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COBELL TRUST LAND CONSOLIDATION PROGRAM
REGIONAL TRIBAL CONSULTATION

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Taken at
BEST WESTERN RAMKOTA HOTEL
2111 N. Lacrosse Street
Rapid City, South Dakota
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A P P E A R A N C E S

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3 STACIE NICOLE SMITH
(Facilitator)

4 JODI GILLETTE
5 (Department of Interior)

6 MICHAEL BLACK
7 (Bureau of Indian Affairs)

8 MICHAEL BERRIGAN
(Solicitor's Office)

9 GARRYL ROUSSEAU
10 (Sisseton-Wahpeton Oyate)

11 LYNN DUBOIS
(Sisseton-Wahpeton Oyate)

12 WINFIELD RONDELL, JR.
13 (Sisseton-Wahpeton Oyate)

14 RUPERT NOWLIN
(Cheyenne and Arapaho Third Legislature)

15 CHRIS LINDBLAD
16 (Standing Rock Sioux Tribe)

17 TEX HALL
(Mandan Hidatsa Arikara Nation)

18 ROGER TRUDELL
19 (Santee Sioux Nation)

20 RODNEY BORDEAUX
(Rosebud Sioux Tribe)

21 WILFRED KEEBLE
22 (Crow Creek Sioux Tribe)

23 AMEN SHERIDAN
(Omaha Tribe)

24 MICHAEL JANDREAU
25 (Lower Brule Sioux Tribe)

A P P E A R A N C E S (Continued)

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SCOTT WESTON
(Oglala Sioux Tribe)

JOHN STEELE
(Oglala Sioux Tribe)

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P R O C E E D I N G S

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(Prayer by Mr. Bordeaux)

MS. JODI GILLETTE: I want to thank every one for traveling to Rapid City to join us in the foothills of the Black Hills and visit with us about this very important land consolidation component of the Cobell Settlement.

To introduce myself properly, I'm Jodi Gillette, Jodi Archambault Gillette from -- I grew up in Kyle, South Dakota, an enrolled member of the Standing Rock Sioux Tribe. My parents are Dave and Betty Archambault. And I recently moved to Washington, D.C. to become a political appointee in the Obama Administration. And initially I worked at the White House for the President in the Office of Intergovernmental Affairs and recently moved over, I guess it's nine months ago, moved over to the Department of the Interior and served as the Deputy Assistant Secretary of Indian Affairs.

I am really honored and pleased that I'm able to come back to the Dakotas and we're able to hold this consultation in the Great Plains Region. This was not something that was originally planned, but due to the overwhelming requests that were received

1 from the Great Plains Tribal Chairmen to come to
2 Rapid City or to the Great Plains Region to host a
3 consultation on this land consolidation portion,
4 we're here, and we're glad that the leadership at
5 the Department of the Interior agreed with the
6 Tribal leaders and decided to come out here.

7 We also -- I wanted to take a couple of minutes
8 to introduce the folks that have traveled here with
9 me today: From Washington D.C., Michael Black, the
10 Director of the Bureau of Indian Affairs; Michael
11 Berrigan, Director of the Division of Indian Affairs
12 at the Solicitor's Office, so he's our lawyer. The
13 Solicitor's Office has been involved in all of the
14 consultations. Also have the person I depend on
15 very greatly, Tony Walters, my Counselor. He's
16 sitting in the back of the room.

17 Tony, I want to say hi.

18 It's just been a really wonderful way that we
19 can come out with all of the reception that we
20 received also from the staff in the Bureau of Indian
21 Affairs because everywhere we go, I just like to
22 acknowledge all the work that the staff and the
23 agencies and in the regions have pitched in and
24 helped us in a lot of ways.

25 And then also, we'll introduce Stacie in a bit,

1 but Stacie Smith is our third-party facilitator.

2 As you know, the Cobell Settlement is very
3 close to the implementation stage, and we are really
4 excited. We're going to talk about the details of
5 the timeline and where we're at on everything. We
6 are embarking upon the implementation planning phase
7 for the land consolidation. And you know that
8 during this administration one of the key priorities
9 for the President has been to settle some of the
10 more contentious issues between the United States
11 and the Indian Tribes across the nation, and one of
12 the ways that this is expressed is through various
13 settlements, the Cobell Settlement being one of the
14 biggest, and this has always been on the top of the
15 priority list for the President and for Secretary
16 Salazar.

17 We are going to go through more of the details
18 of the settlement and how the land consolidation
19 portion fits into that. This is meant to be an open
20 and honest dialogue, so we are very excited and
21 looking forward to the comments, knowing full well
22 that all of you have done a lot to prepare for this
23 and that this is, these consultations are really
24 meant to be meaningful. And I say that in the
25 sincerest sense because we do have, although we do

1 have a consultation policy and there's a directive
2 from the President to hold consultations on various
3 issues, at the Department of the Interior and Indian
4 Affairs we are committed to hearing your concerns
5 and incorporating them into the eventual product
6 that we're going to put out there.

7 And we know that -- I've worked on the team at
8 the Department of the Interior for nine months now,
9 and we really do have a great team that is committed
10 to that. And worked with Mike Black in the past
11 when he was a Great Plains Regional Director, Mike
12 Berrigan in the Solicitor's Office and Hillary
13 Tompkins have been absolutely wonderful to make sure
14 that we're reflecting the Tribal concerns and
15 priorities throughout our remaining days that we
16 have to plan.

17 I want to just emphasize that we take this
18 relationship that we have with Tribes very
19 seriously. It's a legal relationship that stems
20 from the Constitution, treaties, court decisions,
21 regulations. We support that, the growth of the
22 enrichment of that nation-to-nation relationship,
23 and we know that only through real partnership we
24 are going to make a difference for the future, and
25 really that, at the end of the day, all of us want

1 to see a better future for our children. And I say
2 "our children" in the sense that I'm both a Tribal
3 member and I'm also working with the Obama
4 Administration. And the future really depends upon
5 the work that we do here today, so I do want to
6 thank everyone who has put time and thought into
7 this. And I'd also like to thank the folks that are
8 allottee representatives and those of you who have
9 come, traveled Tribal to Rapid City to visit with
10 us. There will be time in the afternoon where we'd
11 like to hear from you, but in the morning we're
12 going to focus on the Tribal voice.

13 So with that I'm going to turn it over to Mike
14 Black for some opening comments and then go to a
15 Power Point slide that Mike and I will both present.

16 MR. MICHAEL BLACK: Good morning, everybody.
17 I'd like to echo pretty much all of Jodi's comments
18 but also re-emphasize it's always good to be back in
19 the Great Plains. I grew up here, and I've worked
20 here a lot of my career, and it's always a good
21 feeling to be back in the Great Plains where things
22 really happen. I'm an old member of the Oglala
23 Sioux Tribe. I was formerly the Regional Director
24 here in the Great Plains for about three years until
25 I got sent to D.C. "Sent to D.C.," emphasize that.

1 But that was about a year and a half ago, and it's
2 been a good opportunity.

3 And as Jodi said, this is our seventh and final
4 consultation session. We have gotten some
5 exceptional comments as we've gone around the
6 country. And I see a number of people here who
7 attended other consultations in other areas as well.

8 And I'm glad to see you here because we can
9 re-emphasize to some people some of the comments you
10 may have made at the other consultation sessions.

11 But as Jodi said, we're really here to hear
12 from all of you. We want your input on how you
13 think some of these programs, or this program, the
14 Indian Land Consolidation, can be best implemented
15 to benefit the tribes of the Great Plains Region, as
16 well as Tribes all over the country.

17 So, again, thank you for taking time out of
18 your busy schedules to come visit with us and share
19 your wealth of knowledge and experience with us
20 today. Thank you.

21 MS. JODI GILLETTE: We'll go around and have
22 the Tribal Representatives introduce themselves, if
23 you'd like to. And we are going to do a
24 presentation, so after the presentation we'd like to
25 hear the, that's when we would go into the phase

1 where you provide comments, questions and concerns.

2 So let's just do a short round of
3 introductions.

4 MR. GARRYL ROUSSEAU: Good morning, everybody,
5 I'm from Sisseton-Wahpeton. I am the vice chairman.

6 MS. LYNN DUBOIS: Good morning. I'm Lynn
7 DuBois, Sisseton-Wahpeton Oyate. I'm the
8 (unintelligible) council person.

9 MR. WINFIELD RONDELL, JR.: Good morning, my
10 relatives. My name is Winfield Rondell, Junior. I
11 am the Tribal Secretary, Sisseton-Wahpeton Oyate.

12 MR. RUPERT NOWLIN: Good morning. Rupert
13 Nowlin, Arapaho legislator with the Cheyenne and
14 Arapaho Tribes (unintelligible).

