 turn it over to Mike if you have anything you wanted to
3 add.

4 MICHAEL BLACK: Yes. I just wanted to touch
5 on a couple of things that have come up here in the last
6 couple of comments. One of them was dealing with
7 appraisals, and the way of paying for appraisals.

8 That expectation won't be placed on the tribes under
9 the ILCA program. That will be covered under the
10 administration of the 285 million dollars. That won't be
11 a burden that will be placed on the tribes to cover
12 appraisals under the Indian land consolidation.

13 Just because it's come up a number of times regarding
14 whether or not there's a plan in place, we reiterated that
15 we don't have a plan, and that's why we're here.

16 But I also want to make clear too that we haven't
17 been just sitting back and doing nothing. Meghan alluded
18 to earlier the fact that we have a Cobell team up at the
19 Department of Interior, which encompasses a number of
20 people within the Department and the Indian Bureau of
21 Affairs, the Indian land consolidation program and the
22 appraisals.

23 And looking at the overall process that has been used
24 over the past 10 years or so that ILCA's been in process,
25 evaluating what we have in place and its capacity to move

1 forward with the program and looking at the appraisals and
2 our ability to do mass appraisal, there's zone appraisals
3 and there's some other methods that will expedite the
4 program, and taking those ideas all into account, but not
5 really coming up with that plan until we've heard from the
6 tribes.

7 But we are gathering all that information, which will
8 make it easier to take this input that we're gathering
9 through these consolidation sessions along with the data
10 that we have in place now so that we can truly come up
11 with an idea or a plan that will work.

12 And I think the expectation is that we will be
13 presenting this plan back out to Indian Country for review
14 and comments as we move forward through the process.

15 So I just want to let everybody know, like I say,
16 that we are evaluating. We've had a program in place for
17 10 plus years now. It's worked fairly well, but it has
18 not been on a scale anywhere near what we're expecting
19 over this next 10 years, so we have been evaluating that
20 process. Thank you.

21 MICHAEL BERRIGAN: If I could just comment on
22 a couple aspects of what was said with respect to I think
23 what was referred to as confidentiality agreements, and
24 it's really a no contact order is the problem we have with
25 respect to the breadth in discussing other aspects of the

1 Cobell settlement.

2 We had a reference to the various plaintiffs' road
3 shows I think they were described as and some of the
4 promises that were made there.

5 And just to clarify yet again, what we're consulting
6 on is the land consolidation program, not the other
7 aspects of the Cobell settlement because we're prohibited
8 by court order from doing that.

9 And some of the representations that plaintiffs'
10 counsel may have made in various settings, that's not what
11 we're here for to discuss.

12 So the talk about, for example, direct pay and how
13 that might be appropriate, it's just impermissible for us
14 under court order to discuss that today, and so we would
15 not have comments about that. We're here to talk about
16 land consolidation and the great proposals you have.

17 And then just to reiterate what Mike just said, there
18 has been initial ground-level planning, but I think one of
19 the comments about career bureaucrats, well, I'm a career
20 guy. I'm retired from the Army, 20 years active duty, and
21 now I work for the Interior.

22 But career people take the decisions that are made by
23 the senior political officials, and none of those
24 decisions have been made. Those decisions are why we're
25 out here to get information and to thrash it out with the

1 tribes and nations to figure this out and take the input
2 that we can back, and that's what we're doing.

3 And I can tell you, having been involved in this for
4 15 months since I've been at Interior, they've taken that
5 very seriously, and they are listening to everything
6 that's being said. And that's why we're here, and we'll
7 be in the other locations coming up.

8 So I just want to say that from a legal perspective
9 we really fought hard, and it was hard to -- I mean, the
10 plaintiffs fought us on lifting this. They opposed us
11 being able to conduct these consolidations because they
12 thought it might somehow hurt the settlement.

13 And the judge agreed with us that we should start
14 this consultation because implementing a program of this
15 size is difficult and takes a lot of planning.

16 And so we very much do appreciate this. There are a
17 lot of variables that come into it. And, of course, when
18 you look at the objectives and strategies, which way you
19 go in a number of those ways will impact resources and how
20 the program goes.

21 So once you start making decisions, it very quickly
22 constrains things, and that's precisely why no decisions
23 have been made and won't be made until we finish the
24 consultation process that goes forward. Thank you.

25 MICHAEL BLACK: If I could just follow up one

1 more time, I just want to again alleviate some of the
2 concerns hopefully.

3 Some of the people I visited with over the past few
4 months -- in fact, we had an experience over the past
5 eight or 10 years of doing consultations when the
6 Department of Interior or Bureau of Indian Affairs has
7 come in with a plan, and I think the expectation was that
8 the input was not going to be taken seriously.

9 And I don't know if that always happened in past
10 administrations, and I just want to make it clear that
11 this is a whole different ball game the way I see it.

12 I've been around 23 years, and I see a lot better --
13 I'm not sure of the term I'm looking for here, but a lot
14 more desire to really take that input and implement it
15 into whatever we're deciding to do.

16 We're not coming forward telling you what we're going
17 to do, and then going through a cursory consultation
18 session here. That's not the reason we're here today.

19 So I hope that will alleviate some of the concerns as
20 we move forward. These comments and input here are being
21 taken seriously, and will be written into whatever plan
22 gets developed here.

23 CHARLES MORIGEAU: Thank you. Good morning.
24 My name's Charles Morigeau. My brothers and sisters
25 sitting around this table here appreciate the opportunity

1 for allowing us to be here today and discuss this
2 consolidation.

3 I'd like to go back a few years to 1855 when a lot of
4 the tribes in the Northwest had to give up a lot of their
5 homeland, and we went 49 years before 1904 when the
6 Allotment Act was passed with similar language to the
7 Dawes Act of 1887 that set up and created 40, 89 and 120
8 acre allotments for tribal members that were head of
9 households.

10 And following that, the second Allotment Act of 1920,
11 61,000 acres went to the State of Montana, and 18,500
12 acres went to the National Bison Range, and 1,700 acres
13 went for other purposes. This dropped our ownership of
14 the reservation down by 40 percent.

15 At the beginning of the self-determination era, the
16 1934 passing of the Indian Reorganization Act, the CSKT
17 have been actively working towards redistribution of
18 tribal lands to tribes through purchase of tribal funds by
19 LCP funds, Arco and BPA funds, and deplete trust efforts.

20 Millions of tribal dollars are spent yearly acquiring
21 fractionated trust properties as well as fee properties.
22 Since 1940 we have acquired about 321,693 acres at a cost
23 of 128 million plus.

24 So in terms of the specifics comments on the
25 preliminary Department of Interior goals, we believe the

1 tribes' priority parcels for land consolidation should
2 come first. In other words, Department of Interior goal
3 3A, B, strategy 8 and 9 should be goal No. 1.

4 The CSKT requests information to determine if the
5 resources allocated through the process will match the
6 goals. In other words, will the funds available for
7 Cobell-related land consolidation align with the goals and
8 priorities? Will tribes be limited in the amount of
9 dollars they can access?

10 The Office of the Inspector General commented that
11 CSKT is in a unique position because it is the only tribe,
12 to our knowledge, that has had a cooperative agreement
13 with BIA to conduct portions of the Indian land
14 consolidation program. This is 2004, 2006.

15 We are especially interested in what you thought of
16 that process, and any challenges you have faced in getting
17 access to the TAAMS system, or any suggestions you have
18 for BIA to improve the process of working with tribes on
19 land consolidation.

20 We responded. The CSKT did ILCA work at the local
21 level from 2004 to 2006, spending approximately \$1,781,039
22 acquiring 311 interests.

23 Since 2006 we have continued the ILCA effort using
24 ILCA recoup funds. At this time we have 20 to 22
25 acquisitions submitted and pending at Ashland.

1 The initial recommendations for CSKT ILCA program
2 management are as follows: One, allow the CSKT tribes
3 access to the TAAMS ILCA module for CSKT priority ILCA
4 acquisitions and provide training on modules. As of
5 today, we already have several staff members with security
6 clearance, and they use TAAMS.

7 If minor ILCA programming is needed in the area of
8 deed language, consider allowing it. This could easily be
9 defined in an agreement. For example, ILCA deeds must
10 include a legal description within the body of the deeds.
11 ILCA deeds must be immediately revised to eliminate the
12 legal description of the acquisition as an attachment.

13 Allow tribes to prioritize fractionated interest
14 acquisitions at the local level. Parcels for economic
15 development purposes may not be the top priority of the
16 ILCA program, but they remain one of the top priorities of
17 the CSKT. An example is 1914 B, which is a parcel across
18 the highway from the tribal resort.

19 Because of fractionated interests, this parcel has
20 been involved in at least two tort claims against the
21 Department of Interior, BIA and three informal claims
22 against the tribes.

23 At the present time, the tribes own 12 percent, and
24 four of the eight owners want to sell.

25 To allow the CSKT to acquire this commercial parcel

1 would enable the CSKT tribes to do more commercial
2 planning and economic development, and it would improve
3 community relations. The point is that tribal
4 fractionated acquisitions should have high priority.

5 The Department of Interior has not yet defined
6 government to government consultation and how priority
7 acquisitions would occur. We respectfully request that
8 Tribal Governments be provided those types of parameters.

9 In regard to appraisals, the Department of Interior,
10 BIA, OAS and OST must authorize, pay for and approve a
11 mass zone appraisal for the CSKT. In 2004 to 2006, the
12 CSKT used a mass zone appraisal approved by OAS. There
13 must be a factor in the approved appraisal for acquiring
14 mineral interests.

15 The CSKT requests a minerals appraisal methodology in
16 an effort to acquire those interests and eliminate future
17 Department of Interior administrative burdens.

18 Fee interests must be included as an eligible
19 fractionated interest acquisition category for a variety
20 of reasons, including the need to consolidate ownership.

21 Regulations on the acquisition of undivided fee
22 interests should be promulgated to clarify that these
23 acquisitions are a mandatory acquisition and not
24 discretionary.

25 The CSKT have done several forthwith takes on fee

1 interests related to fee to trust. We recommend this be
2 defined by the Department of Interior as a mandatory
3 acquisition.

4 The Department of Interior and BIA must draft and
5 approve written acquisition guidelines for acquisitions of
6 surface and subsurface interests at probate.

7 Present DOI and OST guidance is complicated and is
8 not always followed. The federal rules suggest that an
9 appraisal can be waived at probate. The CSKT had a parcel
10 where the ALJ supported acquisition at probate at fair
11 market value. CSKT appraiser trainee established a value,
12 and the ILCA office required a full appraisal.

13 Full appraisals at probate must be waived. This
14 acquisition should have qualified for the five percent or
15 less acquisition at probate where a full appraisal can be
16 waived.

17 The ILCA office rejected the acquisition until a full
18 appraisal was completed, which appears to be contrary to
19 the AIPRA purchase at probate provisions at 25 USC 2206
20 (o). The CSKT requests in five percent or less trust
21 acquisition that an appraisal is waived. We simply desire
22 a consistent approach to these situations.

23 Another point is that ILCA acquisitions for
24 individuals designated as whereabouts unknown must be
25 completed by the ILCA Ashland office. The CSKT does not

1 want to be involved in this particular acquisition

2 category.

3 The tribal community is too small, and relationships

4 are too sensitive. The CSKT will assist with outreach,

5 but believe these are better handled by the Ashland

6 office.

7 We advocate for the local Flathead Agency

8 superintendent to have local approval for ILCA

9 acquisitions with Ashland issuing payments.

10 It is our request that the CSKT tribes be granted

11 authority and TAAMS system rights to the ILCA module to

12 work on CSKT fractionated interest priority acquisitions

13 as soon as possible.

14 My last comment would be land-related data and

15 acquisition information can be run through TAAMS and

16 verified locally if the tribe are involved in the data

17 reliability.

18 The advantage of local management involvement from

19 the CSKT tribes is our title plan is local, good customer

20 service to membership, tribal staff are well known and

21 well trusted.

22 Outreach to affected owners can be more effective due

23 to local contacts. Acquisition can be coordinated using

24 more appraisals to accomplish several fractionated

25 acquisitions.

1 Tribal priorities are required, and important
2 government to government consultation can be successful
3 and meaningful. Management of the resources needed to
4 facilitate the land are easier with common ownership and
5 local knowledge.

6 The effort and diligence in this area is necessary
7 for tribal lands to be consistent and more meaningful to
8 the homeland. And at this time, I'd like to have one of
9 our staff members -- if you have anything to add to this.
10 I guess he doesn't.

11 Thank you very much. And, again, I want to reiterate
12 for staff there, and the tribe for having us here. And I
13 want to apologize, Mr. Black, for not being able to be
14 home when you were up there visiting the past week.

15 MICHAEL BLACK: Oh, that's fine. I had a very
16 good visit.

17 CHARLES MORIGEAU: I hope you enjoyed it.

18 MICHAEL BLACK: I did. Thank you.

19 MICHAEL FINLEY: I guess I would be remiss if
20 I didn't thank the individuals who were here today
21 representing the Department and the Federal Government to
22 help us wade our way through this difficult process, this
23 challenging process. I do appreciate that.

24 In talking with other leaders from the other regions,
25 I know there are a lot of other key individuals that were

1 at those consultations.

2 And I guess as a tribal leader from the Northwest,
3 I'm somewhat disappointed that they're not here today to
4 hear some of our concerns, our ideas on how we can make
5 this work better for us. I do realize that this voice can
6 be carried back and shared with them, but I think that
7 solutions are more effectively arrived at in face-to-face
8 talks and discussions.

9 It's been my experience sitting on the council at
10 Colville that that's where a lot of the heavy lifting is
11 done, and I think it's easier to arrive at a joint
12 consensus when that takes place. And so I'm disappointed
13 that they're not here today, so please carry that message
14 back.

15 The prioritizations on how the buy-back is going to
16 take place as far as heavily fractionated lands or
17 slightly fractionated lands or even economic development,
18 I think that -- you know, I do realize that there are a
19 lot of tribes who are waiting on what their priorities
20 would be.

21 I don't want us to miss the opportunity that some
22 lands that are slightly fractionated could be a tremendous
23 benefit to new tribes if this 1.9 billion dollars is
24 applicable to those lands.

25 So on Colville we have a unique situation in which

1 one of our gaming venues is located on an allotment that's
2 not heavily fractionated, but somewhat fractionated, and
3 the tribe does have an interest in that.

4 I do realize that there's not very much money
5 expended on behalf of the federal government aside from
6 litigation that's taking place right now to effectively
7 manage those lands, but for us it has.

8 We have to continue to meet with the individual land
9 owners under these terms, and we've had to do that quite a
10 bit. We've expended a great deal of resources to do that,
11 but I think that in the spirit of us trying to shore up
12 those expenditures, I think that it would be beneficial if
13 we could use those dollars for that.

14 And I think if there's an opportunity for us to weigh
15 in with prior knowledge, the Department can consider that
16 as it moves forward to develop its plan. We'd be more
17 than happy to do that.

18 The liens portion, I think it effectively encroaches
19 or otherwise infringes on our ability as a sovereign
20 nation to have a say in how that money is expended.

21 The fact that ILCA in the past has used those monies
22 equal to the amount that was used to purchase that
23 fractionation to repurchase additional lands until it's
24 paid off has taken that decision away from the sovereign
25 nation to decide where that money's spent.

1 And I think it should be the tribes' decision on how
2 that money is spent, and whether or not it's going to be
3 spent on a piece of fractionated land or even a piece of
4 land that's an economic development.

5 As far as appraisals are concerned, I know there were
6 a lot of good comments that were made on some concerns
7 that tribes have on the appraisal process and the
8 bottleneck that exists, and whether or not the appraisal
9 process as it stands today can keep up with this meeting
10 in which we're hoping that that money will be expended.

11 We're particularly interested in knowing whether or
12 not the Department will consider mass appraisals or other
13 alternative valuations.

14 Also, if the tribes can contract ILCA, can we procure
15 evaluations ourselves, or does this responsibility remain
16 with the Department? For now, I'll hold off there. My
17 colleague to my left, Harvey Moses, Jr. would like to add
18 some comments himself. Thank you.

19 HARVEY MOSES: Thank you. It's been pretty
20 positive, so I won't really tell you how I feel. I've
21 been on the council, and, again, been to hundreds of
22 consultations like this beginning with OST and now this.
23 We've been at this since 1492 to put it lightly.

24 So, you know, it's hard to be conciliatory when we do
25 this over and over and over again, and nothing seems to

1 work. Nothing seems to work as we recommend.

2 And why weren't we allowed to come up with the
3 process that is affecting Indian Country? The government
4 cow-cows to a lot of different entities, but to the Indian
5 population it's always trinkets, and trust that the
6 government is going to do you good. And that's always
7 been the mentality in my mind, and it hasn't changed.

8 The dollar amount, the 9.5 percent slated for the
9 Northwest, are we going to get 9.5 percent of the 1.6
10 billion dollars?

11 And the second question is why is education money,
12 scholarships being taken out of the settlement? The
13 Federal Government already has a responsibility for
14 education, health and welfare of the Native Americans, and
15 that's woefully unfunded.

16 This money should go all to land purchase. The
17 administrative fees, that should go to the tribes or back
18 into the purchase price. The scholarship money should all
19 go to land purchase.

20 Confidentiality, I have a real problem with that.
21 You want us to come up with a process? Are you going to
22 use our recommendations throughout the nations to come up
23 with the process?

24 There's 562 Native nations across the country. How
25 are you going to decide which process you're going to get

1 from each of those?

2 I think the Colville tribes have a real good process.

3 We're buying back land at every opportunity. Everybody

4 talks about the survey process, and a few have mentioned

5 that we go out and hire our own. And the cost is \$35,000

6 to get these things done, but then we give it to the BIA.

7 And they don't -- they say, oh, we can't approve it.

8 That's happened time and time again.

9 How is the government surveyor more qualified than

10 someone who makes their life's work at doing that? I

11 don't understand that.

12 Again, I'll just reiterate the process. It must just

13 be me. I feel like I'm being talked to or meeting after

14 everything is decided pretty much.

15 That was the same way with how OST happened. They

16 had these things all over the country, these listening

17 sessions. They had their minds made up already, and this

18 caused grief and money for all the tribes that fought

19 against it.

20 In my mind this is no different. There's money set

21 aside. And if it keeps up, you're going to run out of

22 money. You're going to spend all the money that was set

23 aside for Cobell traveling around listening to us.

24 Another addition, the attorneys are fighting for a

25 hundred and some million dollars for fees. To me that's

1 ridiculous. There's no group of people that are worth
2 that except us Indians.

3 My recommendation is cut that in half, or give them a
4 quarter, and put the money into the land purchase and let
5 the tribes decide how and when we're going to buy these
6 back.

7 I was going to talk some more, but I'll let somebody
8 else talk. I'll write down some more questions or
9 comments. Thank you.

10 STACIE SMITH: We have a comment from Yakama
11 Nation who would like to speak.

12 TERRY RAMBLER: Thank you. Good morning. My
13 name is Terry Rambler. I'm the vice chairman of the
14 Yakama Indian Nation. I wanted to express myself here,
15 and I want to thank Tulalip for your hospitality, your
16 wonderful resort casino. Thank you very much for hosting
17 this very important meeting.

18 I would like to express for myself as a land holder
19 with 17 brothers and sisters that we have had our fair
20 share of problems with probates. I believe Salish and
21 Kootenai has a very good expression of how they want to
22 utilize this land consolidation act.

23 I think that it needs to be streamlined, exactly what
24 they're specifying. I think for the large land-based
25 tribes, a lot of us already have a lot of these things

1 that are needed. We have our realty areas.

2 So in my mind for Yakama Nation, I'm looking forward
3 to try to -- not try, but to ask our people to prepare a
4 proposal package because we need to go ahead and look at
5 this in a positive way, and we need to let the Federal
6 Government know that the tribes are capable.

7 And in my mind, we need to go ahead and put forth our
8 footprints. And a lot of us probably already have
9 prepared our proposals, like the Salish and Kootenai
10 Tribe, I notice that your tribe did your presentation by
11 slide.

12 I think that this is going to help the Federal
13 Government come to a conclusion that what's needed for the
14 tribes is going to be prepared by all the tribes across
15 Indian Country that's going to be able to utilize this.

16 I want to thank the Cobells. It was a long battle
17 for these people to go forward and try and win something
18 for the whole United States with the Native American
19 Indians coming out in a good way.

20 And I'm looking forward that all of us tribes are
21 going to go ahead and submit in written format what is
22 needed that's going to be accomplished in these areas.

23 I expressed myself to Mr. Black when I first got
24 here. One of the questions I wanted to ask you, because I
25 don't want to sound ignorant, I told him -- I said from

1 what I'm hearing, you're expecting these tribes to pay the
2 funding back.

3 There's no way that the tribes are going to be able
4 to utilize this money and pay it back with the way the
5 economics are, and it's always been on the down low for
6 the tribes. And there's no way that our tribe would ever
7 accept anything that we would have to pay back as a loan.

8 It's just not right. We've given up all of our lands
9 and territories, our stated areas. The 1.3 million acres
10 that we have now is not near what the Yakama Nation had
11 before.

12 So I just wanted to express that, that I have full
13 faith in Mr. Carroll Palmer. He's got a huge background,
14 and I know that the Yakama Nation will be submitting a
15 proposal. It's one of the footprints that I believe the
16 Federal Government will be viewing in taking the
17 recommendations.

18 I don't think that like what they're stating that
19 they are going to be writing the full extent of the
20 policies and procedures. I believe that they're going to
21 try to do the best job that they can to their ability to
22 make it necessary for all tribes to benefit.

23 And I just once again thank you. I appreciate being
24 here, and I appreciate everybody's comments. Thank you.

25 FAWN SHARP: Yes, thank you. I would like to

1 address two specific issues. One is the consolidation
2 process itself, and then secondarily, accountability and
3 that issue.

4 I want to begin my remarks by suggesting that in some
5 of the reaction to our initial presentation, we did hear
6 that at this point in time with this particular
7 administration there is a sense that we will listen to
8 tribes.

9 We will take that into direct consideration. We will
10 not come to the table with a predetermined course of
11 action, and simply have what's deemed social consultation,
12 listen to you, and go back to Washington and do what we
13 were planning to do at the outset.

14 And we're sitting here today with that belief, that
15 hope that all of this work and all of this time and effort
16 will be directly incorporated into those solutions, and
17 understandably in recent years past that was not the case,
18 nor was it the case back a century.

19 So we are here today knowing that we're going to step
20 out in good faith. We're going to put a great deal of
21 time and effort into this process, and we're very hopeful
22 that there is not a predetermined course of action where
23 all of this time and effort six months from now seems as
24 though our words were lost in thin air.

25 So having said that, we would like to address this

1 issue of accountability. And it goes back to one of the
2 initial visits that Larry Echo Hawk had with the Northwest
3 Tribes early in his tenure, and that session took place at
4 Squaxin Island.

5 And at that meeting he gave 110 percent commitment to
6 be our advocate in Washington and throughout the Bureau of
7 Indian Affairs, but he said something important that
8 seemed to stand out in my mind. I can only do so much.

9 There are processes and there are limitations within
10 this large bureaucracy that are outside of my control, but
11 I'm willing to work with tribes to overcome those
12 barriers.

13 We do have a long history within a singular
14 bureaucracy. And those barriers are seemingly
15 insurmountable, but working together, the Department of
16 Interior, the Bureau of Indian Affairs and tribes, we can
17 overcome that.

18 So I implore upon the leadership here and the
19 Department that we take a hard look at directly engaging
20 tribes not only in this process, which is a planning
21 process and a consultation, but when that time comes to
22 make a decision on how we are going to implement this
23 historic and precious piece of appropriation for an issue
24 that has plagued every tribe across the country for 125
25 years, we ask that we have a role in that decision-making

1 process and to speak to what's going around this table
2 about the accountability once implementation begins.

3 We do not want to get to the ninth year and look back
4 and see all of those things that went wrong, and all of
5 those things that should have been corrected.

6 So we would suggest some level of periodic review
7 where we're not coming to the table in crisis when
8 something has gone terribly wrong, but we know after
9 implementation we will come back to the table, and we will
10 look at some issues.

11 Our vice president is questioning and has questions
12 around the implementation of the role of TAAMS in this
13 process. And we know there are glitches, and we know
14 there are challenges with that.

15 But what role will that have in the implementation,
16 and what opportunity do we have to do some corrective
17 things once implementation begins?

18 So I would really urge that we all take a look at how
19 can tribes be directly engaged not only in this planning
20 process, but the decision on implementation.

21 We need to have some role in that decision, and that
22 is something that we implored the administration two
23 summers ago that we need to have equal footing. That is
24 government to government. We occupy an equal place in the
25 room, and not just listening to what we have to say, but

1 we are decision makers and then through the evaluation
2 process.

3 And there's a third recommendation on the
4 accountability piece and the implementation. We would
5 suggest that this periodic review be done by an external
6 entity, not the BIA evaluating its own performance, rather
7 an external process whereby tribes again have a direct
8 role and we're directly engaged in providing to that
9 external evaluation process those challenges that we see
10 on the ground at home.

11 We heard from our colleague here as a realty clerk
12 the impracticality of the decisions made in Washington
13 made absolutely no sense at her desk in the
14 implementation.

15 Those are critical issues that have profound impacts
16 on our ability to manage and administer a trust
17 responsibility.

18 So we would strongly recommend that tribes have a
19 direct role, not only in this planning process, but in the
20 decision making and certainly the evaluation so that we
21 can be proactive in addressing the shortcomings, that we
22 can make realtime adjustments, that we're not too far down
23 the road where there's a point of no return and this is
24 entirely another massive failure of the Federal Government
25 to address our trust issues at home. Thank you.

1 RUTH JIM: Thank you. I have a question in
2 regards to -- it was good to hear that the money is
3 supposed to go for appraisals, but you heard our tribal
4 leaders from Coeur d'Alene state that they hired an
5 appraiser and got an appraisal, but that appraisal was
6 kicked back by the regional office. So how is that going
7 to be remedied?

8 And in your pie chart, you identified these different
9 regions, but yet there are only five seats on this team.
10 There should be -- it would seem to me that there would be
11 as many seats as you have represented in the pie chart.
12 Thank you.

13 PHILIP HARJU: Again, I want to express my
14 appreciation to everyone who's come out. I want to direct
15 my comments directly to Meghan because I think her unique
16 perspective here, and she reports I guess eventually
17 directly to the secretary, that for consultation purposes,
18 I think we've come a long way with the Bureau of Indian
19 Affairs and even the National Indian Gaming Commission.
20 They have engaged in some meaningful consultation,
21 and I'm appreciative of that. But, Meghan, when you go
22 back to Washington, D.C. and when you talk about land
23 consolidations and purchasing of land, the Department of
24 Interior has some other agencies that I think are going to
25 come into play in the next 10 years.

1 I won't mention them all, but maybe the National Park
2 Service, the Bureau of Land Management and the U.S. Fish
3 and Wildlife Service.

4 They also will have a role in some of these because
5 they have adjacent lands. They also have some land that
6 used to be in tribal hands that are very important for
7 cultural protection and for resources protection and for
8 economic development.

9 So when you look at this land consolidation and the
10 tribes, there are other agencies just in the Interior
11 Department that cause problems.

12 And I won't even talk about the other federal
13 agencies that cause troubles for the tribes when you talk
14 about land, so there's probably a bigger picture for the
15 Interior Department other than just the BIA when we look
16 at this. And so, Meghan, I hope that when you talk to
17 those other agencies, that they be involved in it.

18 I thought it was striking that one of our
19 consultations we had on strategic planning for the
20 Interior Department that we had I think up in the Seattle
21 area, that the person representing the Interior
22 Department, who was new, didn't realize the National Park
23 Service was actually in the Interior Department, and they
24 weren't even at the consultation. We had to tell them it
25 would be nice to have the National Park Service there, and

1 he made a note of that.

2 So the Interior Department does have a big role in
3 other agencies other than the BIA that directly affect the
4 tribes, and we want to keep everybody in that loop.

5 I don't want a plan in eight years from now when we
6 try to do some land consolidation, and suddenly the BLM,
7 the National Park Service or the U.S. Fish and Wildlife
8 says, well, we can't do that, or that will affect our
9 10-year plan or whatever. We got to get the entire
10 Federal Government on board.

11 And I agree with Fawn that when -- I was there when
12 Assistant Secretary Echo Hawk was out there, and I'll make
13 the same plea that I made to him to you is trust the
14 tribal leaders.

15 They're all elected officials. We're sovereign
16 governments, and we know what's best in Indian Country,
17 and give them deference to some of the decisions made by
18 the tribes, not just by people inside the beltway. Thank
19 you.

20 STACIE SMITH: I know we have some tribes who
21 don't have elected leaders here today, but there are staff
22 members or others who are able to speak on behalf of the
23 tribe.

24 I want to give you a chance to speak still during
25 this morning session. So if we have anyone here who is

1 able to speak on behalf of their tribe, please introduce
2 yourselves.

3 ANDREW MAIL: My name is Andrew Mail. I'm the
4 vice president of the Quinault Nation, and I'd like to
5 address these to the people sitting at the head of the
6 table.

7 Part of what was brought up -- quite frankly, I'd
8 like to ask you really and truly. We're asking to be able
9 to administer this money for our own people to buy our
10 land back.

11 Is there a chance? Is that really going to happen?

12 Mr. Black, I'd like to ask you that, please.

13 MICHAEL BLACK: What was -- can you repeat the
14 question?

15 ANDREW MAIL: The administration of this
16 Cobell money, when we go out to buy the fractionated
17 interests, is there a chance, is there a chance that we're
18 going to get to administer this to the point to buy these
19 properties back?

20 MICHAEL BLACK: Well, I don't have a straight
21 answer for you on that. I think there may be facets that
22 we've been discussing here this morning all around from
23 appraisals to different outreach and different activities.

24 But there is a restriction that we need to look at
25 within the ILCA language regarding 638 contracting, and

1 that's been mentioned here before.

2 Salish Kootenai did this under a profer of agreement
3 for years, and I think that's another option that needs to
4 be looked at and considered.

5 ANDREW MAIL: Well, the reason I'm asking you
6 that is because I was sitting in my office here about four
7 or five months ago, and a fellow from the BIA came in and
8 was looking for me. He said we're looking for Andrew
9 Mail. He's lost. We can't find him.

10 And I looked at him and said, are you kidding? He
11 said, no. We're looking for you. We can't find you.

12 Well, he was just about a hundred feet from my door, and
13 they couldn't find me, and I'm the vice president of the
14 Quinault Nation.

15 So I'm thinking, my God, you people are going to try
16 to find people that we don't know where they're at right
17 now? I can't imagine that. That's mission impossible.
18 But even though I say that, I'm dead serious. That
19 happened.

20 So I think if these people want to come into our
21 country and try to find these people they know nothing
22 about, there are ways to do this. In 1974 to 1983, I did
23 that for nine years.

24 So I'm just thinking we want to get the biggest bang
25 for our buck. When we get money in Indian Country, we

1 want to get the biggest bang for our buck. We've got to
2 get as much of that property we can for the money we're
3 going to get.

4 And I just can't imagine the local BIA or from
5 anywhere else coming into our country and doing a better
6 job than us. Thank you, sir.

7 MICHAEL BLACK: I appreciate that. Thank you.

8 STACIE SMITH: Thanks. Anyone else? And
9 particularly those whose tribes might not -- your elected
10 officials are not here at the table.

11 BILL TOVEY: Good afternoon. My name is Bill
12 Tovey. I'm with the Umatilla Tribe, and I'm director of
13 economic development. I oversee their land program as
14 well.

15 I apologize for none of our board being here, so I
16 showed up. Also, I'm the director of the Economic Timber
17 Foundation, and I just have a couple remarks about getting
18 appraisals.

19 We have about 1,400 allotments, and so we do
20 appraisals every year. It's going to be very difficult to
21 purchase those lands.

22 And our fractionated interests are probably over 50
23 percent of our ownership, and the allotment is owned by
24 non-Umatilla Tribe. So we really want to get that taken
25 care of, so thank you.

1 STACIE SMITH: Thanks. Is there anyone else
2 who can represent a tribe, and their leaders are not at
3 the table? I want to see if the Department wants to give
4 any responses to what they've heard.

5 And then at 12 o'clock, we will take a lunch break.
6 When we come back at one o'clock, we will have the
7 opportunity for comments from everybody, land owners,
8 tribal members, tribal organizations, and then of course
9 more from tribal leaders as well.

10 MEGHAN CONKLIN: I'm just going to offer a
11 couple of brief reactions. I just wanted to offer a quick
12 side-bar on the Trust Reform Commission, and I would
13 encourage you if go to our website, which is
14 doi.gov/cobell, we have a lot of these documents up there.
15 And that includes the charter for the Trust Reform
16 Commission, and the secretarial order that was released on
17 this.

18 This is separate from the land consolidation program.
19 This Trust Reform Commission will be a five-member
20 commission that will take a look at the Department of
21 Interior's management of trust assets broadly and make a
22 recommendation to the secretary on how they can improve
23 the way they go about business on trust management.