15 MR. CHRIS LINDBLAD: Good morning. My name is
16 Chris Lindblad. I'm the in-house attorney for the
17 Standing Rock Sioux Tribe.

18 MR. TEX HALL: I'm Tex Hall, the Tribal
19 Chairman of the Mandan Hidatsa and Arikara Tribal
20 Nation.

21 MR. ROGER TRUDELL: Roger Trudell, (native
22 language) Oyate, or as we're known today as the
23 Santee Sioux, Chairman. Glad to be here. Glad that
24 you're here.

25 MR. RODNEY BORDEAUX: Anpetu Waste. Good

1 morning. Rodney Bordeaux, President of the Rosebud
2 Sioux Tribe.

3 I'd like to introduce one of our council reps
4 from our (unintelligible) committee, Pam
5 (unintelligible).

6 And we have another council rep here, but I
7 haven't seen her yet.

8 But welcome, you all, to the Black Hills, and I
9 appreciate the opportunity to speak on behalf of the
10 Rosebud Sioux Tribe.

11 MR. WILFRED KEEBLE: My name is Wilfred Keeble.
12 I'm Chairman for the Crow Creek Sioux Tribe. Thank
13 you.

14 MR. AMEN SHERIDAN: Hello. My name is Amen
15 Sheridan, Chairman of the Omaha Tribe, Nebraska.

16 MR. JOHN STEELE: My name is John Steele,
17 President of the Oglala Sioux Tribe. I thank you
18 for conducting this in our area. We've been
19 forgotten in the past and we requested this.

20 I would like to recognize our 5th member of the
21 Oglala Sioux Tribe, Myron Pourier, council people
22 Ruth Brown on the Land Committee. And I've got
23 beside me here Mr. Scott Weston on the Tribal
24 Council, Mr. (unintelligible) on the Tribal Council
25 and our Tribal Land Office Director Denise

1 Mesteth (phonetic).

2 This is very important to us, so all of us are
3 here to try and convince you in our consultation.

4 Thank you.

5 MS. JODI GILLETTE: Thank you.

6 Now we're going to go through a Power Point
7 presentation which is pretty much -- also I forgot
8 to mention that we are going to be -- there is going
9 to be a transcript, so everything you say will go on
10 the record and it'll be available for folks to
11 download. Previous consultations are also on-line
12 on www.doi.gov/cobell. So everything is -- we're
13 trying to be as transparent and accountable for
14 what's stated in here on our side, and we also know
15 that not everybody is able to travel here, so it'll
16 give folks an opportunity to hear the conversations
17 that we're having, or at least read about it.

18 So, first of all, I wanted to just go through
19 the background on the Cobell Settlement. And we did
20 lose Ms. Cobell last week, and I know that some of
21 you had, I had talked to some of you before it
22 started, before the consultation started and there
23 was a great deal of respect and honoring of
24 Ms. Cobell as she was laid to rest last week, so I
25 want to, you know, just acknowledge, you know, her

1 work and her, I would say her name all the time now
2 and it's because she spoke out on behalf of some
3 things that she didn't really like.

4 And I also wanted to say that we are really
5 welcoming a candid conversation. And I know that --
6 I know that things have not always been good out
7 here, and I'm not going to try to sugar coat it and
8 say that everything is great everywhere because
9 that's the reason that I came to Washington, D.C.
10 and the reason that I got involved is because we
11 want to make things better. I want to make things
12 better. Mike does. You know, we're here in a good
13 way, but we do need an honest dialogue.

14 So we acknowledge that there's been some dark
15 chapters in our relationship between the United
16 States and Indian Tribes, and we're here to make it
17 better, but we also think that it's important that
18 you are candid about your perspectives and how you,
19 as nations, would like to get things on record.

20 So the background on the Cobell Settlement, the
21 Cobell Settlement was approved by Congress on
22 November 30th, 2010. It's called the "Claims
23 Resolution Act of 2010". Our solicitor carries
24 around the printed copy of that. It's available
25 on-line. It was signed by President Obama on

1 December 8, 2010. And this is -- this live
2 consultation is for the portion of that settlement
3 which is a \$1.9 billion land buy-back for, voluntary
4 land buy-back.

5 Total amount for the land consolidation
6 component of the settlement \$1.9 billion fund, up to
7 15 percent or \$285 million can be used for
8 administrative costs. That is a cap. We can't
9 exceed 15 percent, so two hundred and eighty-five
10 total.

11 As an additional incentive for land
12 consolidation, up to \$60 million, will be set aside
13 to provide scholarships for higher education for
14 American Indian and Alaska Native youth. So what
15 that translates into, if you subtract the 1.9 -- if
16 you subtract two hundred and eighty-five from the
17 1.9 and the 60 million from the 1.9, it comes up to,
18 oh, I guess we did include that, it's 1.615 billion
19 for land purchase and scholarship fund. So total
20 that's just 1.9 minus 2.85 (sic).

21 The trust land consolidation fund provisions of
22 the Cobell Settlement, the land consolidation
23 program funds can only be used for specific
24 purposes. And we're going to have the legal aspects
25 of the Cobell Settlement spoken to by Mike Berrigan

1 in a few minutes here, but I just wanted you to be
2 clear or we always like to clarify that acquiring
3 fractional interests in trust or restricted lands,
4 including administrative costs relating to such
5 acquisitions, so we're just really clearly upfront
6 that the money cannot be used to purchase fee-land
7 on reservations. So you can't -- we can't use this.
8 That's legally we can't do that. It's part of the
9 settlement agreement and the ILCA law.

10 For every land sale, a portion of the sale will
11 be set aside in a scholarship fund for Native
12 American and Alaska Native students, up to a cap of
13 \$60 million.

14 And the third thing is that costs associated
15 with supporting the work of the Secretarial
16 Commission on Trust Reform. So there is going to be
17 a secretarial commission set up, and it's included
18 in the, what is going to happen with the Cobell
19 Settlement. And we've gone through and asked for
20 nominations already on the secretarial commission,
21 and it's tied into Cobell but it's looking at a more
22 global, it's looking at trust reform globally, not
23 just focused only on Cobell.

24 The status of the settlement, I'm going to turn
25 this over to our solicitor. He's going to just walk

1 you through the different items that have happened.
2 And we do have some updated information that we
3 haven't added to the slides related to the appeals.

4 MR. MICHAEL BERRIGAN: Thanks, Jodi.

5 What's on this slide is the legal timeline for
6 what's happened through approval, and the bottom
7 line on all of this is that money has already been
8 appropriated as a result of President Obama signing
9 the Claims Settlement Act and it's sitting there in
10 Treasury. What has to happen before it flows, both
11 to pay class members and to fund the Land
12 Consolidation Program is what's called final
13 approval of the settlement, and that's a term of art
14 that's defined in the statute and it references the
15 settlement agreement. And basically what it means
16 is that all appeals have to be over and then it
17 becomes final. That includes up through the Supreme
18 Court, if it ever gets to the Supreme Court.

19 So that's what happens now, all these
20 consultations and everything else is not being
21 funded out of the Cobell Settlement because those
22 funds are not available now. They're sitting in
23 Treasury until we get final approval.

24 So what's happened is Judge Hogan has approved
25 the settlement, found it to be fair, issued an order

1 finding it fair, and there have been six appeals
2 filed of that. There is a briefing schedule that's
3 been announced on the one case that's furthest along
4 in the appeal process. The appellant's brief was
5 filed about nine days ago. U.S. brief is due
6 mid-December. There will be oral argument in the
7 D.C. Circuit sometime after the turn of the year.
8 The D.C. Circuit is on a term system like the
9 Supreme Court, so we anticipate getting a decision
10 out of the Supreme Court by the summertime. And
11 then it will depend on what the decision is and -- I
12 mean, out of the D.C. Circuit Court of Appeals.

13 And once the D.C. Circuit Court of Appeals
14 issues a decision, if it's adverse to the appellant,
15 they have a right to seek certiorari of the Supreme
16 Court. That's a couple steps ahead, but that's
17 what's happening in the appeal process. Once all
18 the appeals are over, it becomes final and the
19 claims funds can be paid and funds flow to fund the
20 Tribal Land Consolidation Program. So all of this
21 consultation and planning that we're doing are in
22 anticipation of everything becoming final.

23 MS. RUTH BROWN: May we ask who are the six
24 that have appealed?

25 MR. MICHAEL BERRIGAN: Excuse me?

1 MS. RUTH BROWN: I would like to ask, inquire
2 who are the six that have appealed?

3 MR. MICHAEL BERRIGAN: I think we have them all
4 listed up on the website.

5 MS. RUTH BROWN: Can you mention them?

6 MR. MICHAEL BERRIGAN: Excuse me?

7 MS. RUTH BROWN: We would like -- would you be
8 able to mention them?

9 MR. MICHAEL BERRIGAN: Yes, I can get them. I
10 don't have those handy. I know the one that we have
11 the briefing schedule, the furthest along, is one
12 on, I believe the appellant's name is Kim Cravens
13 represented by the Center for Class Action Fairness
14 out of D.C. That's the one that we have the
15 briefing schedule on.