24 And one of the other issues that they consider is
25 whether or not the Office of the Special Trustee should

1 sunset as suggested in their Authorizing Act of 1994.

2 This board will not have oversight over the implementation
3 of the land consolidation program.

4 They're very related as we all know, but I just
5 wanted to make sure to offer that distinction so that
6 everyone understands that.

7 And I just want to echo the comments that Mike Black
8 and Mike Berrigan had made about -- we're very committed
9 to making this a meaningful consultation.

10 And I want to assure you that all of your comments,
11 we are going to be taking a look at them very carefully as
12 we go about developing our plan.

13 And I want to assure you all, as Mike Black
14 mentioned, when we do have a plan available in draft, that
15 we will invite Indian Country for your feedback again, and
16 so that's just a commitment I want to make sure you're
17 aware of.

18 And so I want to turn it over to Mike and Mike and
19 see if you have additional comments. I think Mike
20 Berrigan, if you could address the issue of the attorney's
21 fees a little bit.

22 MICHAEL BERRIGAN: Sure, I'll briefly address
23 that. I'll just say that the United States' position on
24 attorney's fees have been clear. We've opposed a
25 hundred-million dollar fee.

1 And I can get you that if you want, the detailed
2 pleading that we filed in District Court objecting that a
3 hundred million was not appropriate, and we fought for
4 that.

5 The judge found differently and approved that. We'll
6 see what happens on appeal. That may be an issue that's
7 being fought on appeal, but the United States, they're
8 usually opposed to hundred-million dollar fees being
9 appropriate.

10 MICHAEL FINLEY: I have a comment about the
11 discussion that's taken place, and it goes back to my
12 colleague from Quinault who brought up an interesting
13 point earlier.

14 It deals with whether or not tribes can contract, and
15 we're being told now that we're stuck within the
16 parameters of ILCA and it doesn't allow for a 638
17 contract. And we're now going to ask, well, how can we
18 administer this? Can you give us feedback on how to do
19 this?

20 We are telling the Federal Government and anyone who
21 would listen at the onset that we wanted that provision in
22 there before Congress will approve it and before the court
23 will approve it.

24 The Federal Government has a stake in this. They had
25 a say in how this was going to play out, and no one really

1 knows what will happen.

2 And I realize you guys are bound by confidentiality.

3 You can't say, but it almost seems to me that we're now

4 being asked to weigh in on something when we weren't

5 really given the opportunity early on.

6 Some of this could have been avoided had some of that

7 language been advocated for on behalf of the government

8 behind whatever closed door discussions that were taking

9 place.

10 And I find it equally frustrating that the government

11 after the fact agreed to the 50 million and said, yeah,

12 they should only have 50 million. That should have been

13 on the table initially as well, and why wasn't it?

14 And that's one of the things that the tribes were

15 advocating for through resolutions. Once again, I'll

16 remind you guys, as you all know, all that was pretty much

17 largely ignored.

18 So I think there is a certain level of responsibility

19 on behalf of the government because they're a party to

20 these negotiations.

21 Those are just some points I want to make before the

22 rest of the body and the chair of some of the discussions

23 and some of the efforts that have taken place. Thank you.

24 DANIEL JORDAN: I'm Danny Jordan from the

25 Hoopa Tribe. I'd just like to comment on the commission

1 and the OST and keeping them separate. I really urge the
2 Department to rethink that because that's exactly the
3 problem with the trust reform today and trust management.

4 The Office of Special Trustee was created for the
5 purpose of dealing with the finances, but it got into
6 program management.

7 And when it got into program management, it began to
8 really carve up and really gut a lot of the programs that
9 really were providing appraisals and land surveys, and
10 they just chopped and carved everything in Indian Country.

11 And under this reorganization plan that we had no
12 input into whatsoever, the Department just moved hundreds
13 of millions of dollars of Indian Country into the OST
14 priority projects where those were programs that we as
15 Tribal Governments relied upon.

16 So now if we dissect it one more time, we're not
17 going to deal successfully with land consolidation if we
18 can't deal with bringing back appraisals back into local
19 control, the land surveys that OST never understood
20 because there's two parts of the surveys that we deal with
21 on a regular basis.

22 We probably deal with 400 or more administrative
23 surveys. We deal with about half a dozen or less
24 cadastral surveys. BLM does cadastral surveys, but OST's
25 plan gutted the administrative survey program and moved it

1 all into BLM cadastral surveys. And by doing that, we
2 presented information to OST a number of times saying you
3 simply made a mistake.

4 There were administrative surveys on the house
5 leases, on the land dispute issues, on the rights of ways,
6 on economic development, none of which is beyond control,
7 and yet OST's plan moved the entire survey program into
8 BLM.

9 But, again, these Tribal Governments are sitting here
10 trying to figure this out, and we're talking to really
11 administrative people that don't understand what we deal
12 with as Tribal Governments, or what really trust entails
13 in the field.

14 So if OST and the continuation of a gutting plan for
15 Indian programs, and if the commission, who's then going
16 to take off and do their own studies on the very things
17 that affect us in Tribal Government, if they're off the
18 table, just like we're dealing with fractionated land, we
19 can't deal with Indian fractionated programs.

20 I think we're dealing with one transaction today. We
21 used to go to the BIA office for, like example,
22 appraisals. We go to five offices under the OST plan.
23 It's costing us money. It's costing us time, tremendous
24 delays in the process.

25 But, again, if we don't fix them, land consolidation

1 is going to roll right into that mess of problems, so
2 we've got to deal with the whole package deal of trust
3 management.

4 MICHAEL BLACK: I just want to comment real
5 quick. That's a very valid concern. And just to make
6 sure we don't have a misunderstanding, I think what
7 Meghan's saying is the Trust Commission is not going to be
8 implementing this ILCA consolidation program.

9 They're going to be looking at everything you're
10 talking about right there, the fractionation of the rest
11 of the trust programs, taking OST and separating it out in
12 all of those programs.

13 This Trust Commission, one of their tasks is going to
14 be to look at all that, and look at the idea of the sunset
15 issue, whether we would have more of a one-stop shop, for
16 lack of a better term, to start bringing those programs
17 back into where it works better for the tribes where you
18 have the one place to go to to deal with all of your
19 issues.

20 DANIEL JORDAN: But it was clearly understood
21 that the issues were land consolidation, and trust
22 reference issues, surveys, appraisals, all will roll up
23 again with that problem.

24 And the commission, whatever they're doing, if they
25 don't have a very clear understanding, they will become

1 the bottleneck for the land consolidation program if they
2 don't move faster than what we are trying to do.

3 MICHAEL BLACK: Good point.

4 GARY AITKENS: I want to thank all the staff
5 who came to hear us and converse with us. I want to thank
6 all of our fellow nations for all their valuable input,
7 and I want to echo a lot of the sentiment that they said
8 that we're on the same page. I also want to submit our
9 written comments later through the tribe.

10 The relationship with the BIA has been strained often
11 times, and I just wanted to comment on the -- I'm hopeful
12 that this is a new era, and it's not lip service to move
13 on and just -- you know, we hear it. It's been time and
14 time again where we come in like a revolving door.

15 It's almost like we're being placated. And then we
16 turn back, and then nothing happens. And often times
17 questions will be asked, and it's we'll get back to you.
18 And we don't often see the response. I'm looking forward
19 to rebuilding this with our trustee and the government.

20 I guess one of the questions that the tribe had is
21 whether there is going to be a formula for deciding who
22 gets what and how much, how we're going to decide that.
23 How much can each tribe get? How do you apply?

24 Also, a timeline, what can we expect and when? We
25 need to be kept in the loop, but ultimately we need to

1 improve communication between the agencies.

2 We have a wonderful relationship with our communities
3 back home, and it's amazing how much stuff we get done
4 working together.

5 And I just want to extend that to this, too. I want
6 to work together. I want it to be easier, more local
7 involvement, more local decisions being made because a lot
8 of the tribes understand what we're dealing with the most.

9 And I think that it would benefit us to be able to have
10 those decisions.

11 And also regarding the commission, it's very hard to
12 get five people to represent over 500 tribes, and just to
13 very carefully consider that.

14 And other than that, I just thought I'd thank you,
15 and I do hope this is a new era and that we can rebuild
16 our relationships. I hope you can understand that it's
17 hard to trust at this point.

18 And I just wish nothing but the best for us all, and
19 I hope we continue to make strides as a nation, and as our
20 nation and the U.S. together. Thank you.

21 STACIE SMITH: We have one more comment before
22 lunch.

23 TERRY RAMBLER: When I was speaking earlier,
24 when I said it needed to be streamlined, exactly the term
25 that I wanted to express is 638 because that's the only

1 way that it's going to work appropriately for a lot of the
2 large land-based tribes or the tribes that already have
3 all their established measures that I believe you are
4 going to be requesting.

5 I believe like this gentleman Charles Morigeau has
6 stated, it has to be streamlined so that the
7 superintendents can have that authority to go ahead and
8 sign off on regulations.

9 And if 638 is not going to be considered, then you're
10 going to have to go ahead and try to think of MOAs, MOUs
11 or be innovative of what kind of language is going to fit
12 what the tribes' needs are because we've already had
13 experiences. We've had multiple, hundreds and hundreds of
14 Native appraisals for the Yakama Nation.

15 And in my mind, if we were able to go ahead and be
16 certified through proper certification that the Federal
17 Government requests, then that's what needs to be done.

18 We need to go ahead and be certified so these
19 appraisals could get done. And the Bureau, our Federal
20 Government needs to go ahead and acknowledge the tribes'
21 policies and procedures that we set for ourselves so that
22 our certifications will be acknowledged, or either you
23 come up with them or we will.

24 And that's how I would like to express myself because
25 it's not going to work if we don't have a say so in how

1 they're going to get this mission accomplished. And in my
2 point of view, 638 is going to be the best remedy. Thank
3 you.

4 HARVEY MOSES: I'll be nice. We were just
5 talking here, and we have ownership in South Seattle,
6 Yakama.

7 How is that going to be dealt with? And we probably
8 have ownership on their reservation also, so how are you
9 going to work that out?

10 MICHAEL BLACK: What you're saying is you have
11 a Colville member-owned land interest on other
12 reservations?

13 HARVEY MOSES: I wish, but, yeah, families do
14 have them. We know we have ties to the Southern
15 Colvilles. We have ties to the Eastern Colvilles and
16 Western Colvilles. We have -- we all have interests, a
17 lot of interest, so how are you guys going to deal with
18 that?

19 MICHAEL BLACK: Generally, under the existing
20 ILCA program, when we go out and look at an individual's
21 ownership interests, we try to get all of the interests
22 that they have, whether it be on their own reservation or
23 on another reservation.

24 So if you were to own, say, land interests on Yakama,
25 we would attempt to purchase those from you as well

1 generally. I mean, if you have fractionated interests and
2 you are a willing seller and you want to sell those
3 fractionated interests, we would be most interested in
4 buying them.

5 HARVEY MOSES: Then how would the ownership --
6 say like the Yakamas. How would that ownership be -- they
7 own some land on the Colville Reservation. Would that
8 ownership be the Colvilles, or how would that work?

9 MICHAEL BLACK: I don't have the exact
10 language with me, but generally it's within the
11 jurisdiction of the tribe having jurisdiction over those
12 lands.

13 HARVEY MOSES: Okay. Thank you.

14 STACIE SMITH: So if we can hold other
15 comments until after lunch, I know people are hungry. We
16 will come back at one o'clock.

17 The first thing we'll do is we'll open it back up if
18 there are more comment from tribal leaders. We will also
19 be opening it up to the floor as well. So we'll see you
20 back here at one o'clock. Thank you all very much.

21 (Recess taken.)

22 STACIE SMITH: We're going to head over to the
23 Department to make some responses to some of what they
24 heard, and then we're going to come back and take more
25 comments from all of you.

1 MEGHAN CONKLIN: Good afternoon. I hope that
2 everyone enjoyed a delicious lunch at one of the
3 restaurants here, and that you're not in a food coma and
4 you're looking forward to some lively discussion this
5 afternoon. And I thank all of you that have stuck around
6 for this afternoon session.

7 I think we have a smaller group, but that might mean
8 that we have more opportunity for some more fruitful
9 dialogue with one another. So thank you very much for
10 those of you who have stayed around.

11 I just want to offer one comment and let you know
12 that we have heard your concern about the ability to
13 contract with tribes for this 1.9 billion, and that's been
14 reiterated by a number of you. It's been reiterated at
15 previous consultations we've attended as well.

16 And I want to let you know that as we mentioned,
17 while 638 contracting may not be available for this
18 program, I can tell you that in response to your comments
19 we are going to look into the ability to use Emily or
20 Emily user cooperative agreements for this program.

21 So I want to thank you for offering that comment, and
22 tell you that that is something that we are going to
23 explore more.

24 And I'd really love to hear more from tribal leaders
25 or from others about some examples of how this has been

1 done successfully in the past, or if you have suggestions
2 on how it could be done.

3 So I'd be really interested if you want to offer some
4 comments on how you think that should work, or how it has
5 been successful in the past. Mike, do you have any
6 comments to offer?

7 MICHAEL BERRIGAN: Nope, not at the moment.

8 STACIE SMITH: So, sir, if you want to begin,
9 I know you had something you wanted to show up here.

10 DANIEL JORDAN: Thank you. Again, Danny
11 Jordan from the Hoopa Tribe. We also have a California
12 Tribal Trust Reform Consortium that was actually formed in
13 1997. The first caucus special trustee plans are coming
14 out with major reforms of the Bureau of Indian Affairs
15 system that didn't even address the real issues.

16 And so we're basically just restructuring the federal
17 system without any regard to what the impacts or how the
18 actual programs would be carried out on the ground, and
19 that was Paul Holman's original plan.

20 And then he was replaced by Tom Slonaker, and he
21 basically carried out that plan, and then Ross Swimmer
22 after that. And the plan is going to change, but we have
23 submitted extensive documents.

24 But the "as is" process, the "to be" process, the
25 unfortunate thing is that the Office of Special Trustee

1 seem to have no regard for the authority of Tribal

2 Governments.

3 The Tribal Governments were never part of the plan.

4 According to how that plan was designed, the trust reform

5 to them started at the door of the agency office without

6 regard of who's actually carrying the program out.

7 But since 1988 there's been this tremendous change in

8 management in Indian Affairs where self-government and

9 self-determination have become the modes.

10 The BIA doesn't carry out a lot of those functions;

11 tribes do. The Office of Special Trustee plan never gave

12 that any consideration.

13 And if you look at the kind of trust reform

14 improvements that have actually taken place, they are not

15 because -- under that financial management, set that

16 aside.

17 On the trust asset management side, the tribes are

18 the ones that have actually designed and implemented

19 successful models, not the Federal Government.

20 And the tribes have done it by using 638 and

21 self-governance and bringing their own money to the table.

22 Tribes have taken that responsibility.

23 And we have clear documentation to show that for

24 every one dollar that the compact funds from the BIA for

25 trust functions, we put in three, and I think that all

1 tribes will say the same thing.

2 It's a clear demonstration that we are committed to
3 our future because we didn't cause fractionation. We
4 weren't part of the process of enacting the Dawes Act, but
5 we suffered from all of those things.

6 Unfortunately, we've had a very bad experience with
7 the Office of Special Trustee that they seem to think that
8 this preliminary power of the United States can go in and
9 set tribal authority aside.

10 And we've proven to the last three -- we've had three
11 special trustees. We're looking for a fourth one now, and
12 the tribes are still here. Our structures are still here.
13 Our contracts are still here. We're still contributing.

14 So thinking that any plan can be developed without
15 the direct involvement and partnerships, not just
16 consultation but partnerships with Indian tribes, we make
17 great partners. We make very fair opponents when things
18 like the Office of Special Trustee thinks that they can
19 come into our reservation homelands and displace tribal
20 authority.

21 And if the next special trustee comes in thinking
22 that the United States' power can set aside Tribal
23 Government jurisdiction on reservations, we should start
24 looking for the next special trustee because they won't
25 make it.

1 The real consistency clear from the Dawes Act, clear
2 through to Indian reorganization and trying to fix parts
3 of what happened with the Dawes Act, clear to today with
4 land consolidation, the most consistent thing has been
5 Tribal Governments.

6 And so to think that somehow we can not have a
7 partnership framework that gives tribes their due
8 recognition, especially when you have a president that
9 says consultation and direct involvement and in making
10 this relationship honorable is the words of the day, but
11 we haven't seen that.

12 But, again, there's a lot of things in the system
13 that have to be changed. But one of the things that
14 really would help to change it, as we've seen with
15 self-governance and self-determination, when tribes are --
16 I don't want to say permitted because we're just going to
17 do it anyway. But when tribes are engaged in a direct
18 partnership, many great things happen.

19 So, anyway, the first comments I have is I hope we're
20 past that. And if we're not, then we'd better think about
21 how we're going to do it.

22 If the commission thinks that it's going to spin its
23 wheels for the next several years trying to figure out how
24 we get back to reestablishing partnerships in Indian
25 Country and really taking this third inappropriate wheel

1 out of Indian Country, the Office of Special Trustee,
2 today there's no clear understanding because there's no
3 policy clarification.

4 There's no clear understanding of who actually
5 manages the federal trust because you can go to the Bureau
6 of Indian Affairs, and they say the Office of Special
7 Trustee or the records now are in Kansas, or the Office of
8 Special Trustee controls the appraisals, or the money for
9 surveys gets cut and goes right to BLM.

10 Well, nobody's talked to us about that. So this OST
11 framework is a tremendous blemish on Indian Country. And
12 if we're really going to create partnership, we've got to
13 get back to really honoring and respecting Tribal
14 Governments. That's my first point.

15 The second thing with the trust reform problems,
16 including fractionation was premised on is solely dealing
17 with federal issues. And there's not -- I don't know that
18 there's a clear understanding by the administration or
19 possibly even Congress that this is our homeland.

20 When fractionation happened and when the Dawes Act
21 happened, when land bases were chopped up, they created a
22 very significant impact on our ability to govern. On our
23 reservation there's probably \$300,000 of property tax that
24 goes to the county, and yet we have all the authority and
25 the responsibility to manage.

1 We're losing really tremendous amounts of money. And
2 yet when we try to deal with that, well, we're the ones
3 trying to deal with those problems. And so we're really
4 kind of handicapped, but, again, we weren't part of the
5 design of this.

6 So that's another thing about this is when we look at
7 trust reform and land consolidation, we really need to
8 look at and understand that there is in fact a tribal
9 component that has to be integrated from day one because
10 it's an equally important part of the plan.

11 Tribes need to be involved because it simply will not
12 work, as demonstrated by OST, when Tribal Governments are
13 not integrated and designed into those implementation
14 plans.

15 We are survivors in Indian Country, and we are very
16 coordinated in what we do. And we're committed to making
17 our reservations and our economies and our systems work.

18 But sometimes it gets really difficult dragging a
19 trustee that has conflicted interests, and that's kind of
20 again what we've been dealing with since OST has evolved.

21 They only showed up in 1994 when it was a brand new
22 law. Treaties and tribal authority date far back from
23 that, so, anyway, that's one comment.

24 This is a schematic that we developed under the
25 California Trust Reform Consortium because, again, in 1997

1 when Paul Holman showed up with the hatchet job on cutting
2 out trust programs from the BIA and leaving skeletons and
3 not knowing where we were going, we all sat down and said
4 that's not a solution to anything.

5 So we formed the California Trust Reform Consortium,
6 and we began looking at some of the underlying things that
7 were causing some of these problems, and the state
8 management fractionation is part of it.

9 Well, this is the schematic that we developed, and
10 starting with No. 1, this is a tribal law. And so it's a
11 state management code, but it's a tribal law that's
12 designed on a partnership. We worked with the central
13 regional office on developing because that's where our
14 trust functions actually get carried out.

15 The first part, title II is comprehensive management,
16 estate management.

17 No. 2 is tribal probate ordinances. If we get to the
18 point where we have tribal probate ordinances that are
19 being equally recognized dealing with non-trust assets as
20 well as a 43 CFR process in probate, then we actually
21 begin to pull together tribal and federal jurisdiction in
22 a way that doesn't compete with one another or conflict
23 with one another.

24 We actually create coordination because the federal
25 agencies don't have jurisdiction over non-tribes, but we

1 do. Those are parts of solutions on preventing
2 fractionation in the future.
3 Title III is the mandatory wills. It was really a
4 mistake for OST to just throw up their hands on the will
5 program. We really need to have that program integrated
6 because that's a critical part of estate management.

7 No. 4 is the prevention of land. That's tribal
8 zoning, and the things that fall under tribal
9 jurisdiction, but not federal.

10 Well, we can actually begin looking at how small a
11 piece of property can be and still be of use, and that
12 will actually give some significant guidance to the
13 administrative law judge in dealing with probates.

14 Title V is part of what we're talking about here is
15 that once you can capture through the first four titles,
16 once you capture the ability to stop the fractionation,
17 then you begin to clean up the backlog.

18 If we don't do that, we're going to still have
19 backlogs, and in 20 years we'll need another couple
20 billion dollars to fix the problems that happen between
21 now and then unless we have a structure to prevent it.
22 That structure's not only federal. It's primarily the
23 application of tribal law.

24 No. 5 is a tremendous problem where we need some
25 integral jurisdiction on probates while we're waiting for

1 these federal probates to get done.

2 Indian people are waiting for years. And by the time
3 these federal probates are done, assets are gone. And so
4 they're taking our toolbox of solutions, and simply
5 dividing them up and not allowing them to come together.

6 But part of No. 5 is creating an understanding with
7 the Federal Government that our tribal courts can play a
8 very significant role in the protection of these probate
9 assets before the official probate is done.

10 The future of where we're going, how do we actually
11 reestablish land bases on reservations? How we deal with
12 even the non-Indian ownership on reservations, we do have
13 to figure out a long-term plan on doing that.

14 There's no reason why we have to have partnerships,
15 wherever they may be, and administrative law judges --
16 we'd even go so far as to say the administrative law judge
17 functions are contractible to Indian tribes so that we can
18 actually bring those two different critical, important
19 parts of cross-management into one another, so that's what
20 that's about.

21 Those are things that we never have talked about, but
22 we've dealt with it, but we simply haven't had an audience
23 to do that.

24 AIPRA created this authorization for family trusts,
25 but never had a mechanism to do it. The fact is there's

1 only two entities that even create corporations. One is
2 the state. We don't want any of these family trusts under
3 state law, but there's a framework under the actual
4 official codes.

5 We are dealing with some test cases in our area where
6 we have one 80 acre fractionated piece of property and 200
7 owners. They've already formed a non-profit corporation
8 under those codes.

9 They've already moved to creating their board of
10 directors. They have an election procedure. They're a
11 public domain, so there's no Tribal Government sitting
12 over them, but the owners of those properties have come
13 from five different tribes.

14 So it is somewhat of a complex group of owners, but
15 there's no reason why we can't do these kinds of things,
16 and actually under tribal law create opportunities for
17 land owners to come together.

18 And under this program there ought to be some
19 demonstration projects formed. The Federal Government and
20 tribes ought to establish a performance standard for
21 implementing written procedures, but let tribes take parts
22 of this land consolidation and do something with it.

23 Many times we've worked miracles under
24 self-determination by tribal management. We have to do
25 the same thing with part of this, and I think we'll see

1 the tribal part really outrunning the federal part.

2 Anyway, we're concerned about the BIA staffing to
3 implement this. If we don't fix that -- the Office of
4 Special Trustee has never understood that we have trust
5 records in our files, and we create them.

6 In Indian Country there are local tribes contracting
7 -- we're creating those records, but OST thinks that all
8 the records are in Kansas, and they're simply not.

9 And so we are creating a more modern bank of files
10 than they have, but there's no partnership of how we're
11 going to actually share our information. We don't send
12 our files to Kansas to the Office of Special Trustee. We
13 work with the local BIA because that's what our agreement
14 is based on.

15 So we don't know what happens to our records when
16 they show up in Kansas. We don't have any control over
17 it, so we need to fix those things.

18 Anyway, that's kind of what our presentation is.
19 We're very concerned that -- one other point I should make
20 is that the land consolidation part of it creates that
21 scholarship program. Tribal Governments manage education
22 programs all the time.

23 Thinking that we have to have some non-profit
24 organization come into Indian Country, and, again,
25 displace the structure of Tribal Government, that they'll

1 find a better way to do it without involving Tribal
2 Governments in how that scholarship program is managed, if
3 it's going to be some non-profit, then I think that's the
4 beginning of our next problems.

5 I mean, we are responsible, and are more responsible
6 than the Federal Government for the lives and the future
7 of Indian people, so we have to be part of that.

8 So that's what our presentation is. We've offered
9 these things up. Unfortunately, we've had to do it.
10 Except for working with the BIA regional office, we've
11 done it on our own.

12 And as many tribes have demonstrated today, there's a
13 tremendous amount of very creative, very dedicated
14 expertise and ability and commitment in Indian Country.
15 We've got to get away from this two-part trust management
16 system, one of the Federal Government and one of tribes.

17 STACIE SMITH: Okay. Thank you. Just a
18 question: Is there anyone else who wants to project
19 something? Otherwise, I'm going to turn off the
20 projectors because they make this overhead noise, and they
21 make it a little harder to hear. Is there anyone else who
22 wants to have something projected?

23 ROBERT JACKSON: Is this your public comment
24 period now?

25 STACIE SMITH: Yes. We are entering the

1 public comment period.

2 ROBERT JACKSON: My name is Robert Jackson.

3 I'm a Quinault tribal member, and also I'm an heir of an

4 allottee for 15 parcels of land on the Quinault Indian

5 Reservation.

6 My personal history is I'm Quinault, Chinook, Yakama,

7 and my great, great uncle signed the Quinault Treaty, and

8 my great grandmother was White Fawn of Yakama. My other

9 great grandfather was Joseph of the Nez Perces, and my

10 final great grandfather was a French Canadian, who signed

11 the Oregon territorial documents in his living room with

12 his Chinook wife present.

13 So keep in mind that when Oregon became a territory,

14 it created a land office, and the goal of the Dawes Act

15 was to remove land from Quinault tribal members. The only

16 way that Quinault could maintain their land base is that

17 we went from 4,000 members to 115.

18 So what we had to do is create an adoption goal in

19 order to keep our land base. We still do not have a

20 homestead act for the Quinault Nation because they stopped

21 logging land in 1934, so everyone in this room is an heir

22 of an allottee. They're not an original allottee or a

23 homesteader.

24 So the first thing I would ask Congress to do is to

25 set up a homestead act for the Quinault Indian Nation so

1 that we can pass on land ownership to our own membership.

2 The second thing I would ask of you is that we
3 establish a property office so that we can actively have
4 records of Bureau filing.

5 So here we are today saying here's two billion
6 dollars for a buy-back program that the Bureau of Indian
7 Affairs will manage. So when they buy back the land at
8 this point, now I have to manage my land with the Bureau
9 of Indian Affairs.

10 So unless there's an instant transfer by title in
11 escrow to the tribe, then I now have to deal with the
12 Bureau and all of their federal regulations and management
13 property. So we've just changed deck chairs on the
14 Titanic.

15 Now I'd like to talk about the history of the Cobell
16 case. Keep in mind that Helen Mitchell Sanders was the
17 vice chairman of the Quinault Nation. The Quinault Nation
18 brought the original lawsuit for mismanagement.

19 The defense of the Bureau of Indian Affairs is you
20 signed a power of attorney, but we don't manage your land.
21 You're just inept when you managed your own land because
22 you did it poorly. That's why 25 percent of my father's
23 allotment was misbranded. We're entitled to triple
24 damages.

25 When we notified the Bureau of Indian Affairs, they

1 said sue us, so we did. 25 percent of our logs were
2 misbranded, yet the Bureau refused to do anything against
3 IT & T Rainier to recover for our timber.

4 My grandfather Cleve Jackson was a timber cruiser.
5 He wrote two logging contracts that would represent us as
6 tribal members. Two U.S. senators and the governor went
7 down to his house and said, we're sorry. These logging
8 contracts benefit tribal members. This is unacceptable.
9 We will rewrite the contracts to benefit the logging
10 companies. That's why we received 25 cents on the dollar
11 for our timber.

12 So the result of this, instead of a hundred billion
13 dollars, we're only getting two billion dollars. And the
14 testimony of the U.S. attorney under the Bush
15 Administration is Cobell, two of 250 billion dollars of
16 mismanaged money that is owed to tribes. There are 100
17 lawsuits pending.

18 Again, the Bureau told us we can't catalog all of
19 those property records in the salt mine in Kansas. And
20 Mr. Hogan, the judge, just issued an order in June that
21 said, yes, you can. So eventually we still need our own
22 property office so we can audit our records.

23 Now, Tony Johnson of the Makah Tribe asked me to
24 audit his property file. His father received a 10 acre
25 allotment on the Makah Reservation. It goes from their

1 village to the ocean.

2 When I reviewed the document, it was an easement for
3 the entire 10 acres. Real Estate 101 law says it's an
4 illegal easement if you include the entire parcel.

5 So I pointed out to the OST officer that this was an
6 illegal easement. She informed Tony that she could not
7 represent him because he did not have an IIM account.

8 Being she had a Washington State bar license, I
9 agreed to challenge her bar license on an ethics
10 provision, and suddenly she found her way to recognize
11 Tony and represent him.

12 When the tribal real estate officer came to present a
13 new easement agreement to Tony, they never appraised the
14 road that goes across the property. It's two lanes wide.
15 It's paved and goes across the entire allotment. They
16 only offered him \$500. They never bothered appraising the
17 entire road for its fair market and giving Tony an eight
18 percent return on his investment.

19 So in my own case, I inherited land from my
20 grandfather that happened to be Helen Mitchell's
21 grandfather's allotment. She petitioned the Bureau for an
22 appraisal. The Bureau mailed me the appraisal, but they
23 didn't mail it to Helen.

24 Now, a funny thing: A couple things were missing in
25 the appraisal. No. 1, the value of the roads on the

1 allotment were not appraised.

2 No. 2, they didn't appraise the soil. The only way
3 you appraise agricultural land, including timber, is the
4 value of the soil. The higher the quality of the soil,
5 the faster the growing trees, the higher the value of the
6 allotment, yet that wasn't even a provision of the
7 appraisal.

8 So please tell me, if you're not following minimum
9 appraisal standards in appraising allotments on the
10 Quinault Reservation of providing a soils map and
11 appraisal of roads that exist on the allotment, then how
12 am I going to get a fair market value?

13 When I looked at the second allotment that Tony
14 Johnson owned, we found a 1903 enrollment record that
15 showed all of Tony's family members. We found that he had
16 an aunt that he never knew about, a great aunt.

17 We also found the original journal book that showed
18 all of the allotments on the reservation, yet the
19 allotment he had in the village as was given to his
20 father, we found correspondence in 1934 that the
21 superintendent of the BIA sent a letter to the tribe that
22 said you now own the entire village of Nita Bay, and these
23 original allottees no longer owned this land.

24 So now the tribe is under the false perception that
25 they own all of the village lots, and they write leases to

1 their tribal members, yet in 1910 is a journal book that
2 assigned all of those lot ownerships.

3 So I think we need to actually create a title plan,
4 and we need to audit property records so that we actually
5 know who owns what.

6 Oregon territory did that. Washington State does
7 that by creating an assessor's office, a recorder's
8 office, yet we don't have that for Indian Country. It's
9 all stored away in a salt mine or perhaps destroyed in a
10 dumpster in an apartment complex in Portland.

11 So until this committee is willing to establish
12 proper records that can actually be audited, proper
13 appraisal standards that anyone can review -- a friend of
14 mine named Joe Chancey retired a couple years ago from
15 Washington State Department of Revenue. His job was a
16 timber cruiser that would assess timber tax for the State
17 of Washington.

18 I had Bill appraise my property. He said, Robert, I
19 have a thousand attorneys and a thousand CPAs and a
20 thousand timber cruisers that audit all of my work so that
21 a property owner doesn't pay one more cent in tax than
22 they're required to for the Washington State timber tax,
23 but we don't have that for the Bureau.

24 One of our tribal members just cruised his own timber
25 for a timber sale in June. He put \$50,000 more money in

1 his pocket on one 40 acre timber sale than what the
2 original Bureau timber cruise was.

3 So please tell me the Bureau is doing a good job for
4 us. They sold my timber by misbranding it and refusing to
5 represent me. They wrote the contracts with my
6 grandfather that said, gee, horses shall be tethered.

7 So now we've come forward to 2011, and they're still
8 mismanaging timber sales. So when are we actually going
9 to ask this committee to set some standards that will
10 benefit me as an individual timber owner?

11 There are no provisions in the statute when the BIA
12 buys the land, transfers the land to the tribe for the
13 tribe to sell me a parcel of land to build a house on.
14 Why not?

15 It's kind of like the Bill of Rights. You know, in
16 1868 we last received a Bill of Rights the same day the
17 President hung 2,000 Indians. Blacks received freedom in
18 the Bill of Rights, but Indians got hung.