16 There's three others that were represented by
17 the same attorney. I will get you -- I'll get this
18 for you and put it on the record after lunch. I
19 just don't have it handy right now, but I will get
20 that information for you.

21 MS. RUTH BROWN: Thank you.

22 MS. JODI GILLETTE: So with the land
23 consolidation timeline, as you know, the -- when the
24 judge -- the clock hasn't started. When the judge
25 issues a final approval and appeals are settled or

1 appeals are --

2 MR. MICHAEL BERRIGAN: No further opportunity
3 for any appeals.

4 MS. JODI GILLETTE: Yeah, the appeals are --
5 not settled. What is it?

6 MR. MICHAEL BERRIGAN: Appeals have run.

7 MS. JODI GILLETTE: -- appeals are run, that's
8 when the time frame starts ticking. And the
9 settlement sets out a ten-year time frame for the
10 use of these funds. "Resolved," that's the word I
11 was looking for, once all appeals are resolved, the
12 time frame is ten years, and after ten years any
13 unused funds will be returned to the Treasury. And
14 the whole point of having the implementation plan
15 for the consolidation, the land consolidation
16 portion of it is that the Department of the Interior
17 has no desire to send money back to the Treasury
18 for, that's been unused after ten years. So once
19 that -- and we all know that ten years is, seems
20 like a long time, but in reality it can go really,
21 really fast.

22 And so the whole point of us coming out and
23 talking with you and trying to understand how to
24 best implement this program is based on our
25 constraints. We only have 15 percent we can spend

1 on the land consolidation administration costs. We
2 only have ten years to spend it. We have a finite
3 number of willing sellers. This is a voluntary
4 buy-back. I emphasize "voluntary". We're not
5 forcing anybody to sell their land, and we have to
6 partner with the Tribes, and so that's really the
7 impetus of, behind what we want to visit with you
8 about.

9 And because of the way that the consultation
10 has been held in the past is oftentimes we'll come
11 out and tell you what we think we're going to do, we
12 talk to you a little bit and then go ahead and do
13 what we were going to do anyways, and that's not
14 really what's happening here. We've come up with
15 some goals that Mike is going to go over and that we
16 want to get a reaction from the Tribal leaders based
17 on those goals. But as far as specifics there's a
18 lot of decisions that still haven't been made, and
19 that's why we're seeking your input to see how we
20 should address those questions given the constraints
21 that we have of time and a limited number of, time
22 to spend the money, limited number of dollars to
23 spend on the administration costs, and we know those
24 two things for sure.

25 So I'm going to turn this over to Mike because

1 he has such great in-depth knowledge. I keep saying
2 "great," but he does have really wonderful knowledge
3 related to the ILCA Consolidation Act.

4 MR. MICHAEL BLACK: Okay. Just to kind of go
5 over some of the basics here of what we're going to
6 be talking about today is the key features of the
7 Land Consolidation Program, and under this
8 settlement signed off by the President it references
9 that the buy-back program or the Indian land
10 consolidation portion of the settlement will be done
11 in accordance with the existing Indian land
12 consolidation amendments under AIPRA. And the
13 purpose of the ILCA and Cobell Land Consolidation
14 Program is described in the law below there. It's
15 basically "To acquire as many fractionated interests
16 as economically feasible and to consolidate these
17 land interests into Tribal ownership to promote and
18 enhance Tribal self-determination, economic, social
19 and cultural development needs."

20 Yes, sir.

21 MR. JOHN STEELE: Excuse me. Mike, does the
22 settlement say that we will use ILKA?

23 MR. MICHAEL BLACK: Yes, it does.

24 MR. JOHN STEELE: It does? And so the law
25 would apply?

1 MR. MICHAEL BLACK: Yeah.

2 MR. JOHN STEELE: It's nothing the BIA just
3 picked?

4 MR. MICHAEL BLACK: No, we didn't just pick it.
5 It was spelled out in the settlement.

6 MR. JOHN STEELE: Thank you.

7 MR. MICHAEL BLACK: Okay. The reason we're
8 here today is to basically visit with you on a
9 government-to-government nation-to-nation
10 consultation to get your input based on your
11 experience. And one of the reasons I really
12 promoted it to bring it to the Great Plains here is
13 that the Great Plains has been a part of, or a
14 number of the Tribes here have been a part of the
15 existing land consolidation program. You've had a
16 lot of good experiences or bad experiences or
17 whatever the case may be in how it has operated in
18 the past, and I'm looking forward to hearing the
19 ideas that will move this program forward in a
20 better light as we go forward under this settlement.

21 In looking at this, and we'll talk, we
22 developed some potential guiding principles for
23 moving forward, and we also identified some goals
24 and stuff which we'll discuss here in a minute.
25 Some of the guiding principles and goals -- now,

1 keep in mind these are not in any priority order.
2 These are items that we discussed internally as some
3 potential goals, some of the things that we would
4 look at to take best advantage of the program, and
5 they're really put up here to precipitate discussion
6 and input from you.

7 And Goal No. 1 would be to "Reduce land
8 fractionation in highly fractionated areas." Goal
9 No. 2, "Implement a plan that is time and cost
10 efficient." Goal No. 3, "Consolidate land in areas
11 of tribal preference," and that would be, there
12 again, done through tribal consultation.

13 Strategy 1, same type of deal, "Prioritize
14 highly fractionated lands."

15 Strategy 2, "Target individual Indian money
16 (IIM) account owners." That would be those account
17 holders that may own multiple interests. You know,
18 as it stands we've got a lot of IIM account holders
19 out there that they own small fractions, being able
20 to target those and eliminate those accounts.

21 Strategy 3, "Target landowners having the most
22 number of purchasable interests."

23 Strategy 4, "Target landowners having the most
24 number of tracts."

25 Strategy 5, "Target lands requiring minimal

1 prep work prior to offers being made." That may
2 mean where we have existing appraisals in place
3 where we already have willing sellers that have come
4 forward and it's just a matter of finishing up the
5 paperwork.

6 Strategy 6, "Target tracts which have landowner
7 consent," that's your willing side. That's really,
8 when we're talking about the landowner consent, you
9 have willing sellers that have already come forward;
10 They're interested in selling their land back to the
11 program.

12 Strategy 7, "Target tracts with largest
13 interest per owner," and, there again, you know, the
14 goal behind that would be to be able to put land
15 into Tribal management, get Tribal ownership or
16 majority ownership to the Tribe in a quicker method.

17 Strategy 8, "Target tracts identified by the
18 Tribes," and, there again, that would be through
19 consultation where it may be, you know, most
20 economically feasible for the tribe, it may have the
21 most cultural interest to the tribe or any number of
22 factors.

23 Strategy 9, "Target tracts with economic
24 opportunity for the Tribes."

25 Next steps would be as we complete this final

1 consultation, I believe November 1st is the cutoff
2 for comments, we will be going through all of the
3 comments we've received at the seven consultation
4 sessions and going through some of the internal
5 goals and strategies that we've developed and
6 incorporate all of that into an implementation plan
7 on how we're going to move this program forward.

8 MR. JOHN STEELE: Could we have one of the
9 goals as possibly the BIA to, we target the BIA to
10 speed up appraisals? I think that should be in here
11 that it takes you four or five years to get an
12 appraisal done. I think that's a problem. And I
13 know it's not applicable to the settlement itself,
14 but to prevent problems like in the past that have
15 been occurring on the reservations, to allow the
16 reservations to decide in probate if non-Indians can
17 inherit trust lands. We've got a lot of nonmembers
18 inheriting trust lands and at that point out of
19 trust status. This doesn't help our consolidation
20 program.

21 MR. MICHAEL BLACK: The appraisal issue is
22 something that has come up at literally every
23 consultation session. It's something internally
24 within our discussions we recognize. It is really a
25 part of this: When we get down into the

1 implementation plans, we've got to improve or come
2 up with --

3 MR. JOHN STEELE: Why can't we have it in
4 writing in the goals?

5 MR. MICHAEL BLACK: Understood.

6 MR. TEX HALL: Mike, I have a question or
7 clarification. Can you back up maybe a slide? I
8 think it's number 8. I think what I heard you say,
9 Mike, you were -- on one hand it was targeting
10 tracts, and then I heard something about people,
11 targeting people with a lot of interests. It seems
12 like a, what do you call it when it's a conflicting
13 statement? Can you clarify what you meant by that?
14 Is the goal to target fractionated tracts, or is it
15 to target people with a lot of interests?