19 So in 1968, again, 60 percent of the Bill of Rights.
20 In July of 2010 we finally got the full Bill of Rights a
21 hundred percent. We're actually Indians, and we actually
22 have a Bill of Rights that was written by Congress how
23 many years ago?

24 So I have a few concerns. When we go back to the
25 Cobell case, there was an entire trial dealing with a

1 special master that went to Albuquerque to evaluate Danson
2 Baker, the oil well appraiser that was selling oil wells
3 on Indian land for 25 cents on the dollar. There was an
4 entire report by the special master, yet this has not been
5 entered in the record of this committee of how to reform
6 oil well appraisals through the BIA.

7 The special master reported to the court, but I've
8 yet to see any provision for the BIA to change their
9 regulation. In fact, Mr. Danson Baker did so well, he
10 became chief appraiser in the Portland area office, so
11 they just inherited the dirty laundry.

12 So please tell me, if the special master shows
13 someone as being incompetent, why are they transferred and
14 now we inherit this individual, yet no provision has been
15 made for proper appraisal.

16 Mr. Danson Baker has not been terminated, yet a full
17 trial by the Cobell case said that he was incompetent,
18 malfeasance, and he is still signing off appraisals in
19 Washington for my tribe.

20 So I'm asking this committee, when are you going to
21 take the Cobell case and the testimony on appraisal and
22 actually develop some regulations that will benefit me as
23 a tribal member?

24 Why is there not an Ombudsman established? If
25 there's a dispute between a tribe and the BIA on

1 acquisition of land, do we all have money to file a case
2 in Federal Court?

3 Most attorneys will tell you, please put up \$25,000.
4 We'll open a file, yet there is no administrative
5 procedure. There is no Ombudsman appointed that can
6 actually look at the record.

7 There is no provision to set up outside appraisals so
8 that we can evaluate the work being done by the
9 Department. Is it a problem that we can't set up an
10 Ombudsman in the Department?

11 Quinault Nation created a GIS system that only
12 benefits the Quinault Nation. It receives 638 contract
13 monies for management of the reservation, but it does not
14 provide any training or technical assistance to individual
15 members that we can actually learn to manage our own land,
16 yet the Probate Reform Act says that if you get all the
17 signatures of an allotment, you will be able to take over
18 management of agriculture land, yet we have no training or
19 technical assistance of how to do this from the
20 Department.

21 So what good is the regulation of AIPRA to be signed
22 off by the President if we don't have the proper training
23 and technical assistance?

24 There is no provision describing what will happen to
25 the interest off the two billion dollars, so why isn't

1 that interest money utilized for training and technical

2 assistance for individual allottees?

3 Why is there no provision for us to use those funds

4 to consolidate our own land ownership so that we can

5 develop our own management plan? Why is this only

6 provided to the tribe?

7 It's time that we ask Senator Murray and Cantwell to

8 sponsor legislation that will reform land reform, the IRA

9 and the Dawes Act to conform to 2011, not 1887. Would

10 anyone agree that we're competent enough to manage our own

11 land? I'd rather manage my own land rather than the

12 Bureau stealing my timber.

13 So, again, the appraisal process is substandard. The

14 Quinault Indian Nation has a number of tribes that are

15 allotted on our reservation.

16 There's been no provision to accommodate those

17 individuals to buy them out or relocate them to other

18 reservations. There is no provision for easements or

19 right of ways for access. We build our roads, and yet we

20 have no clear title or access to our roads.

21 And again, we're not receiving proper appraisals for

22 improvements of roads, houses. And I'm told by the

23 working land group that the BIA has passed regulations

24 that says that a house, a building, a barn is now chattel

25 rather than real estate.

1 I would like clarification from your solicitor on
2 that provision. This was the testimony of Helen Mitchell
3 at Quinault allottee's annual meeting in July. So,
4 Mr. Solicitor, can you clarify that question for me?

5 MICHAEL BERRIGAN: No. That's not the purpose
6 of this consolidation, sir.

7 ROBERT JACKSON: So you can't tell me whether
8 or not the BIA has created a chattel provision of land?

9 MICHAEL BERRIGAN: That's not what I said,
10 sir. I said the purpose of this consultation was defined
11 at the beginning, and I'm not going to answer questions
12 that aren't related to the scope of this consultation.

13 ROBERT JACKSON: Okay. Thank you.

14 STACIE SMITH: So I just want to remind
15 people, I don't know how many people might be waiting to
16 speak. We'd just ask as much as we can to be concise and
17 also to be respectful.

18 You can express your concerns, your frustrations and
19 all of that, but try to be as respectful as you can to the
20 people who are here to listen.

21 HARVEY MOSES: That's real difficult when you
22 have to say the same things again and again and again over
23 the past couple centuries.

24 STACIE SMITH: It's understood that there's a
25 lot of call for frustration throughout the history, and

1 relationships have been challenging.

2 In order, though, to be as productive as we can here
3 today, we ask all to be respectful to each other. Thanks.

4 JOHN DOSSETT: Hi, my name is John Dossett.
5 I'm an attorney with the National Congress of American
6 Indians. Thanks very much to the Department of Interior
7 for having these consultations.

8 I think that the Northwest Tribes have done an
9 excellent job with covering a lot of the issues, so I
10 don't think there's a whole lot to add.

11 I guess I would encourage the Department -- you saw
12 how much knowledge that the tribes here have. Maybe get
13 into some discussion with some tribes on the particulars
14 of what a contract or an MOU might look like, so that you
15 can sort of advance the ball.

16 So by the time the appeals are settled and the money
17 is ready to go, you're more ready with the contract
18 vehicle. It's easy to talk about this in a broad sense,
19 but the specific terms of the contact of course are going
20 to have to be negotiated between the Department and the
21 tribes and what types of land, valuations, all those
22 issues.

23 The second thing that was raised was with any one of
24 these situations, whether it's the Department or the tribe
25 land, you want to make sure that the individual is getting

1 a fair price, and that there isn't a conflict of interest.

2 One provision is in Statute 2212 where other
3 individuals in the property have the option to purchase.
4 So these are voluntary sales, but one thing it's going to
5 protect you from is if the tribe tried to offer too low a
6 price, any other individuals in the property can say, hey,
7 I'll take that interest because it's only half its value.

8 Anyway, I think there's a built-in mechanism in the
9 statute that would prevent anyone, whether it's the
10 Department of Interior or the tribe from trying to set
11 appraised values too low because they'd just wind up
12 losing it to other co-owners under the provisions of the
13 statute.

14 On the mass appraisal issue, and I think a lot of
15 folks have emphasized that, I guess I would encourage the
16 Department there to go ahead and get started with that,
17 particularly those appraisals are going to be necessary to
18 get anything started in this process.

19 And this relates to my next question. We haven't
20 talked as much about the distribution methodology. How
21 are we going to take this two billion dollars and decide
22 which reservations and how much gets sent where across the
23 country?

24 And getting those appraisals done and having that
25 kind of information is going to be important for us to

1 even start to decide how to divide up the money, so
2 getting that appraisal would be important.
3 One thing I wanted to mention was the statute also
4 allows the money to be spent on a purchase option in
5 probate. AIPRA allowed a provision where tribes and the
6 secretary of Interior can get it out of probate,
7 particularly where a lot of fractionation occurs. Maybe
8 it passes from one owner to 12 owners. So that might also
9 be something that I hope you're considering, using the
10 purchase of an option in probate.

11 And the last thing is I'll just reiterate something
12 you mentioned earlier. I think getting more data out to
13 the tribes about all of these issues, fractionation,
14 valuation of properties, it's going to help tribes and
15 it's going to help everybody figure out a lot of the
16 specifics to these questions. Anyway, that's it. Thank
17 you very much.

18 MEGHAN CONKLIN: I just want to thank you,
19 John, for driving out today from Portland. That's a
20 really good suggestion about having discussions with
21 tribes about what contracts look like. I think that's a
22 really good suggestion.

23 And what David said in Billings, and I'll say this
24 again is we know this is a major undertaking, 1.9 billion
25 dollars. There's no doubt we're going to need to contract

1 in order to accomplish this program, so that's what David
2 meant when he said that.

3 I like your suggestion about having discussions with
4 tribes about what contracts look like. I'd love to hear
5 more about that today if people want to offer that in
6 today's consultation.

7 And you're right, the question you have about
8 providing more data to the tribes, that's something we're
9 very interested in and looking into right now, what
10 additional data we can provide to the tribes as we move
11 forward. So thanks again for your comments.

12 SHARON GOUDY: Good afternoon. I'm Sharon
13 Goudy from the Yakama Nation, tribal land owner. I handle
14 land holdings, and I am the current treasurer of
15 Affiliated Tribes as well as the CEO for Yakama Nation.

16 And I came up here because most of these things that
17 have already been expressed by leadership I think are
18 pretty much the same thing, but they're just in different
19 contexts.

20 But fixing Cobell is -- Cobell went out to individual
21 owners, and it was the accounting of the IIM accounts,
22 which lead to the land consolidation issue. Now the
23 tribes have to step in to assume some of these
24 responsibilities.

25 And some of the things that immediately happened

1 within the Yakama Nation when making OST responsible for
2 parts of the transaction and BIA responsible for other
3 parts is, as we spoke in previous ATNI meetings, I call a
4 Chinese fire drill.

5 If you have to go to the local level and try to do
6 one transaction to see how confusing that is, and the
7 restriction of policies and procedures that were never
8 articulated or written that could change from day to day
9 depending on from some desk telling the local agencies you
10 now need to do this or you now need to do that, you go
11 back to the drawing board yet again because there are no
12 written guidelines.

13 In the past, as antiquated as it was, the Bureau of
14 Indian Affairs had an operating manual, a Department
15 manual where any user could pick up that book and see what
16 is required and what was needed to complete a transaction.

17 That's not true today. In fact, many of the policies
18 and procedures imposed upon the tribes are above and
19 beyond the statutory or the language that's required. The
20 regional offices are not handling these all consistently.
21 It depends on which region you're in.

22 And so I come forward today, and I really think it's
23 a great idea to not only get an MOU between the tribes and
24 these conditions, but for all the federal agencies that
25 have a part in transactional land and acquisition

1 proposals.

2 Please consider that many of the tribes'
3 organizations have already submitted recommendations, and
4 so bear in mind that there are recommendations made on
5 tribal levels for that purpose.

6 And so we need a clear delineation of roles and
7 responsibilities of local control on transacting any sales
8 or purchases. We need to go back to our grass roots or to
9 our local reservations and explain to our tribal members
10 how this is going to work.

11 You received a letter from the Cobell settlement that
12 you're going to have this, this or this. They're coming
13 to tribes. Now they can't speak to the defendant, so
14 they're coming to the tribes saying, am I going to get
15 this amount of money or sell my land to the tribe?

16 Yakama Nation has had enrollments since '46. They
17 have had land programs since at least the 1950s, I
18 believe. So these organizations have already existed
19 within the Yakama Nation. And so going back then to
20 telling your tribal folks this is how this is going to
21 work, is anyone in this room clear about how that's going
22 to work to go back and explain to your tribal membership?

23 We need better communication, not only from the
24 government, but tribal leaders, the tribal leaders and
25 their constituency, but also the federal organizations

1 that have a part in transacting sales or purchases of
2 trust properties because otherwise it'll get bottlenecked.
3 Even processing mortgages or business on trust land
4 can take up to a year and a half in the outside world.
5 How does that happen when you have some small windows of
6 opportunity?

7 If you go to our county offices, you can review the
8 book of titles. It's public information, and it'll tell
9 you who owns this property and what its last tax valuation
10 or assessment score are, where it's located and a
11 description of the property.

12 We can't do that with the current system. If I have
13 a piece of property that I was interested in purchasing,
14 the Privacy Act would be brought into question that we
15 can't tell you that.

16 And so there's also a clause in the CFR 162, it's
17 section 25 CFR about introducing new owners into
18 properties. You can't have new owners without the other
19 owners' permission. So if the tribe were to purchase an
20 undivided interest, it has to have the permission of all
21 the other owners.

22 In the past, if you had 51 percent agreeing to a
23 transaction on a piece of land, once you had the majority
24 of ownership you could do it, but now you can't. With the
25 tribe itself, you have to have permission.

1 The liens on the property and how that impacts the
2 future use of those assets of the land itself, if someone
3 else wants to purchase that property and you already have
4 a lien on it, again, part of our decision in Yakama is you
5 have to warranty.

6 We couldn't convert properties from a deed of trust
7 without permission of the local county government,
8 municipal and county government to convert property to
9 trust that were expected to pay taxes on that property,
10 and you couldn't do that without -- you couldn't convert
11 it with liens on it.

12 So within many of our reservations, those trust
13 holdings are part of our original reservation, and Yakama
14 has a goal of restoring its land base and taking back
15 those properties that once belonged to Yakama within the
16 boundaries of our tribal reservation.

17 So that is a goal, and that needs to be targeted.
18 And I know that there's this fear about, well, we're just
19 buying it to build casinos. That's not true for every
20 reservation. We have original land holdings. Our people
21 are our land. That is who we are. That is where we
22 belong.

23 With the technology today, it would be great if there
24 were a website that gave facts and frequently asked
25 questions so that tribal members -- they're not here at

1 this meeting. They don't know the jargon. They don't
2 know the agencies that are involved. They don't know the
3 processes that need to be used to transfer property.

4 If there was a page that recommended folks to look at
5 frequently asked questions or who could they call to get
6 answers to questions, there's nothing preventing that from
7 happening, if the tribal leaders get busy in their
8 multiple responsibilities to be able to reach those
9 members to tell them what they heard here. So it would be
10 nice to do that.

11 MEGHAN CONKLIN: I actually have a response
12 there, to jump in. The Department of Interior does have a
13 specific page on our website that has all the information
14 related to the Cobell settlement.

15 All the material you received today, all federal
16 register notices, information about the Trust Commission,
17 all of that is available at doi.gov/cobell.

18 And the plaintiffs have their own separate website,
19 indiantrust.gov, and that has to do with the whole
20 payments issues, the 1.5 billion, and there's also a call
21 center if they have a question about that.

22 So, again, I can get that information out to people
23 individually, but those are two very good websites that
24 you can direct people to for more questions about the
25 settlement. I'm sorry to interrupt.

1 SHARON GOUDY: That's all right. Thank you.

2 That's good to know.

3 Also, back to the communication aspect, if the
4 commission or committee will go out to the local levels
5 and try to determine the barriers of preventing tribes
6 from purchasing lands, it may not have necessarily been
7 because of funding.

8 It might have been because of the interrelated
9 activity between other agencies to get current appraisals,
10 to get the surveys, to get land owner permission, to get
11 assignments on trust income, to find the finances and
12 protect it, even having a consistent package for all of
13 this information that's in one spot if this is the type of
14 transaction you're going to do.

15 We all understand this is the process, and these are
16 the documents that are needed because by the time you've
17 completed one aspect and you're waiting for somebody to
18 complete the other, then you get it back and now your
19 information on your appraisal is stale, or an allottee has
20 passed away because it's taken so long and now there's 18
21 heirs to deal with.

22 So as soon as the clock starts ticking on the 10
23 years, we need to look to our members about some interim
24 spot checks of where are we now. Are we going to get to
25 where we're going, how we're going to allocate resources.

1 Are you going to take those tribes that are all
2 ready? I know that Yakama for one has a backlog of
3 applications for sale to the tribe back to the '70s. It
4 has its own priority for considering that financing.

5 But, again, are you going to take those tribes that
6 already have applications to go, and all they need to do
7 is get the current information, whatever that happens to
8 be?

9 We don't know the process. I know that's why you're
10 here, but when we all understand what that process is,
11 nothing frustrates me more than when we go home and turn
12 our paperwork in and the local reps are not processing
13 them in a timely manner. Thank you.

14 MEGHAN CONKLIN: Thank you for all your very
15 helpful comments. In addition to the information on the
16 website, I just had one more piece I wanted to react to.

17 Your question about when the clock starts ticking,
18 Mike Berrigan talked about this earlier this morning. The
19 difficulties we don't know. As Mike mentioned and I
20 mentioned, we can't move forward until the appeals process
21 has been completed.

22 And Mike mentioned that on Tuesday we received good
23 news that the Court of Appeals agreed to an expedited
24 appeals process. When this is all completely finalized,
25 we can't give you a date certain, but what we can do is

1 continue to update you as we learn more.

2 And in addition to these consultations, we have an
3 e-mail list of tribal leaders that we've been sending out
4 information, and also putting out press releases as often
5 as we can as we learn more about that sort of process.

6 And I understand that not knowing that is
7 disheartening and leads to some uncertainty. We feel the
8 same way. We'd like to know so that we can know when we
9 need to be ready, which is something that we'll just keep
10 you updated as we learn more.

11 PEGGY O'NEILL: Hi, I'm Peggy O'Neill. I'm
12 with the Yurok Tribe of Northern California. And I think
13 from 30 years of experience, I'm going to tell you what my
14 opinion is. I have very little confidence that the BIA is
15 going to be able to administer a fair and equitable land
16 consolidation program.

17 Just in our case, we had probates going back to
18 people that passed away from the 1960s until the tribe
19 stepped up with their own funding to fund individuals to
20 assist the Bureau to locate 256 probates with the BIA. We
21 did it in a short period of time because we did all the
22 work. They didn't. They're not going to do the work.

23 If you ask for a copy of the land record, it takes --
24 first of all, you get a phone call, which is days, and
25 then it's days more for them to go down to the basement or

1 wherever to get these records.

2 And I think you need to audit all of these offices to
3 see what kind of condition their records are in and how
4 retrievable they are. Our TSR hasn't been updated since
5 2006. We have layers and layers of probate.

6 And so if we step up and say we want to participate
7 in this program, but we're bogged down by the BIA's lack
8 of records or lack of probate completion, their incomplete
9 records, we can't do anything.

10 So it's going to be the survival of the fittest,
11 those tribes that have taken it upon themselves to prepare
12 for this because they have more information, or they have
13 staff on the BIA from their tribe.

14 Maybe they'll benefit, but it'll be like in
15 California it took five years. We waited for the BIA to
16 implement the Indian reservation roads program. It
17 finally took the tribes to get together in Northern
18 California to force them to actually do anything.

19 We lost millions of dollars in roads money while we
20 waited for staff, who have no motivation to do anything.
21 I mean, they get paid whether they do this or not.

22 But this is our one opportunity to see consolidation
23 of our lands on the reservation, and we don't want to
24 squander it. We don't want to see another Cobell in 10
25 years where tribes and the Interior are being sued because

1 we didn't do this right.

2 So I think that -- you know, I'd hate to see all
3 these big expensive contracts with hundreds of thousands
4 of dollars going to these so-called professional when the
5 tribes do the work better than most professionals.

6 And all those land records need to be made available
7 to the tribes. I mean, when we asked for information from
8 the Bureau, even on our land uses for our prior leases
9 from land leases, I got a few lists.

10 We've had to put together our own records, and we
11 have pretty good records. When you go to the national
12 archive or you go to the BIA, it's top secret to look at
13 those land records, and you begin to wonder what kind of
14 story they hold.

15 I think the individuals before have kind of given us
16 an idea that there's a lot of information in those
17 records, but tribes don't have access to them, and I think
18 we need access to them.

19 We have lands on our reservation that have thousands
20 of owners. Who's going to find all those people? I can
21 tell you people in Sacramento aren't going to find them.
22 The only people that will have an interest in looking for
23 them are us because we want to find those so that we can
24 acquire those lands. They're not tribal people that own
25 all these lands.

1 During periods of time, those lands passed to
2 non-Indian spouses, and then they've gone from there. The
3 counties pick up shares of them because if you don't pay
4 your taxes on it -- say you own 2/2000th of an acre. You
5 probably didn't pay taxes on it, so now the county owns
6 it.

7 So who's motivated to do all that work? It's the
8 tribe. And so if we don't have the funding to do it, if
9 we don't start now, what's going to happen?

10 The tribes that can get there first and have their
11 act together will get all the money, and the rest of us
12 will be crying around on still fractionated land on our
13 reservations in 10 years, so that's what I wanted to say.
14 Thank you.

15 MEGHAN CONKLIN: Thank you.

16 HARVEY MOSES: I've got a question. A couple
17 weeks ago I was asked by a family member when the checks
18 are going to start being distributed, and asked her what
19 are you talking about? She said that one of her friends
20 -- she said that she sent the letter -- everybody got a
21 letter from somebody in regards to the Cobell thing and
22 said you'll get \$500 to \$1500, and claimed that she's
23 going to get her check on October 1st.

24 And I told her, no, it's not even settled yet. It's
25 in court, and she was adamant that she's going to get her

1 check from the Cobell thing. Legal opinion?

2 MICHAEL BERRIGAN: Well, I'm happy to respond
3 to that and say, first of all, I think that's the exact
4 question that's over the line. I mean, that's on the
5 distribution of the money to the plaintiffs' two classes,
6 and that's the type of thing that we're prohibited from
7 discussing because it's still in litigation.

8 But as I said earlier, the whole settlement is tied
9 up into the same definition of final approval. So no
10 money will flow, whether it be the money that's already
11 been appropriated for land consolidation, or the money to
12 pay plaintiffs individually until it becomes final, and
13 that's when the appeals are over.

14 But I would say to verify that, not to give legal
15 advice and to break that court order, to go to
16 indiantrust.com or call the 800 number that we can provide
17 there, and the plaintiffs' counsel would give them the
18 same information. That's what's in the settlement
19 agreement.

20 MICHAEL FINLEY: On that note, since the
21 appeal process was brought up, if they're successful in
22 this process, is there an alternate plan or an attempt to
23 be made by the administration or the Department or DOI to
24 salvage 1.9 billion?

25 Have there been any contingency plans discussed?

1 Have there ever been any plans discussed, or is that

2 confidential?

3 MEGHAN CONKLIN: Yeah, Michael, unfortunately

4 I don't know that. I can't answer that.

5 MICHAEL BERRIGAN: That would certainly be

6 confidential, the contingency plans. But as Meghan said

7 at the beginning, the administration has supported this

8 settlement, and has worked hard to get it through

9 Congress, has worked hard with the judge to get final

10 approval for the overall fairness given all the

11 complexities of it.

12 So if we did have to go back, into litigation is what

13 would happen because the litigation would still be in

14 play, and then we'd be right back in the thick of what was

15 a contentious 15 years. So we hope that doesn't happen,

16 but we'll have to wait and see.

17 MICHAEL FINLEY: Well, one comment I have on

18 this is the government is the trustee on behalf of the

19 beneficiary. And we as tribal leaders were reminded of

20 that several times over that this process will work itself

21 out, and you have the right to bring this on behalf of the

22 beneficiary because you are the trustee.

23 But when the beneficiary goes to ask and get certain

24 questions answered as this process is working itself out,

25 they are told to call here, call there, call this number.

1 They're calling all over the place. They're all coming
2 back to us as tribal leaders, and we couldn't get answers
3 either.

4 And to this day, they're not giving answers, the very
5 trustee to say that they can't talk about it because it's
6 confidential. It's their welfare and interest, but it's
7 difficult to understand.

8 But that's the atmosphere that was created by this,
9 and it only goes to feed into this idea of this mistrust
10 that our tribal members have for not only the Tribal
11 Government, but for the Federal Government as well.

12 MICHAEL BERRIGAN: That's absolutely fair, and
13 I can only say that when the United States is sued as we
14 were, we were sued by individual Indian account holders,
15 the United States defends itself in litigation.

16 Tribes were not plaintiffs in that. Tribes are
17 plaintiffs in the hundred tribal trust cases we have,
18 which is a whole other arena.

19 So when we're in litigation, and just to be clear,
20 again, it's not a confidentiality order that we're dealing
21 with. It's a non-contact order. I mean, after a few
22 years of litigation, the plaintiffs were complaining about
23 contact between the government and government officials
24 and individual account holders.

25 And we were prohibited from engaging in discussions

1 with potential class members by court order. It was not
2 the administration that imposed that on ourselves. It was
3 a court order.

4 So we're not free to abrogate that until this is
5 over, and that's why we had to get it lifted. So it has
6 made it very difficult to have discussions in some of
7 these areas because of the litigation dynamic.

8 I can only agree with you on that. It makes this
9 process difficult to do as well, and it's just a fact of
10 life of litigation, and how the government has to do
11 business and listen to federal judges when they impose
12 orders on us. So we certainly don't want contempt of
13 court proceedings against us.

14 HARVEY MOSES: Some of us are slow on this.
15 I've got this letter saying for information call this
16 number or call that number. We call this number, and they
17 say, oh, we can't talk to you. And then you go back to
18 your local office. I think it was OST, and they say, we
19 can't talk to you. Call this number.

20 So this is kind of -- and that's one of the reasons
21 that I am the way I am is because of that perpetual cycle,
22 and nobody takes an ownership of anything.

23 And then being on the council, our constituents,
24 unfortunately they're right at your face all the time and
25 let you know how stupid you are for not being able to get

1 them their money.

2 And this happens to a lot of people. You get beat
3 up. We've got no control. It's the BIA. That's the
4 government. No, you're our council. You're supposed to
5 know this. You're supposed to take care of us.

6 MICHAEL BERRIGAN: That's understandable, and
7 believe me, I was involved intimately when the settlement
8 was being approved and trying to figure out how to address
9 these exact questions because there are two things: One,
10 BIA officials are -- the settlement does not at all
11 constrain their obligation to assist tribes and
12 individuals with their issues. I mean, business did not
13 close because of the settlement.

14 So information about accounts and lands and so forth
15 is perfectly permissible for BIA officials to answer those
16 things, and in a lot of ways those relate to the
17 underlying issues of the settlement.

18 At the same time what cannot happen is discussion
19 about the settlement itself, and whether you're wise to
20 take a settlement or not take the settlement.

21 And the reason for that was this no contact order.
22 The plaintiffs had said, listen, government officials are
23 not going to give good advice. Like I said, there's 15
24 years of contentiousness in the litigation.

25 So the government officials were prohibited from

1 giving any advice on that, and that's why it went to the
2 plaintiffs, call the 800 number or call our City Group,
3 who's the contractor.

4 So it did make for a very difficult dynamic to get
5 information about all that you had to go to the
6 government, but for some of the purposes you had to go to
7 plaintiffs and their contractor.

8 And it was confusing, and the OST call center and the
9 BIA offices around the country dealt with that confusion,
10 too, and all I can say is sorry about that. That's just
11 -- that's the nature of the complicated class action
12 settlement and how it played out with the court orders
13 with respect to no contact.

14 STACIE SMITH: So I'm going to jump in here,
15 knowing that we are scheduled for a break. And it seems a
16 good time for a break.

17 I know this is a topic that lots of people have lots
18 of things they want to say. It's also off the topic that
19 we're trying to really focus on today, which is the land
20 consolidation component of the program.

21 And Solicitor Berrigan is doing his best to respond
22 to people's concerns and questions within the constraints
23 that he's under on what he can say on these topics.

24 I'm going to see if I can ask you to try and hold
25 those questions and comments, and we can really try after

1 our break to come back and focus on the land consolidation
2 component of this program to the extent possible. So
3 we're going to take a 15-minute break now.

4 I have you as our next speaker. I apologize. Would
5 you like to speak before our break?

6 JOANNA MOREK: Yes, I would. First of all,
7 I'm not sure because my early documentation is that this
8 would be for tribal leaders, and the afternoon for general
9 public.

10 The gentleman that spoke from his heart and from his
11 experience had some very valid questions that could have
12 been answered regarding the appraisals, titles, offices
13 and everything and funding to go there.

14 Since the Bureau wants to grab all of this money and
15 use it for themselves and their administrative fees, there
16 could have been some answers related to this person.

17 Yes, there was some confidential information that was
18 there, but that's all that had to be said instead of
19 turning him away, because I would like you all to
20 understand I took an oath of office when I was elected to
21 protect the economic, social welfare of my tribal
22 membership, which includes the culture, the land, the
23 water, the air, the food chain, and I take it very
24 serious.

25 The Bureau wouldn't have a job, OST would not have a

1 job, tribal leaders would not have jobs if it weren't for
2 their membership. That's what makes a tribe is every
3 enrolled tribal member. It's not the elected officials.
4 It's a tribe.

5 And when you look that up in the dictionary, it
6 doesn't say nine Nez Perce executive committee members.
7 It consists of all of our people, quote/unquote, the
8 tribe.

9 So to have that happen and to hear that -- I don't
10 know. Like I say, there were some very valid questions he
11 asked that would have helped us as tribal leaders go back
12 and relay the information to our land owners since the
13 Bureau didn't, since the Cobells didn't.

14 And we're the ones that are suffering the anger and
15 the hurt from our tribal members because of the lack of
16 consultation, not only with them, but as a tribal leader.
17 And I don't mean to be disrespectful, but many of his
18 questions were valid and deserved answers. Thank you.

19 MEGHAN CONKLIN: I want to thank you for those
20 comments and apologize if any disrespect was taken. We
21 certainly take everyone's comments here seriously. We're
22 taking numerous notes.

23 Sometimes we don't respond because we don't have a
24 response. We're just writing them down and incorporating
25 them into our thoughts moving forward, but I certainly

1 hope that no one felt offended, and it's not the intent of
2 any of us here today.

3 STACIE SMITH: So why don't we take a
4 15-minute break? We'll come back at 2:55.

5 (Recess taken.)

6 STACIE SMITH: There's a gentleman who had
7 been waiting to speak before our break. Now I don't see
8 him. Well, until he comes, why don't you go ahead, sir?

9 DOUGLAS NASH: Good afternoon. My name is
10 Douglas Nash. I'm a Nez Perce tribal member. I'd like to
11 add my voice of welcome and thank you to the
12 representatives from the Department of Interior who have
13 come here today to listen to what everybody has to say
14 about a topic of great interest of course to everyone.

15 I'm here as you might suspect to suggest that a
16 significant amount of the funds that are being made
17 available under the Cobell settlement for land
18 consolidation as one of the means by which fractionation
19 can be reduced and land consolidation achieved.

20 I don't think there's any quibble about the problem
21 of fractionation and what the cause is. It's a problem
22 that's been growing for a hundred plus year. It continues
23 to grow daily.

24 It's a costly problem. It's costly in terms of
25 administration. Its cost increases daily. It's costly in

1 terms of the probates that are involved with those
2 interests. It's costly to individual owners of those
3 interests and co-owners, and it's costly to tribes as
4 well.

5 The American Indian Probate Reform Act was developed
6 and passed to address the issue of fractionation, and it's
7 been our belief for years that it would do that, but it
8 never has done it. It contained a number of tools and
9 devices that would address and attack fractionation from
10 different angles, but none of them have been put into
11 place or implemented yet.

12 Our institute was established in 2005. We design and
13 build projects that provide estate planning services to
14 Indian land owners. We did that originally with private
15 grant funds, which were not plentiful, but at least
16 available. With the economic crisis, of course, the
17 private grant funds pretty well disappeared.

18 Our project personnel are specially trained in all
19 aspects of estate planning improving. They're also
20 specifically trained to council Indian land owners on
21 options to reduce fractionation of trust interests that
22 they own as well as at times avoid probate, which is
23 sometimes an option.

24 Our personnel are trained to provide estate planning
25 services to Indian land owners, and we do wills for tribal

1 members that are valid in all three jurisdictions because
2 an Indian person might own a property subject to tribal
3 and state jurisdiction as well as federal jurisdiction.

4 In 2005 the Bureau provided a grant to do two things:
5 To determine if estate planning was needed in Indian
6 Country. And if so, if it would reduce or avoid
7 fractionation.

8 The institute was designed and operated as a pilot
9 project on reservations here in Washington and in South
10 Dakota. We had ultimately a period of nine months of
11 actual on-the-ground time.

12 During that period we did over 1,100 wills. We had a
13 waiting list of almost 600 people. It was determined at a
14 subsequent audit by the Bureau that 83 and a half percent
15 of the wills done reduced the land fractionation.

16 So we think two questions were answered. Is there a
17 need? Certainly. 600 people after nine months, 83 and a
18 half percent of the wills done reducing or avoiding
19 fractionation. It showed it to be a valuable tool.

20 We asked for an extension of funding, which was
21 denied, and since that time there's been no further
22 federal money provided to Indian Country for estate
23 planning.

24 Since that time our projects averaged about 87
25 percent of the wills reducing or avoiding fractionation,

1 and that's using a variety of different models and
2 providing services.

3 We have a summer intern program in which we give
4 special training out to selected reservations to provide
5 real estate planning services. We've had that program in
6 place since 2005.

7 This year with projects in Washington, Oregon, Idaho,
8 Montana, the early figures for that program show that
9 about 82 percent of the wills done reduce or avoid further
10 fractionation.

11 It's my thought that estate planning, will drafting
12 is about the only option for reducing fractionation that
13 is cost effective, and that will provide ultimately a
14 savings to the Federal Government in terms of dollars
15 invested.

16 Any reduction in fractionation reduces of course the
17 cost of administration or avoids those costs, and it
18 further avoids the cost of probate.