16 MR. MICHAEL BLACK: You know, I can say for the
17 Department it would both, Mr. Chairman. You know,
18 because if someone has a significant number of
19 interests within fractionated tracts, it is to our
20 benefit and to the Tribe's benefit to be able to
21 purchase all of those tracts from that individual.
22 They would probably be within a lot of the most
23 highly fractionated tracts that are out there.

24 MR. TEX HALL: What if an area of the
25 reservation is highly fractionated, would that have

1 preference over maybe Tribal members of a different
2 part of the reservation? And so that's what I mean,
3 it's kind of in conflict with that statement. Is it
4 that area that's got highly fractionated areas of
5 tracts, or is it maybe another part of the
6 reservation where a group of people that have
7 fractionation? What is the priority?

8 MR. MICHAEL BLACK: Well, I think that
9 priority, you know, based on what we've been talking
10 about, a lot of it to be determined by the Tribes,
11 through consultation with the tribes, What is your
12 plan? Is it going to be to target these ones over
13 here or to target these ones over here, based on
14 what the Tribe's desires are.

15 MS. JODI GILLETTE: And I think that both the
16 settlement and ILCA, if you look at what Tribal
17 voice is supposed to be in how we implement this,
18 it's not just we're going to do our thing and then
19 the Tribe is going to do their thing. It's going to
20 be how can we, when we go to a Tribe, work with the
21 Tribe to get a prioritized list.

22 MR. TEX HALL: And that's a whole better
23 situation.

24 MS. JODI GILLETTE: And it's not going to be
25 either/or. It will be, you know, How is it that we

1 can build that component into everything that we do.

2 MR. JOHN STEELE: Can we have that in writing
3 also? Because Three Affiliated Tribes' relations
4 are going to be different than the Oglalas', and we
5 need consultation with each tribe on what our
6 priorities are.

7 MS. JODI GILLETTE: I mean, it's on the
8 transcripts, so . . .

9 MR. RODNEY BORDEAUX: Hey, Mike, I have a
10 question or a concern, I guess. You know, a lot of
11 our Tribal members or Tribal landowners are trying
12 to consolidate a lot of their interests, and I think
13 this kind of goes against that when you're targeting
14 landowners, per se. I mean, you're basically going
15 after them. There's people that want to consolidate
16 either by purchasing (unintelligible) their
17 relatives.

18 And also I guess this consultation on ILCA, I
19 mean, we've always had problems with ILCA and the
20 fact that our Tribe had asked for an MOA and were
21 denied by the BIA or local agency, and I understand
22 the (unintelligible) was allowed to do that. I
23 mean, something is wrong here, the opportunity for
24 us to do that with ILCA, because we seen that
25 language and to consult on a program that really

1 does not fit with our needs, and especially when we
2 have a Tribal program that does that, is not right
3 because we're commenting on a, consulting on a
4 program that's already set up and the Tribes don't
5 like it and we're basically stuck with it.

6 So I really don't see us doing any good here
7 because we're going to be basically prevented by law
8 from doing this ourselves where it should happen,
9 Tribes should be able to do this ourselves. So I
10 think this consultation will probably be useless for
11 us. I'm going to still make my remarks, but I just
12 want to let you know right off that I don't believe
13 this consultation is effective at all because it's
14 basically commenting on a program that the Tribes
15 don't like.

16 Thank you.

17 MR. MICHAEL BLACK: I appreciate those
18 comments, Rodney. And I recognize the fact that the
19 way the program has been operated in the past has
20 not been, you know, the most desirous by the Tribes,
21 but that's why we're here because we're not stuck to
22 the way the program has been operated in the past.
23 This is our opportunity to make some changes,
24 hopefully some positive changes to the way the
25 program is implemented, a lot more Tribal input than

1 had ever taken place in the previous program with
2 the way it was set up, and we have the opportunities
3 to improve it, change it, make the necessary changes
4 that will improve the program that will meet the
5 Tribal priorities better. That's really why we're
6 here today.

7 MS. JODI GILLETTE: Just one comment that I
8 have is that the ILCA program as it was designed and
9 as it was implemented and currently operates has
10 always struggled with funding, so that the money
11 that was given to that program to do, purchase land
12 interests has always been a small amount, 35 million
13 in one year. We're talking about \$1.6 billion. And
14 so what that program did was based on some
15 constraints that are different now, and we have to
16 work as closely as we can with you to figure out
17 what those barriers are.

18 In previous consultations we've heard that
19 there was some very strict definitions of what was
20 eligible to be purchased from ILCA, and we're -- we
21 know that those aren't -- those are recommendations
22 by the law, and we're looking at what that means to
23 be qualified under that.

24 MR. ROGER TRUDELL: My name is Roger Trudell,
25 Santee Sioux.

1 Personally our Tribe has not had any dealings
2 with ILCA for whatever reason, but also my
3 understanding is that they have returned a lot of
4 money every fiscal year, that they haven't exhausted
5 their money, so that means it hasn't been very
6 effective in the purchasing of these individual
7 shares. So I kind of agree with what was said in
8 that it's not an effective program. And we continue
9 to go over that, you know, that a lot of the money
10 is going to be returned to the Treasury in ten
11 years.

12 MR. MICHAEL BERRIGAN: If I can just respond
13 for one second about the frustration with ILCA, part
14 of what is going on in these consultations and
15 what's become very clear is various frustrations
16 that various Tribes have with ILCA. For example,
17 the very first consultation session in Billings,
18 Deputy Secretary Hayes said that the intent of this
19 program is not to impose liens, which ILCA required,
20 to try and avoid those altogether. The problem is
21 the statute requires liens, but it allowed the
22 Secretary to waive that.

23 So legally there's a lot of work -- I mean, our
24 instructions are to work with the Tribes and Tribal
25 attorneys to take the most advantage of the

1 flexibility in ILCA in implementing it. So there's
2 a lot of nitty gritty legal work that needs to be
3 done, including MOUs, what can be done in MOUs, what
4 can be done in the appraisal process, to cooperative
5 agreements, to MOUs to get the Tribes running those
6 things.

7 And my instruction from Solicitor Tompkins is
8 to lean as far forward as possible to get this
9 program up and running in the most effective way we
10 can with the Tribes, and so that's the commitment
11 from my attorneys and the regional attorneys around
12 the country. And we look forward to working with
13 Tribal attorneys and others. We've had some very
14 great ideas in public sessions and in sidebar
15 conversations over the last couple months on ways to
16 improve things from people that have had and dealt
17 with these frustrations. So we welcome those, and
18 we're working on those as the plans are being
19 drafted.

20 So I hear your frustration. I understand it,
21 but I'm encouraged by some good thoughts that we are
22 getting. And the statute, the law signed, requires
23 that ILCA be the framework for it, but there's some
24 flexibility, and we look forward to working on that
25 with you.

1 Thank you.

2 MR. JOHN STEELE: I don't want to get off the
3 subject, but the Federal Government comes to us to
4 take care of your problem. You did The Allotment
5 Act, and now you've got a problem in fractionated
6 interests, and so you're using settlement monies on
7 your not being able to keep records, to account, and
8 you're trying to take care of the problem you
9 created. Couldn't we write down as one of the goals
10 there that the Federal Government would stop
11 fractionating interests today in the sacred Black
12 Hills? The 1980 Supreme Court decision says that
13 that belongs to all of us sitting around this table,
14 and you're continuing to fractionate our lands up
15 there. That we put it down as one of our goals that
16 the Federal Government stop fractionating the
17 interests of the Black Hills.

18 MS. JODI GILLETTE: I don't understand the
19 question.

20 MR. JOHN STEELE: There is no question. I just
21 asked if possibly we could put one of the goals up
22 there to stop the Federal Government from
23 fractionating, continuing to fractionate lands in
24 the sacred Black Hills which belong to the Sioux
25 Nation.

1 MS. JODI GILLETTE: Is that a comment or a
2 question?

3 MR. JOHN STEELE: Can we put it down as one of
4 the goals that the government stop fractionating
5 lands, continuing to fractionate lands?

6 MR. MICHAEL JANDREAU: My name is Mike
7 Jandreau, (unintelligible) Chairman of the Lower
8 Brule Sioux Tribe.

9 One of the statements you made,
10 Mr. Berrigan, in relationship to looking at and
11 having good comments in relationship to the subject
12 matter that you were discussing, and yet there is no
13 indication that you're going to be able to move
14 forward to really accomplish those suggestions and
15 those ideals that happened before. So you have
16 already tied us to having to comply with ILCA. I
17 mean, there is no question about that. And you
18 cannot commit to changing that law no more than we
19 can, and you cannot commit to utilizing other
20 strategies to effectively fulfill what the Tribes
21 are requesting. So if this is truly a consultation
22 process, you will see in the paper that has been
23 provided to you a requirement that the law actually
24 be requested to be changed so it implements those
25 ideals, and that the time period that is identified

1 not be triggered until such action is taken.