19 How can that be done? How can this kind of service
20 be delivered throughout Indian Country? It's a question,
21 if pondered, we've looked at, and in response to questions
22 from tribes that have a summer intern program in place.
23 We've got a good summer program, but we have people
24 waiting nine months of the year who otherwise need estate
25 planning services.

1 The cost of providing and placing personnel on site
2 with respect to -- we came up with a model we've developed
3 in which we would utilize teleconferencing and technology
4 to connect tribal members literally anywhere in Indian
5 Country with institute staff.

6 And through teleconferencing, just as we're sitting
7 across the table from each other, go through the process
8 of estate planning, document review and execution.

9 To the extent that it's feasible, some people have a
10 fear of that kind of technology, although it would be such
11 that a person would have to no more than sit at a table
12 and look at a screen. We could use other traditional less
13 technical means to achieve the same result.

14 One of the benefits that the institute as a
15 non-profit independent educational entity provides in
16 delivery of estate planning to Indian Country is that it
17 avoids the issue of a conflict when those services might
18 be provided by a tribe or a tribal attorney because under
19 AIPRA, ultimately the tribe is potentially the beneficiary
20 in every private individual probate that takes place.

21 I would be happy to submit documentation for the
22 record of this hearing on the institute and our background
23 and our service model, and I'd be happy to provide any
24 other information that might be of interest to the
25 Department or the tribal representatives as well. Thank

1 you.

2 MEGHAN CONKLIN: Thank you very much,
3 Mr. Nash. Those were really very interesting comments,
4 and I'm really interested to learn more about your ideas
5 on estate planning. And as others have mentioned, this is
6 a necessary tool that reduce fractionation in the future.

7 And so I'd be very interested to receive your written
8 comment. As we know, Mr. Black has told me the same, so
9 please do, and we look forward to discussing it more with
10 you. Thank you.

11 STACIE SMITH: Is the gentleman that was
12 waiting to speak before the break still here?

13 ROBERT UPHAM: I spent my early years in the
14 Seattle area. I was adopted by Blackfeet as a young boy.
15 When we were asking these questions to the BIA, it just
16 seems to be in the nature of court cases that things can't
17 be talked about.

18 So instead of waiting for them, actually we should
19 come up with plan and get amongst ourselves. We should
20 advise our tribal members whether to settle or not. I'm
21 not speaking for any tribe. I'm speaking as an
22 individual.

23 There are many people in this room who probably have
24 a grandmother or a grandfather that wasn't enrolled
25 because of some BIA policies. These BIA policies were

1 made to modify us.

2 I think with all these things, I appreciate Ms.
3 Cobell for bringing this up. She did this as an
4 individual, something for some reason our tribes aren't
5 able to do because they're geared toward their trust
6 relationship with the government, who haven't exactly done
7 us any favors in the past.

8 I'm just going to say some retrospect stuff in terms
9 of being an Indian and my observation, which I'm not too
10 privy to about the Alaskans and their corporations.

11 When I was in fourth grade, my grandmother wanted to
12 leave me some land, 2,000 acres. Instead it was divided
13 up amongst my mom and my two uncles and my aunt because I
14 wasn't enrolled.

15 So what I'm getting ready to say here is even as far
16 as this money goes as far as good faith, not only is the
17 BIA responsible for good faith negotiations on behalf of
18 the people, but so is our tribe.

19 So as a young boy in the fourth grade, my tribe
20 wasn't able to advocate for me. We come here later, 40
21 years later, I think maybe they should start doing it now
22 instead of asking the government.

23 When I finally got enrolled, the BIA people wouldn't
24 give me information about who the other land owners were.
25 And I went over to the tribe, and they said they couldn't

1 give it to me. It's privileged just like we were talking

2 about with the court case.

3 So how I got the information about who else owns land
4 is the hunting guide. The hunting guide showed who owned
5 the other land, so then I kind of found out where to go to
6 get an idea of where the land was ahead of time.

7 Well, what I'm saying is like other people have
8 echoed, why should it be so difficult? And about the
9 probate, my grandfather died in 2002. And he was trying
10 to give me some land, but it couldn't be negotiated until
11 the probate was done, and that wasn't done until 2009.

12 That's seven years after my grandpa died.

13 So I don't know if that gives you any food for
14 thought, but I'm just saying that whether we do it as an
15 individual Indian, survive and make a new way happen, or
16 as a tribe or as some other entity like the BIA, we need
17 to like maybe take three roads and benefit from somebody
18 else's effort like Cobell did.

19 I don't necessarily agree to what's happening here,
20 but I think it should wake us up to some possibilities.

21 That's all I have to say.

22 MEGHAN CONKLIN: Thank for your comments, and
23 thank you for coming up from Montana.

24 MICHAEL BLACK: I just want to say thank you.

25 Those are good comments.

1 DANIEL JORDAN: I want to get back to the
2 contract discussion. The contract discussion is really
3 kind of a two-part discussion.

4 The first part is the contracting of the federal
5 function. And if that's the federal function under this
6 program, I think that federal jurisdiction is limited to
7 buying land, nothing else, because the internal
8 jurisdiction within reservations is self-regulatory
9 primarily, which is tribal domain.

10 There's only one place in all the documents I've ever
11 read on land consolidation -- it's all about buying land,
12 not about estate management. But, again, I think that
13 that's because that's the Federal Government's limited
14 jurisdiction. If you were to take the property, you have
15 to buy it. I think that's what the 1.9 billion dollar
16 issue is.

17 But if we were to actually look at a broader scope
18 that said it's not just about buying land, there's a lot
19 of Indians that won't sell. No matter how much you want
20 them to sell, they will not sell.

21 There's a broader issue that is important to the
22 Federal Government and to Indian tribes is that it's
23 really the management of the fractionated land. Now,
24 that's something that is not within the domain of the
25 Federal Government, but it's certainly within the domain

1 of tribes, and that's that tribal law element to that.

2 So it's a contract issue, whether we be talking about
3 for a contract, whether it be just simply administering a
4 process that would result in a check to an individual, and
5 then transfer the title, or would it be the management and
6 the prevention of fractionation in the future?

7 Again, that's tribal stuff. That's land use
8 planning, and that's tribal jurisdiction and tribal courts
9 and those kinds of things.

10 We'd like to talk about that broader scope of issues
11 because that really is what the Federal Government and the
12 tribes ought to be talking about because if we don't deal
13 with that, then the 1.9 billion problem will be the same
14 problem 20 years from now because there's nothing that's
15 been done to actually prevent continued fractionation.

16 Now, why does fractionation occur? It actually
17 occurs because the administrative law judge, which is a
18 Department of Interior officer, has a -- or the secretary
19 actually through its exercise to the ALJ, the secretary
20 has authority to continue to partition land upon a
21 determination that the land continues to be a benefit to
22 Indians or to the Indian owner, but nobody's defining what
23 the benefit is.

24 So that's, again, where you attach the value added of
25 the tribe's jurisdiction because we can say in some cases,

1 just hypothetically, that Indian Health Service has a
2 standard. You can't put a septic tank on a piece of
3 property that's less than one half an acre.

4 So that is one health and safety standard that can be
5 applied to the tribal land use standard. And if there's a
6 piece of property, you can't divide it less than one half
7 acre.

8 So the ALJ now has some guidance that you can't
9 continue to divide this land down to pieces of property
10 that is so small you can't do anything with it. That's
11 what we're trying to buy out now.

12 When we looked at AIPRA, what triggers the five
13 percent involuntary sale, we don't know what five percent
14 means. Five percent means nothing for a piece of
15 property, whereas one acre or 20 acres or 160 acres, five
16 percent, we don't know how to apply this. Is it five
17 percent of value? Is it five percent of the acreage?
18 Whatever it is, it's probably too small to do anything
19 with.

20 So, again, I think that's the missing link, and it
21 always has been the missing link in dealing with land
22 consolidation is what is the tribe's civil regulatory
23 standard that needs to be partnered? Because under the
24 Dawes Act it did not.

25 As we know in court cases, the Dawes Act did not

1 extinguish tribal jurisdiction. It just simply imposed
2 federal jurisdiction and created this real kind of an
3 internal call it intrusion, but it allows the Federal
4 Government by secretarial authority to kind of intrude
5 into the ALJ process, divide that land even against the
6 wishes of Tribal Government.

7 Again, if the Tribal Government and the Federal
8 Government were to partner on that, we could actually
9 create those standards.

10 The point being is if you look at this description of
11 what we put in this demonstration project, if in fact we
12 could come up with the definitions or the descriptions of
13 what our performance standards are, what are performance
14 measures, what kind of timeframes, what are the written
15 procedures we need to do, the due process and those kind
16 of things, and what is the ultimate goal?

17 And does the ultimate goal go beyond the Federal
18 Government's limited jurisdiction to simply buy land, or
19 does it take on the other step of really fixing the
20 issues?

21 That's a contract issue. We'd love to see that
22 contract be a partnership that really is adjoining a
23 tribal and federal jurisdiction, and not one that just
24 simply says we paid a performance by buying Indians out
25 because we know some Indians aren't going to sell, which

1 doesn't fix the problem.

2 MICHAEL BLACK: Just to kind of follow up on
3 your comments there, I mean, that message has come through
4 in a number of different ways today is that, yes, what
5 we're here to consult on really is the Indian land
6 consolidation purchase portion of the Cobell settlement.
7 That's really one prong of a many prong approach to really
8 dealing with fractionation.

9 I think you nailed it right on the head, and Mr. Nash
10 nailed it as well. Estate planning, we can't forget that
11 in this process. Now, like I say, we're somewhat
12 restricted in what we're doing here today, and what this
13 program can do to deal with fractionation.

14 But somewhere along the line in our further
15 discussions as we move on down the road, we really do need
16 to further these discussions on estate planning, dealing
17 with probates and all of these things that really further
18 fractionation every day.

19 DANIEL JORDAN: But aren't we taking a very
20 short-sided approach? If you took all the bells and
21 whistles off it, then all we're talking about is 1.9
22 billion dollars and trying to buy a bunch of property.
23 And we're cutting it down to 20 owners for those people
24 who do want to sell, but we can't deal with the other
25 problems if the owners don't want to sell, which we

1 haven't fixed that problem at all. Then in the end, what
2 do we really have?

3 So the whole objective of the land consolidation
4 program is really to get a handle on the management of
5 trust land and get it to the point where it really doesn't
6 self perpetuate itself because nobody's kind of driving
7 it, or not driving it, but nobody's limiting it.

8 But, again, the officer who is in charge of
9 fractionating land is in fact the ALJ, and we just simply
10 work agreements with them. We trust the government and
11 the secretary in the spirit of implementing land
12 consolidation and fix those kind of problems and have
13 partnerships as opposed to independent decisions. I think
14 it's part of the plan.

15 MICHAEL BLACK: I'm not exactly sure how to
16 answer that, but I think you're right. Those are all good
17 ideas, but how do we incorporate that in?

18 We're limited on how we can spend the 1.9 billion
19 dollars in accordance with the government and the
20 settlement itself. We have certain restriction upon us,
21 and I don't know if we have that latitude to use some of
22 the funding to do some of the things you're doing.

23 It's not saying that we can't. It's part of an
24 overall plan to deal with fractionation in conjunction
25 with the implementation of the settlement.

1 PAUL MAYO: Hi, there. Paul Mayo with Tanana
2 Chiefs, and a BIA contractor, also a real estate appraiser
3 since '94. I just had a quick question.

4 I see that 285 million is going to the BIA, and that
5 Alaska comprises 1.2 percent of the total fractionated
6 interest. I was wondering if 1.2 percent of that 285
7 million will go to Alaska for fractionization?

8 MEGHAN CONKLIN: I just wanted to start with
9 an answer to this. The settlement sets aside 1.9 billion
10 for the trust land consolidation program.

11 Of that, the Department of Interior is limited to 15
12 percent of those funds can be used for administrative
13 costs. That's more than 285 million that would go towards
14 administrative costs, not the BIA, but the Department of
15 Interior wholly.

16 PAUL MAYO: And that's what my question is. I
17 know the administrative cost is 15 percent, but we still
18 fractionize it. We started at 10,000 original owners in
19 '71. That's when the bulk of the allotment applications
20 came in. Now we have 48,000 fractionated interests, and
21 we have an exponential problem.

22 And again, like you said earlier, are we going to fix
23 that now with estate planning like Mr. Nash proposed and
24 things like that?

25 We can prevent a bigger problem rather than printing

1 paper later to try to fix this huge problem, but that's my
2 quick comment. I'm going to follow up with written
3 comments from the president of our organization.

4 MEGHAN CONKLIN: I'm sorry. I was just trying
5 to figure out if there was another way to answer your
6 question.

7 PAUL MAYO: So I just wanted to ask that quick
8 question.

9 MEGHAN CONKLIN: Well, thank you very much for
10 your comments.

11 BRIAN SVEC: Hello from the Makah Tribe. Good
12 afternoon. I just had a quick question and some
13 clarification. I was just wondering if a tribe has
14 undivided interests in an allotment and that allotment has
15 undivided fee interest, can the tribe purchase the
16 undivided fee interest with the Cobell funds?

17 Also, you mentioned we're waiting for final approval
18 and it was mentioned about when the time for the 10 years
19 starts. And one of my questions was is it going to start
20 back with the final approval? That's when the time
21 starts?

22 MEGHAN CONKLIN: Yes.

23 BRIAN SVEC: And also I'd like to just echo
24 with the rest of the tribes on their concerns of the
25 appraisal issue, and also have representation with the

1 Northwest Commission Board. The Makah Tribe will also
2 have documentation submitted by October 15th, so thank
3 you.

4 MEGHAN CONKLIN: Thank you. Mike, do you want
5 to address the fee interest question?

6 MICHAEL BLACK: Regarding the fee interest
7 question there, right now under the ILCA amendment we
8 cannot purchase fee interests with the Cobell settlement
9 dollars.

10 But I would raise an issue with you real quick.
11 Speaking to the undivided fee interests within a trust
12 parcel, if the majority of the parcel is trust property,
13 it falls under 2216(c).

14 And we've recently been able to get some decisions
15 made on that language in there that basically says that if
16 a tribe owns an undivided fee interest or if they purchase
17 an undivided fee interest, the language essentially says
18 that upon the request of the tribe, the secretary shall
19 bring this land into trust forthwith, which we've finally
20 been able to get the interpretation that that becomes a
21 mandatory fee to trust acquisition.

22 So that's been a big step forward here for us just
23 within the last two months to be able to get that
24 determination made.

25 So that's just something regarding the fee to trust

1 process and the interest. I've heard from a lot of tribes
2 across the country on those type of issues, but it should
3 expedite our process in bringing undivided fee interests
4 into trust.

5 MEGHAN CONKLIN: I would just add there that
6 Secretary Salazar is tremendously proud of the work that
7 Mike Black has done on the fee to trust program under the
8 BIA.

9 Under Mike's leadership, there's been an impressive
10 amount of lands that have been brought under trust under
11 this administration, and it's been very successful, so he
12 deserves a lot of the credit there.

13 STACIE SMITH: Are there any other comments
14 from the public? Land owners? Organizations? Do we have
15 any closing statements that tribal leaders would like to
16 make?

17 FAWN SHARP: Well, I certainly appreciate this
18 opportunity. We come into a session like this with a lot
19 of hope and many expectations and hope for a very
20 productive day.

21 It feels like today we put a lot of issues on the
22 table. And we understand there's quite a bit of
23 outstanding work, but I think we have committed tribal
24 leaders. We have the various regions working on
25 solutions.

1 And I could say on behalf of the Quinault Nation, we
2 will continue to prepare, think about this issue, try to
3 anticipate some of the barriers and challenges, and try to
4 come to the table with solutions whenever we engage in
5 these type of discussions.

6 I would like to sort of touch on a couple of issues
7 as takeaways. In particular, this question of estate
8 planning, that is a component of our proposal on entering
9 into whether a cooperative agreement or an MOU. We
10 specifically address ways in which we might be able to
11 accomplish that through the program.

12 We too believe that a lot of work is done on the
13 front end, but every day fractionation occurs. And until
14 we address it in a comprehensive fashion, we will continue
15 to face those challenges.

16 So as we work closely together and continue this
17 discussion around either a cooperative agreement or MOU,
18 we'll be happy to bring some of those recommendations to
19 the table on that piece of it.

20 The last piece that we'd like to mention in closing
21 is the idea of the scholarship fund. We too believe that
22 there should be some level of tribal administration of
23 those dollars.