2 You know, this is kind of our last bite at the
3 apple, and that strain has got our necks strained
4 way out there and our necks aren't that long. So
5 there's got to be more than just good-old-boy talk
6 about, Yeah, we'll do the best we can; we'll lean as
7 far forward as we can. Well, when we lean forward
8 we usually get our neck chopped off, but I guess you
9 guys got iron necks.

10 But anyway, there's got to be more to it than
11 just, you know, talking about it. There's got to be
12 a change. There's got to be change in the
13 legislation that has become law and that is forcing
14 us into a situation of accepting a process that we
15 had no voice in recommending be utilized for the
16 distribution of these funds, and that can only be
17 done by change, change and what you as the
18 Solicitor's Office present to the court. Because
19 obviously you received that instruction from your
20 client, the Department of Interior, or at least
21 agreed to it.

22 So, you know, these kinds of talks are not
23 going to go very far unless we get more firm
24 commitment than we have received today about really
25 truly looking at and accepting those comments, at

1 least for discussion, that we have made before you
2 finalize this settlement process.

3 Thank you.

4 MS. JODI GILLETTE: Thank you.

5 MR. MICHAEL BERRIGAN: Sir, I hear you loud and
6 clear and I agree with you. I would just say
7 that -- there's two different things. What I hear
8 you saying is we need to change the law, and I
9 understand that. We will take that back. It's in
10 the transcript.

11 And just like the fractionation issue, there's
12 legal reasons that fractionation continues to happen
13 in terms of property interests and old laws when
14 they passed the Dawes Act in the first place.
15 There's lots of history that can't be undone.
16 There's laws that can be changed, but my point is
17 that what we are, I've been tasked to do is work
18 with implementing the law as it is. And this law
19 grew out of a settlement agreement between the
20 Cobell Plaintiffs, the United States represented by
21 the Department of Justice, and that was implemented
22 into law. That law requires that the program be
23 done in conformity with the Land Consolidation
24 Program. Can that law be changed? Absolutely, sir,
25 absolutely. That, though, I think is a heavier lift

1 and requires much more than implementing the
2 program. So while I understand your views on that,
3 that may be a great thing to be done, but in the
4 meantime this law is on the books. The money is
5 there and will flow if the appeals are finally
6 resolved.

7 And, you know, as I look at it in my simple
8 legal mind, those are two different endeavors, to
9 try and change the law or to try and implement the
10 law as it exists. And if my clients of the Interior
11 say, Mike, please work on draft legislation to
12 change ILCA, to change other things, we will do
13 that, but -- and, as I said, we hear you loud and
14 clear, and we'll take it back, but that's a
15 different endeavor than trying to implement this.

16 MR. MICHAEL JANDREAU: But it's not. In any
17 court of law, you know, if you're not adequately
18 represented, you have a cause of action to go not
19 only before the bar association but before the court
20 itself. And if those elements are creating for you
21 impediments that lessen your capacity to utilize or
22 to gain, then you have a cause of action. And, you
23 know, it would be so much easier if you voluntarily
24 went forward and to the court as our representatives
25 or representatives, you know, of the government who

1 is trying to implement this and told the court of
2 the impossibility to barely have this process work,
3 I'm sure the court would listen. They might not
4 agree but they would listen. But that's the only
5 way that this thing is going to be done fairly.

6 The whole ideal and the presentation that you
7 make is always restricted by what you say the law
8 tells you you can do, and why should we, who are
9 supposed to be beneficiaries, accept the inadequacy
10 of what is currently being implemented because you
11 have to follow the law? There's got to be some
12 realism in this thinking. If this is true
13 consultation, there's got to be some realism in the
14 thinking.

15 It's like I said, this is one of the last
16 times. And if you look at the ten-year period, what
17 you're really dealing with is a very significant
18 idealism about what the government status is going
19 to be in relationship to its trust responsibility to
20 us in an ongoing method.

21 Thank you.

22 MR. RODNEY BORDEAUX: One of our council
23 representatives, Pattie Douville, is here, and she
24 has a question on the ten-year limitation.

25 Pattie?

1 MS. PATRICIA DOUVILLE: Good morning. I have a
2 question or a concern basically. The settlement
3 says that there's only a ten-year time frame in
4 order to expense these funds out and then it goes
5 back to the Treasury, and we're sitting here talking
6 about changing the law, the ILCA program. How long
7 would it take to change that? If that is started
8 now, how long of a process would it take to change
9 that and get true consultation from our area here?
10 Because it's affecting us the most in the Great
11 Plains area the most.

12 With that, what's the process, and how would we
13 be able to start, you know, pushing the process to
14 get that change? It's going to be a congressional
15 fix that's going to have to do that, but how can we
16 as leaders here start that process and start pushing
17 it now while the appeals are going through? Can
18 that process start now while this is going on so by
19 the time and/or if the appeals get knocked out or
20 don't get heard, that by the time this is ready to
21 go, that the changes are made according to what
22 we're requesting?

23 MS. JODI GILLETTE: Well, for legislative
24 proposals and time frames attached to those, I think
25 it's anybody's guess with the climate that exists in

1 D.C. right now, and I think all of these have
2 different legislative causes that you're pushing for
3 for each of your Tribes or regions or different
4 issue areas. And by all means there's a possibility
5 that we could look at, you know, changing the law.
6 How it plays into the settlement is a question that
7 is, you know, that is very important and we can take
8 that back, but I'm always leery to say anything on
9 behalf of Congress because I don't represent
10 Congress and I don't understand how some things go
11 quickly sometimes and how some things take awhile.

12 And I think with the way the settlement played
13 out in getting the Claim Settlement Act through
14 Congress, that was supposed to be a couple of months
15 and it ended up being a year. Now, other things
16 we've been trying to get through Congress have
17 taken, they're still not done yet. So we're in our
18 third year of this administration and we still don't
19 have anything. Not to say that we can't ask.

20 And I think, you know, Mike can speak for the
21 Solicitor's Office in terms of how that would play
22 into the whole deal. I don't know how it intersects
23 with the settlement, but Congress is unpredictable
24 right now. And they've always been, but it's even
25 more so now.

1 MS. STACIE NICOLE SMITH: I'm wondering if I
2 can jump in for a moment. I know the discussion is
3 well under way. I hate to break up the energy. I
4 just want to take one moment, if I can, to introduce
5 myself and to say a little bit about our process
6 overall, and it just might help clarify a few things
7 about who can speak when and all of those things.

8 So if you'll just give me a moment, my name is
9 Stacie Smith, and I'm just here to try and help
10 facilitate these conversations and help the process
11 go smoothly.

12 I'm also here, the Department has asked me to
13 help to summarize and synthesize all of the comments
14 that are coming through all of these sessions and
15 through the written comments as well and to try and
16 make sure that that's in front of them in a way that
17 they can act on and to try and help make sure that
18 what's being said and what's being offered from
19 Indian Country is really going to get paid attention
20 to as they're developing the plan. So that's my
21 role.

22 I come from a nonprofit organization. We're a
23 neutral third party, and so our role here is really
24 just to help move things along smoothly and also to
25 help in making sure that what gets said in the

1 consultations gets fed back to the Department in a
2 useful way.

3 To take one more moment, I just want to
4 overview the day briefly. The morning, as Jodi
5 said, the morning is really a
6 government-to-government consultation, and that is
7 most of the people here around the table, but we
8 know that there are elected officials that aren't
9 here at the table that are sitting around in the
10 room.

11 And I think the best way to handle that is for
12 those who might want to speak, to just signal to
13 your principal person here at the table that you
14 would like to speak.

15 And then for you to call on and recognize those
16 people.

17 We just want to make sure that there's a
18 differentiation between the Tribal voice, the
19 nation-to-nation voice and then in the afternoon the
20 individual voice, which is also very important for
21 the Department to hear. We want to just
22 differentiate between those two voices, so trying to
23 keep the conversation on the
24 government-to-government Tribal level in the morning
25 and in the afternoon to open it up to everybody.

1 The other thing is, you know, it might be
2 helpful to just turn your little placard on its side
3 to indicate that you want to speak so people don't
4 have to raise their hands or worry about anything
5 like that. That just might be one easy way to
6 indicate that you're interested in speaking.

7 So that's really all I wanted to say.

8 MR. ROGER TRUDELL: What is your function, did
9 you say?

10 MS. STACIE NICOLE SMITH: My function is just
11 to help facilitate the conversation, the process,
12 make sure it all goes smoothly, to be out of the way
13 as much as possible.

14 MR. ROGER TRUDELL: Okay. Well then you should
15 stay out of the way until the discussion at the
16 table is over, then we can go through that process.
17 Because this is a consultation for the Tribes in the
18 Great Plains Region, and we will say what we want to
19 say, when we want to say it without raising our hand
20 or turning our card on the side.

21 MS. STACIE NICOLE SMITH: Okay.

22 MR. ROGER TRUDELL: So please show us a little
23 respect. You know, we're not little preschool kids
24 that come here to be told how to do things. We
25 already know how to do things. So I'd appreciate it

1 if you'd let the chairman that was talking over here
2 finish what he was saying.

3 Thank you.

4 MS. STACIE NICOLE SMITH: Okay. Understood.

5 With that I will hand it back over.

6 MR. WILFRED KEEBLE: Excuse me. I keep hearing
7 the word "finalize," and then I hear "no more
8 appeals". Can we get a little more explanation on
9 that? Does it include other suits? Does it include
10 infrastructure, dams, water rights? What all are we
11 talking here when we say "when appeals are
12 finalized"? The reason we're asking this is because
13 I heard of a supreme court ruling here where they
14 ruled on the word "now," and that -- it was kind of
15 a touchy deal there. I mean, "now" is now.
16 Unfortunately to them it's not. So can we get an
17 explanation?

18 MR. MICHAEL BERRIGAN: Yes, sir, I'd be happy
19 to do that. This settlement act on this proposed
20 Land Consolidation Program is all based on one
21 lawsuit and that's the Elouise Cobell and
22 Co-Plaintiffs. And that went on for about 15 years.
23 That's the only lawsuit that's settled here.

24 So, for example, last year I was in charge of
25 the Office of the Interior that deals with all the

1 Tribal trust cases, and we've got right now about 95
2 Tribal trust cases that are pending where Tribes
3 have sued the United States for various matters with
4 respect to Tribal council and so forth. Those cases
5 have nothing to do with this, as do any water cases
6 or anything else. This settlement act only deals
7 with that lawsuit that was filed by Elouise Cobell
8 and has been settled. And final approval where the
9 money will begin to be distributed is only
10 contingent on the appeals of that case being over.
11 No other cases at all relate to this or the
12 implementation of this.

13 And maybe part of the confusion is when this
14 act was passed, the Claims Resolution Act of 2010,
15 it was part of a bill that also included four water
16 rights settlements, but those settlements are
17 completely different and distinct. They're
18 independent of this Cobell Settlement and don't
19 relate to it in any way with respect to
20 implementation.

21 MR. SCOTT WESTON: Thank you.

22 Chairman Trudell, I thank you for what you just
23 said because that's what I was going to relay, too.
24 We are here on behalf of the Tribes to listen to the
25 Tribes, not to be told. That's the government

1 process is to have it finalized and to sit there.
2 Because I was that puppet for 25 years. I'm not
3 going to do that anymore. You know, I was always
4 being told, "This is what we're going to do." Now
5 we need to be heard. It's like Chairman Jandreau
6 said, you know, what do we have left? We have
7 nothing left. We don't have anything left because
8 this is all we have.

9 And in the settlement, why do we want to give
10 back a settlement, and how did the government decide
11 to do that? Because in the settlement they already
12 have the ILCA. Why not let us be the masters of our
13 own destiny and let us implement our plans. We, the
14 Oglala Sioux Tribe, have a plan in place that we
15 want to implement, we want to carry out.

16 And I can't speak for the other Tribes, but I
17 know that in our Great Plains Tribal Chairmen's
18 meeting yesterday, we had our lawyers that
19 represented our Tribes put together our position
20 paper of the questions that we have that need to be
21 taken care of every day, that should have been --
22 the one thing that I can't understand is that we
23 cannot buy fee lands. Fee lands were originally
24 Tribal lands, were trust ground that our Tribal
25 members sold to these fee people, to these

1 non-Indians. Why can't we do this? You know, there
2 are a lot of things, and I could go on and on and
3 on, but these are just some of the things that we
4 need to know and understand. Is this in vain?

5 You know, Mike, we visited.

6 Jodi, we visited.

7 You know, "Bring a plan." Well, we have our
8 plan. And, you know, our people need to know.
9 Because we've been put on the back burner for ever
10 and ever and ever. But, you know, I would really
11 appreciate it if we could just start a, I mean, if
12 everybody would just get up and start asking
13 questions, because this is what needs to be heard.
14 Because every Tribe is very knowledgeable of
15 everything that's going on here.

16 So that's just my comment, so thank you.

17 MR. JOHN STEELE: If I can follow up a little
18 bit on what Scott said, we need to go back to the
19 very beginning and determine what "land
20 consolidation" means. Now, each of our Tribes has
21 land consolidation plans, and that is the whole
22 reservation, and different statuses of land, whether
23 it be patent, trust, private, and it seems to me
24 that your land consolidation definition is strictly
25 fractionated interests. And so when we talk land

1 consolidation, our ideas are different. And we're
2 trying to conform to what you're trying to give us
3 here, and we have to go home and change our thinking
4 on what land consolidation is.

5 MR. AMEN SHERIDAN: My name is Amen Sheridan,
6 Chairman of the Omaha Tribe.

7 My sentiments as well along with Chairman
8 Steele and Councilman Weston. In 1882, you know,
9 the Omaha Tribe, the western boundary was -- the
10 (unintelligible) bought portions of the western
11 boundary, and that western boundary there today is
12 what is in litigation.

13 And when we heard about this Cobell opportunity
14 and the funds, it brought hopes to the Tribe that it
15 may be possible to utilize some of those funds, but
16 then we're hearing that we cannot use these on fee
17 land.

18 But then going back to 1882 is that we've never
19 really gotten the opportunity at this date in time
20 to review the process that was given by a solicitor
21 from Interior to come down and allow this to happen
22 amongst the Omaha Tribe. So it does create a great
23 concern for the Omaha Tribe.

24 And also had mentioned that some of the monies
25 that have gone back to the Treasury of the ILCA, we

1 as the Omaha Tribe as well have been
2 (unintelligible) assistance through the Bureau to
3 litigate this for our legal fees and our key witness
4 representative consultant, but today we haven't
5 received any funding from that as well. So we're at
6 a point where a great portion of our reservation is
7 going to be, we may lose it. So today I believe
8 that there should be consideration given to some of
9 these issues that have been on the, on the
10 litigation cases as well.

11 MR. ROGER TRUDELL: Before you respond, I'm
12 Roger Trudell, Santee Sioux Nation.

13 I want to be a little divergent, as I think we
14 have time. I'm here until tomorrow morning, so you
15 guys can all stay as long as you want.

16 149 years ago we took up arms against the
17 United States Government for the very things that
18 we're talking about today in that, you know, the fee
19 lands are not part of the process, but, you know,
20 those are fee lands basically because of the bad
21 practices of the Bureau of Indian Affairs and
22 Department of War and the (unintelligible) and the
23 corrupt superintendents, superintendents that took
24 our people in and declared them incompetent so that
25 they could get their fee patent and be able to put

1 their lands up for collateral or for groceries or
2 whatever. So those fee lands that are within our
3 boundary of the reservation, those are truly former
4 Indian lands, you know, plus the acres that were not
5 allotted out like they should have been, you know,
6 never put back on public domain. You see, all those
7 lands, in my mind those should be what we're trying
8 to consolidate.

9 You know, we have right now the right to first
10 refusal on the selling of heirship lands or allotted
11 lands by individuals. So it would have been a lot
12 more practical for part of this to, if you want to
13 consolidate the reservation, want to reverse the
14 wrongs of all the past, then the fee lands should
15 have been the primary targets.

16 Thank you.

17 MR. TEX HALL: Jodi, I have a statement on
18 behalf of the Great Plains Chairmen. Do you think I
19 should present that now?

20 MS. JODI GILLETTE: Sure. Thank you.

21 MR. TEX HALL: Again, I'm Tex Hall, the Tribal
22 Chairman of the Mandan, Hidatsa and Arikara Nation
23 and Chairman of the Great Plains Tribal Chairmen's
24 Association. We do have written testimony. I don't
25 know if you have a copy of it.

1 MS. JODI GILLETTE: No, I do not have a copy of
2 it.

3 MR. TEX HALL: Will you give that to her?

4 And I'll just have an oral statement, but he'll
5 present the written.

6 Our written work, as was mentioned by the other
7 chairmen, was a lot of hours and team effort from
8 all of the 16 Tribes of the Great Plains.

9 We appreciate the chance to provide input today
10 on the Land Consolidation funds to be made available
11 from the Cobell Settlement in consultation with the
12 Department of Interior.

13 I will first present a brief summary of the
14 position of the Great Plains and then later will
15 provide testimony on behalf of my individual Tribe,
16 like all of us will, all of us 16 tribes. We have
17 prepared a more detailed position paper that you now
18 have in front of you that gives the views of the
19 Great Plains Tribal Nations generally regarding how
20 we want the Cobell Land Consolidation Settlement
21 funds to be administered.