24 In the Quinault Nation, we are looking at a
25 comprehensive approach to providing revenues to our tribal

1 members at many levels to the point of looking at
2 internships for 10- to 12-year-old kids on a local
3 regional level, 13 and 15 national internships, 16 to 18
4 international experiences.

5 And so we're being very creative with our educational
6 dollars. They are limited, but we know firsthand the
7 educational needs of our students at home.

8 And we are going to provide incentives for our kids
9 to attend graduate school as well as some of the sciences.
10 We're having a difficult time attracting kids into timber
11 and forestry and some of the other biological
12 highly-technical science degrees.

13 So we believe that those scholarship dollars will be
14 best administered by each tribe. They're well in tune
15 with the needs of their community as well as in touch with
16 their students, so I'd like to encourage that discussion
17 to see how we might be able to administer those
18 scholarship dollars.

19 So with that, we do thank you for the opportunity.

20 And we will continue this dialogue, and we look forward to
21 future discussions. Thank you.

22 MEGHAN CONKLIN: Thank you.

23 HARVEY MOSES: I just had a conversation with
24 one of our government types, but we've been talking about
25 the hearings, the hearings here and the hearings in all

1 the other places you've been to.

2 And according to this individual, we've all said
3 pretty much the same thing. The individual keeps saying,
4 well, you guys are organized, and it's going to change.
5 It's going to happen.

6 But, again, I just have to go back to when we were
7 all embroiled in the OST thing. We all spoke the same
8 voice, and we went to every hearing, and every hearing was
9 pretty much mirrored one right after another with pretty
10 much the same words, just different people. I reminded
11 the individual of that.

12 But with that being said, I do thank you guys for
13 coming to the Northwest. I always hear that people who
14 come out here think that we're such radicals, and that's
15 interesting.

16 We're the most tamest Indians around. I don't
17 understand the fear, but I'm not -- it's good to hear that
18 ATNI is one of the I guess more radical organizations in
19 Indian Country, but NCAI is kind of I think appreciative
20 of us because we give them the most work. We give them
21 the most resolutions per meeting, so it gives them
22 something to do.

23 I'd like to thank -- again, I'd like to thank you
24 guys for coming, and I just hope you go back with the
25 impression that we're not savages, and we're not militants

1 or whackos like that. We're all just very concerned about
2 our people and the existence thereof. Thank you.

3 MEGHAN CONKLIN: Thank you for keeping us on
4 our toes today.

5 HARVEY MOSES: It's a dirty job, but
6 somebody's got to do it.

7 RUTH JIM: Ruth Jim, Yakama Nation. I too
8 would like to thank you, and would like to echo the words
9 of Coeur d'Alene that as you sit here before us today,
10 that you not listen with your ears, but you listen with
11 your heart because I believe each tribal leader that is
12 seated at this table is speaking from their heart because
13 as a councilman for the Yakama Nation, I am speaking for
14 over 10,000 plus enrolled members.

15 And I am a land owner. I don't own a lot of land,
16 but it's very fractionated. We had to go in and make a
17 will when the -- they did that one law where you were
18 going to lose your land if it was less than two percent,
19 and then they overturned that, and it seems that Indian
20 Country is always getting hit by laws that are made in
21 D.C. or wherever.

22 I know that most of our tribal members aren't going
23 to want to sell their land because the land is who we are.
24 We are taught that -- you know, you speak about natural
25 resources. That's the English word. The people are the

1 land, the water, the air because the land produces all the
2 food that we still subsist on, and I thank you for
3 listening. I hope you are listening.

4 And one word to the lifer: You know, I always think
5 when somebody says they were in the military, and then
6 they transfer over to another government agency, I always
7 wonder in my heart what was the reason for that. Is it
8 because you follow orders well?

9 You know, I hope that's not the case. But if it is,
10 I hope you listen to our orders. Thank you.

11 MICHAEL FINLEY: Thanks for those words, Ruth.

12 It's always a joy to hear from you. I want to reflect
13 back on a few minutes ago to a comment made by my
14 colleague from Nez Perce as well as my cohort here from
15 Colville business council who claimed to be 29 and 21
16 respectively. I guess that makes me their elder.

17 JOANNA MOREK: 27.

18 MICHAEL FINLEY: 27, so I guess it's on record
19 now that I'm their elder. I extend my appreciation for
20 the group for making the long trip out here. I know it's
21 coming from one coast to the other to come and put this
22 consultation on. It's absolutely critical.

23 You heard a lot of concerns of the tribes, especially
24 our concern over whether or not this money is going to be
25 spent in a timely manner, that being the 10 years that

1 they're allocated per the settlement. So hopefully moving
2 forward, the tribes that are here will get their comments
3 in writing and get those submitted.

4 I don't know what type of follow-up meetings are
5 going to be done, or if it's going to be sent out in
6 writing, you know, that these are the comments and this is
7 kind of how we put it together, but at some point I think
8 a follow-up consultation is probably in order because I'm
9 sure we're going to have comments on whatever it is you
10 guys put together even though some of them may or may not
11 reflect what was shared with you here today, but I like to
12 think that they would be. Otherwise, you wouldn't be
13 here.

14 And lastly, the comment that I made earlier about my
15 desire to have other individuals here, please know that I
16 do appreciate you being here, and it wasn't me coming down
17 on any one individual.

18 I do realize that some of you that are here were not
19 part of the original settlement negotiations or
20 discussions, but nonetheless you are charged with carrying
21 out the voice of the administration and its intent as it
22 relates to this settlement. So with that, I do appreciate
23 it, and I'll close for today.

24 JEANNIE LOUIE: Jeannie Louie, Coeur d'Alene
25 tribe. I'm also the secretary for the Affiliated Tribes

1 of Northwest Indians, and also a member of a large land
2 based tribe, and I'm also a land owner myself.

3 And I also lost my mother two years ago and her nest
4 egg is still being probated as well as the many, many more
5 that are out there.

6 I'd like to thank Ruth for her words, and also Dr.
7 Nash with his program with the various funds that they
8 had. He did come onto our reservation and help with the
9 real estate planning so that some of our probates were
10 able to move through the system.

11 And I want to thank you for listening to us and for
12 the words that you shared with us. And from my listening,
13 it sounds like we will as tribal leaders have the
14 opportunity to help or assist with the land consolidation
15 with Cobell dollars.

16 All of us that are here at the local levels, our
17 tribal members, we pretty much know the land ownership
18 makeup of our reservations.

19 And I think dealing with us at that level is going to
20 bring us a long ways to meeting the goals and expectations
21 that you have chartered and asked to complete for the
22 Federal Government and for the tribes. So with that in
23 mind, I want to thank you all too for being here very
24 much.

25 RICKY GABRIEL: My name is Ricky Gabriel from

1 the Colville Tribe, and I'm a councilman there. I hear
2 you when you're saying that you have the -- two of you are
3 veterans and have many years service in your government.

4 We enjoy the same I guess your guys' equal here with
5 our tribal leaders, and many of these tribal leaders here
6 I recognize have more than 20 years' experience in leading
7 our nations into the future, and we're very proud of them.

8 We also have the highest by per capita number of
9 enlisted men and women in the military. So we do send a
10 lot of people -- I guess a majority of -- a lot of our
11 people do go to -- I have four sisters and three brothers,
12 and six of them have served in the military.

13 And I just -- when I hear the argument here, I hear
14 the idea of fractionation, I hear that same idea of
15 fractionation with our numbers, you're looking at the last
16 -- some of the last of us. I hear the definition that you
17 guys are trying to place on our -- not only being Indian,
18 but also our land.

19 So if we could just be Indian and let our lands be
20 Indian Country would be probably the best, and there are
21 advantages for America also.

22 That ability to be undefined also is a last frontier,
23 some of the new businesses that can possibly come up
24 inside of America simply because we aren't constrained.
25 We aren't constrained by definition to your rules.

1 We have our own words for a lot of those rules, and
2 they also have their own meanings that I guess you can't
3 -- you can't define in English words a lot of times.

4 So I hear a lot of people, and I just kind of wanted
5 to -- I'm new in the council. This is so far what I hear,
6 but it is as Brooklyn pointed out, it's in your guys'
7 power in each and every one of you to recognize your
8 ability to change, to be able to at least recognize and
9 see the unique things that we do have within our Indian
10 Country and within our Indian people even just leaving
11 them undefined. So I think that's all I had to say.

12 Thank you.

13 JOANNA MOREK: Joanna Morek with the Nez Perce
14 Tribe, and I want to thank you folks for giving us the
15 opportunity to hear and listen to the concerns of the
16 Northwest Tribes.

17 We spent a lot of time yesterday preparing our list,
18 so that we -- we knew we had to stay on track in order to
19 help implement a plan. And hopefully, as I said, you are
20 listening and hearing, hearing with your heart because we
21 do speak for our membership as well.

22 You know, we get beat up as tribal leaders. We are
23 confronted a lot of times with very angry and upset tribal
24 members, but we listen to them. That's what we took an
25 oath of office for because once you listen to the anger,

1 there's always three or four good recommendations and
2 areas that we need to address together.

3 So we never look at it as them being mean or
4 disrespectful. They're tribal members that are
5 frustrated, have a concern, and many of them deal with the
6 land. And I can only echo that some of the other tribes
7 or land owners probably will not be willing to sell or
8 give up even that spoon of dirt that they own an interest
9 in.

10 So that is my main concern through here is we were
11 provided that list with two percent or less, so what are
12 we expected to do with the money when it's already coming
13 down the line? I don't know how to say -- it's already
14 being implemented to tribes.

15 What are we to do? And when will you step in and
16 say, okay, you didn't buy up this two percent interest.
17 We'll buy it because as the secretary said two or three
18 times today, we will buy the land. We have the money to
19 buy the land, but we as tribes have to come up with money
20 to purchase those interests before the settlement's a done
21 deal.

22 But I do want to thank you folks for allowing us the
23 time to voice our concerns, and I'll look forward to
24 working together with a plan because if you say there's no
25 plan and in all these consultations will be a plan

1 developed, we are expecting that you come back and work
2 with us. Thank you.

3 CHARLES MORIGEAU: Thank you. I just want to
4 echo what everybody is saying here. It's just really
5 heartfelt that we're all here speaking with an open heart,
6 and all our words come from the heart.

7 And it's just that I hope we can come to a workable
8 and viable solution to fractionization on reservations and
9 being able to have our homeland as a whole.

10 It's one of the few things we have left, and we'd
11 like to keep that because our ancestors gave up a lot for
12 what we are fighting for today the same as they had years
13 ago.

14 And we say we talk from the heart, and we do. So
15 let's just remember that we are who we are, and we need to
16 work together. And with your help, we can hopefully come
17 to a solution for all this. Thank you.

18 STACIE SMITH: So I'd like to offer an
19 opportunity to the Department to make some final comments,
20 and then we'll have a closing prayer before we conclude.

21 MEGHAN CONKLIN: Sure, thank you. I want to
22 thank everyone for being here today and for all of your
23 very thoughtful comments.

24 I first want to thank everyone who stayed here the
25 entire day. It's been a long day, but I think we've

1 learned a lot. And I feel very honored that I've gotten
2 the opportunity to spend a day with you, and I hope I get
3 to know you more in the future.

4 I want to thank the Tulalip Tribe for hosting us
5 today, and for the beautiful opening song this morning. I
6 also want to thank ATNI for their donation of the
7 refreshments today. That was a wonderful addition.

8 And I want to thank ATNI for having a meeting
9 yesterday and all the preparations that were done by
10 tribal leaders and others for this meeting. It's been
11 extremely impressive to see the amount of work and thought
12 that's gone into this today.

13 And I can assure you that we take your comments very
14 seriously, and we will be evaluating the comments that we
15 receive today as well as written comments that we receive
16 and the comments in future consultations as we go about
17 the process of developing our plan on how to implement
18 this program.

19 We're not certain yet if there will be additional
20 consultations. That's something that's still a question
21 mark, and I think it really depends on what the court
22 timeline ends up being.

23 But I can assure you any plan that we do develop we
24 will release to Indian Country for comments, and that's
25 something that we feel very strongly about and I want to

1 make sure everyone knows that.

2 I want to thank my team from the Interior who are
3 here today, Mike Black and Mike Berrigan, also Kallie
4 Hanley, who's this lady here in the corner. She did a lot
5 of the work to help make this happen today.

6 I also want to thank Regina King and Michele Singer,
7 who were there to check you in this morning, and you have
8 known them for some time, and Stacie and Meredith for
9 their help with coordinating this meeting.

10 Last, but not least, I want to thank Tracie Stevens.
11 I know you're on your home turf, and it must be nice, and
12 it's wonderful to have you here today.

13 And just again, I want to thank everyone for all
14 their comments, and say that this has been a wonderful
15 experience and great, great ideas put forward today.

16 And we will be evaluating them seriously, and I will
17 be certain to deliver your comments to Secretary Salazar.
18 Thank you very much.

19 MICHAEL BLACK: Well, there have been a lot of
20 thanks today, and I'm going to add a couple more. First
21 off, I want to thank everybody for taking time off from
22 what I know are very, very busy schedules for all of you
23 here to come here and visit with us and share your
24 thoughts and ideas.

25 This has been extremely useful for all of us. You've

1 given us a lot of good ideas. You've challenged us with a
2 lot of good questions, difficult questions in some cases.
3 You provided a lot of thoughtful input to this.

4 And I just want to echo a couple of my comments that
5 were made earlier. We are taking this consultation
6 seriously. I personally am taking it very seriously.

7 This is a different group of players than you've
8 dealt with in past administrations. And I can say that
9 all the way from Secretary Salazar to Assistant Secretary
10 Echo Hawk down to my office.

11 It's a different tone. It's a different time. It's
12 a different attitude. And I've had the opportunity to be
13 up in the Northwest and to meet with ATNI now on three or
14 four different occasions, and to go out and visit with
15 some of the tribes in the Northwest.

16 And personally that's one of the best parts of my job
17 is to be able to get out there and get out on the ground
18 and meet with the tribes, see the issues firsthand for
19 myself and to get that input right there.

20 And I look forward to being able to do that, and I
21 give that invitation to anyone else whenever that
22 opportunity arises.

23 And as I stated before, I've had 23 years in the
24 Bureau of Indian Affairs, 21 and a half of those were in
25 the field. I've been up in the D.C. office now for a year

1 and a half, and I couldn't agree with you more on the
2 statements that were made around the room.

3 We can't sit in D.C. and make the decisions that
4 impact the field without going to the field first and
5 getting the input because nobody knows better about how
6 things work on the ground than the people who actually do
7 the job, and that is both from staff and your staff as
8 well.

9 So those opportunities for me to go out and meet with
10 your staff that do work under compact or contract or go
11 out and visit with my staff that does the work on behalf
12 of the tribes and BIA is integral to my staff in being
13 able to implement any program that we can do to better
14 Indian Country as a whole.

15 And that's been one of my missions since I've been up
16 in the Bureau of Indian Affairs or as the Bureau director
17 is to try and push the resources that we have available to
18 the field where they can really make the difference, and
19 then also solicit that input to bring it on up, and I
20 think that's going to be an important part of this
21 program.

22 So sincerely from the heart, thank you very much, and
23 I appreciate all the input. It's been invaluable to me,
24 and I look forward to meeting with those of you that'll be
25 here on Monday at the ATNI as well. I'm sure I'll hear a

1 whole bunch of new issues there. I look forward to that
2 as well. I'm sure Harvey's going to challenge me on
3 something. Thank you again.

4 STACIE SMITH: So I'd like to invite Marie
5 Zacuze to come and give the closing prayer.

6 MARIE ZACUZE: Before I say the prayer, on
7 behalf of the Tulalip Tribe, on behalf of the elders and
8 the youth and the tribal leaders, I want to thank each and
9 every one of you, all the tribal leaders that were present
10 today.

11 For all of you around the table who just spoke, thank
12 you for speaking on behalf of your people, your elders and
13 your ancestors that have gone on before.

14 And I just want to reiterate that what's been said,
15 when we speak, we speak on behalf of our people, on behalf
16 of the future of our children, and we take it very
17 seriously. When our people are hurt, when our elders
18 speak, we have to bring that message forward.

19 And so, again, I want to thank all the staff that
20 worked hard to bring this all together and make it happen
21 here inside this room. I want to thank our staff who did
22 a good job for our visitors.

23

24 (The meeting was adjourned
25 at 4:03 p.m.)

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CERTIFICATE

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, the undersigned Washington Certified Court Reporter hereby certify that the foregoing deposition upon oral examination of each witness named herein was taken stenographically before me and transcribed under my direction;

that the witness was duly sworn by me pursuant to RCW 5.28.010 to testify truthfully; that the transcript of the deposition is a full, true and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2011.

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