22 First, I do have to comment that the Great
23 Plains Region was not even on the original list of
24 places where consultation would take place, even
25 though the Great Plains has the highest percentage

1 and number of fractionated interests, the most acres
2 of fractionated interests, and the largest number of
3 affected landowners, representing over one-third
4 total of all these numbers. We are the No. 1 region
5 in the U.S. in all these categories. And I do
6 appreciate this becoming a reality.

7 And, Jodi, I know you're a big part of that, so
8 I want to thank you for that.

9 And we hope that in the future, though, that we
10 will not be left out of these important
11 consultations regarding land consolidations. As
12 stated, we are most affected.

13 We understand that the U.S. wants fractionated
14 interests to be purchased with the Cobell funds to
15 save administrative costs for the U.S., but our goal
16 as Tribal nations is broader. We see the Cobell
17 Settlement funds as a unique once-in-a-lifetime
18 chance to help remedy the negative effects of the
19 Allotment Act which in 1903 President Teddy
20 Roosevelt from North Dakota once called, "The
21 Allotment Act served its purpose. It was the great
22 pulverizing engine of the Indian mass."

23 So with the Cobell funds, our goal as Tribes is
24 to consolidate land in the order of preference as
25 determined by the Tribes on a reservation by

1 reservation basis for each of the 16 reservations in
2 the Great Plains that will: A, help restore the
3 reservation land base; B, reverse the negative
4 effects of allotment; C, result in Tribal ownership
5 of sizeable tracts that will allow Tribal beneficial
6 use (as opposed to the Tribe owning multiple
7 fractionated interests); and D, prioritize for
8 purchase lands that will enhance economic or energy
9 development for tribes.

10 However, to do this will require as much
11 flexibility as possible by the Department of
12 Interior, using every tool available under the
13 Indian Land Consolidation Act and the American
14 Indian Probate Reform Act. We have outlined in more
15 detail some of the steps necessary to accomplish our
16 goals.

17 Among other things, we are asking that the
18 Department of Interior, at a minimum, do the
19 following: We need our proportionate share of the
20 total available funds for land purchases, which we
21 understand to be about 1.6 billion. We also need to
22 have a proportionate share of the administrative
23 cost funds. Our Tribes know best what lands should
24 be purchased with Cobell funds and how to administer
25 these funds. We're doing it already. Therefore, we

1 reject any notion of a centralized administration of
2 the land purchases authorized under the Cobell
3 Settlement legislation.

4 We need to make sure that the administrative
5 structures are available to handle the approximately
6 \$50 million per year that should be available to the
7 Great Plains to help purchase fractionated
8 interests.

9 We also need to make sure that the structures
10 to accomplish land purchases are in place at every
11 agency and at the regional office. This means
12 having adequate numbers of appraisers, making sure
13 that Aberdeen Title plant is adequately staffed and
14 that we have access to all of the important data
15 about the land interests in our region.

16 We will need to get clarifications about
17 appraisal methods. For example, since the Great
18 Plains has so many small interests, we will need to
19 make sure that "estimates" of values of the small
20 tracts can be accomplished, rather than having a
21 full-blown appraisal for each small tract.

22 While we would have liked to have the authority
23 to contract many of the land management functions
24 under the Self-Determination Act, we understand that
25 use of the Self-Determination Act was expressly

1 forbidden in the settlement legislation. Therefore,
2 we want to have the opportunity to use Memoranda of
3 Understanding to administer the funds on a regional
4 basis.

5 We want to make clear that while we appreciate
6 the need to reduce the number of interests that
7 represent less than 2 percent of a particular tract
8 of land, the priorities of the Tribes are to create
9 usable tracts of land for our citizens and our
10 Tribe. This is a critical change from the
11 priorities provided by the Department of Interior to
12 the Tribes prior to the beginning of this
13 consultation process.

14 We would also support changes to the Settlement
15 Act that would, among other things, allow the Cobell
16 funds to be used to purchase undivided fee land
17 interests within any particular tract.

18 And as I said in the beginning, we want to use
19 the Cobell funds as much as possible to help correct
20 the problems created by the Allotment Acts that were
21 meant to destroy us. Please review our Great Plains
22 paper carefully and the testimony of all of our
23 individual Tribal Nations.

24 We stand ready and able to assist the
25 Department of Interior to help administer this

1 once-in-a-lifetime opportunity for us.

2 Thank you very much.

3 MR. RODNEY BORDEAUX: I'm President Rodney
4 Bordeaux, Rosebud Sioux Tribe.

5 The Rosebud Indian Reservation was established
6 in 1889 and encompassed an estimated 3.2 million
7 acres in five counties located in south central
8 South Dakota. Through the General Allotment Act of
9 1887, settlement acts of the early 1900s and court
10 decisions, our reservation was greatly diminished.
11 There was mounting political pressure to open the
12 reservation, resulting in a tremendous loss of land
13 with the opening of three of the counties, Gregory,
14 Tripp and Millette in 1904, 1908 and 1911
15 respectively, to non-Indian settlement. This is
16 where we lost the vast majority of our trust lands.
17 The Federal Government was complacent and turned its
18 back on us when it was their duty to uphold their
19 trust responsibility and protect our treaty lands.

20 Our land has also become highly fractionated,
21 rendering it virtually useless. The reservation has
22 approximately 900,000 trust acres today. We lost
23 over 2.3 million acres from 1887 to 1934.

24 To reverse this negative course of action, the
25 Rosebud Sioux Tribe established the Tribal Land

1 Enterprise in 1943 with the specific purpose of
2 purchasing fractionated interests, fee land (former
3 reservation land), and managing acquired land to
4 maximize its commercial value.

5 In 1943, the Tribal Council gave 16,000 acres
6 to TLE. The lease income covered administrative
7 costs for the first several years.

8 Until the early 1950s, the Tribal Council's
9 Executive Land Committee borrowed funds, purchased
10 lands, and turned them over to TLE's management.

11 Between the 1960s and 1980s, the Tribe, through
12 the BIA, borrowed \$9 million from the USDA's Farm
13 Service Agency to purchase land within the
14 reservation.

15 By 1979, TLE had purchased over 400,000 acres
16 of inherited lands.

17 Starting in 1980, TLE started purchasing lands
18 with its own resources, derived from the leasing of
19 those lands under its management.

20 Today, TLE manages approximately 900,000 acres
21 of trust and fee land owned by the Tribe of the
22 original 3.2 million-acre reservation. Of the
23 900,000, approximately 500,000 acres is 100 percent
24 owned by the Tribe. TLE continues to purchase
25 100 percent owned lands from allottees and fee

1 owners in order to restore the original Rosebud
2 Sioux Reservation land base. The remaining 400,000
3 is fractionated, owned jointly by the Tribe and
4 heirs of allottees, and TLE continues to consolidate
5 these parcels.

6 For the past 20 years, TLE has spent
7 approximately \$500,000 per year on land
8 acquisitions. Since 1943, TLE has spent
9 approximately twenty to thirty million on land
10 acquisitions.

11 The TLE is a uniquely successful organization
12 that embodies the 1930s' and '40s' policy of putting
13 land consolidation under Tribal management. All the
14 most difficult land consolidation issues, such as
15 reaching a balance between individual land rights
16 and restoring the Tribal land base, can be seen in
17 the history of the TLE.

18 As the former Director of TLE, Ben Black Bear,
19 Jr., testified to the Senate Committee on Indian
20 Affairs in 1999, "It is the nature of Tribal culture
21 to maintain contact with the Tribal homeland. To
22 the allottee with a minimal interest in land the
23 issue is not economics but maintenance of contact
24 with the reservation homeland, the extended family
25 and the Tribe."

1 TLE acts as a corporation with its own board of
2 directors, conducts \$4.8 million in transactions per
3 year, and is worth an estimated \$50 million.

4 Because it is under Tribal management, TLE can
5 continue to strike that balance between individual
6 and Tribal ownership.

7 The Rosebud Sioux Tribe's proposal through TLE
8 requests the Department of Interior to enter into
9 a -- since we can't use Self-Determination and
10 Self-Governance, we went with the MOA process to
11 administer the Cobell Settlement funds. The Tribe
12 is uniquely positioned to administer such funds in a
13 more efficient and effective manner than the
14 Department of Interior's Indian Land Consolidation
15 Program. We have the historical, technical and
16 management experience to acquire fractionated
17 interests and to put such interests to the immediate
18 use for the improved land use and economic
19 development activities. Through our Treaties, this
20 is our right.

21 In addition, the Rosebud Sioux Tribe supports
22 and affords other Tribes to administer this funding.
23 We also request that any lands purchased with Cobell
24 Settlement funds be excluded from the limitations
25 set forth under ILCA, and purchased lands to be put

1 into trust immediately without a lien.

2 Finally, that lands purchased should not be
3 limited to fractionated interests but to include any
4 land regardless of size that was originally part of
5 the Rosebud Reservation in 1889. And we have an
6 attached resolution.

7 And I want to add that the scholarship funding
8 that is funded through these land purchases be
9 administered by the Tribes themselves. We have our
10 own higher education scholarship program offices,
11 and the funding of that program from the Bureau of
12 Indian Affairs has not kept pace with the need or
13 inflation, cost of work for our higher education
14 students.

15 I thank you.

16 MR. RUPERT NOWLIN: Ms. Gillette, I'd like to
17 comment.

18 First of all, I'd like to thank my brothers.
19 What they've spoken to tonight is very true.
20 They've all voiced real concerns across Indian
21 Country.

22 And, secondly, I'd like to say even though we'd
23 like to think that the clock begins ticking on this,
24 begins after the appeal process has finished, in
25 actuality it's started already. The implementation

1 in consultations is just the first part of it.
2 (Unintelligible). It's time consuming, too. So
3 unless those programs are implemented at the time
4 that the appeals process is over with, it's going to
5 run right into -- the clock is ticking.

6 I'd like to also address the higher education
7 issue component of the Cobell Settlement, and for
8 that purpose I brought along with me a Tribal
9 member, a well-known advocate of our education for
10 the Indian peoples, Dr. Henrietta Mann of our Tribal
11 college.

12 DR. HENRIETTA MANN: Thank you.

13 Greetings Heads of State, the great nations of
14 this country that we were first to love, still love
15 and will always love, who created the first
16 governments in this great land, who now today
17 continue to maintain those government-to-government
18 relationships with the newly established and newly
19 formed United States of America. Our Tribal
20 governments predate this government that we are now
21 in consultation with.

22 And before I go any further, I would like to
23 pay homage and my respects to a great Blackfeet
24 warrior woman who was a personal friend of mine who
25 for many years took time away from her ranch on the

1 Black Feet Reservation to go to Washington, D.C. so
2 that we today can be talking about the results of
3 her gallant and lifelong efforts. Elouise Cobell is
4 a great woman, and I pay my very humble respects to
5 her today for this great task that she accomplished
6 for her ancestors who faced starvation winters on
7 the Black Feet Reservation, whom she worried about
8 getting those funds so that the elders that she so
9 revered would see their payments, and obviously that
10 you would see your lands grow. And I wish, and I'm
11 sure she dreamed, that they, too, would once again
12 be as large as the vast land holdings of this entire
13 nation that was once ours.

14 When we talk about resources and talk about
15 land resources, we cannot separate them from the
16 human resources that abound in our communities, and
17 the most valuable of those resources are our young
18 people, our young people who must be educated to
19 assume the very roles that you carry very
20 respectfully and with dignity today in sitting
21 around and articulating the hopes and dreams and
22 realities of the people that you represent as
23 Lakota, Dakota and Nakota peoples.

24 I am a Cheyenne. I'm a (native language). And
25 many, many, many years it was my ancestors that

1 walked through the Black Hills and formed a great
2 alliance with the (native language), the Arapaho
3 people with whom we are currently allied in
4 Oklahoma, but we still have and maintain the ties
5 culturally and at family levels with our relatives
6 on the Northern Cheyenne Reservation, on the Wind
7 River Reservation of Wyoming. We recognize and
8 honor kinship, and we honor our kinship to you.

9 I know today you have a very weighted topic in
10 front of you, and I wish you well in your
11 deliberations, but as the President of the Cheyenne
12 and Arapaho Tribal College on, in the middle of
13 Cheyenne and Arapaho territory in Oklahoma, I would
14 like to point out that it was the Dawes Act that
15 abolished our reservations in that home of the red
16 man, that at one time was to be included or accepted
17 into the nation as an Indian state. We know that
18 it's not been done, however.

19 But we too have dreams that we carry, and we
20 want our young people to be educated. And I am
21 dedicating my topics to the scholarship fund that is
22 part of the Cobell Settlement. I know that we as
23 individual Tribes are fully capable of administering
24 our scholarship funds, and many have and we have.
25 We continue to do so as a Tribe, because we are, the

1 Cheyenne Arapaho Tribes of Oklahoma are exercising
2 their sovereignty, one of four colleges in the State
3 of Oklahoma to, again, educate their children
4 consistent with their heritage and their culture as
5 a peoples and to provide our young people at the
6 same time with a general education to educate them
7 in the very topics that you are discussing today,
8 that we need to continue to fund these Tribal
9 colleges, which are the most underrepresented and
10 underfunded of institutions in the entire United
11 States, all 36 of them and the one in Canada.

12 I would ask that there be attention given to,
13 as a part of the scholarship deliberations, in
14 funding of Tribal colleges, but very specifically
15 the funding of developing institutions, those Tribal
16 colleges that are just beginning who do not have the
17 kinds of funds to establish their colleges. Because
18 we want the best for their children, our children.
19 We do not want them to have a second-rate education.

20 Tribal colleges have very critical roles to
21 fulfill, so I would ask that we be included, that we
22 be looked at as developing institutions and that our
23 roles as Tribal colleges be assessed and be
24 incorporated in some way into the scholarship funds
25 that are a part of this settlement that my friend

1 worked so hard for us to have.

2 I know you want to continue to talk about your
3 land resources. I thank my Tribal representative
4 for making it possible for me to address this
5 consultation group.

6 I want you to take these words back to
7 Washington, D.C. with you, and these words should be
8 a part of your heart and your mind as we seek, again
9 once more, to be the proud nation that we have
10 always been and to be the educated, the best
11 educated of any group in this country that we moved
12 over to share with those who came here.

13 MS. JODI GILLETTE: Thank you.

14 Why don't we take a five-minute break --
15 15-minute break.

16 (Recess taken.)

17 (Proceedings after the break were started
18 prior to the court reporter being present.)

19 MR. ROGER TRUDELL: Our people have sacrificed.
20 They've given blood; they've given land. They've
21 given just everything they could ever give. And,
22 you know, we're the descendants of those people who
23 made all those sacrifices, and if we don't stick up
24 for our rights when we have the opportunity to talk
25 on a government-to-government basis, then we're not

1 doing those ancestors justice.

2 I will proceed with my preliminary written
3 testimony. This is the Santee Sioux Nation's
4 interests. My name is Roger Trudell, and I am the
5 Chairman of the Santee Sioux Nation. I have been
6 the Chairman of the Tribe for the past 11 years.
7 Today the Santee Sioux Reservation is located in
8 northeast Nebraska along the Missouri River.
9 Bordered on the north side by the Lewis and Clark
10 Lake, it encompasses an area approximately 17 miles
11 long and 13 miles wide and approximately
12 140,000 acres of land. Much of this acreage has
13 passed out of trust and into fee ownership by tribal
14 members and non-Indians as a result of the Allotment
15 Acts of the early 1900s.

16 Today, the Tribe has a land consolidation
17 program focused upon ensuring three things:
18 Ensuring fee lands in critical areas needed for
19 Tribal economic development are re-acquired in trust
20 through land acquisition. Currently the Tribe holds
21 thousands of acres of land in fee status and must
22 continue to bear the burden of taxation as we await
23 the Department of Interior's actions to process
24 land-into-trust applications. If DOI would
25 prioritize and expedite these on-reservation

1 land-into-trust acquisitions, this would really make
2 a difference in our efforts to restore the Tribal
3 economy.

4 Today there are 2,088 acres of allotted trust
5 lands on the reservation that are the second focus
6 of our land consolidation efforts. The program has
7 a goal of ensuring that these lands are not
8 converted to fee status. To consolidate these
9 lands, it is important that funds are immediately
10 available when Tribal landowners want to sell their
11 land to the Tribe.

12 Tribal individual landowners must be provided
13 with the assistance necessary to ensure their lands
14 remain in trust status, and to ensure Tribal member
15 fee landowners are able to place their fee lands
16 into trust status for future generations where
17 possible.

18 The Santee Sioux Nation continues to strive
19 through re-establishing self-determination through
20 economic development and education. This Land
21 Consolidation Program is essential to attaining
22 self-determination and economic development.

23 Tribal acquisitions of land with settlement
24 funds should be immediately available without the
25 creation of meta-structures or new agencies or new

1 lines of authority.

2 The most important thing the Department of
3 Interior can do is to ensure the funds are available
4 without delay. The Santee Sioux Nation is prepared
5 in the coming months to negotiate a Memorandum of
6 Understanding for use of administrative funds and
7 land acquisition funds. The Tribe has done the work
8 to identify several priority tracts of land and
9 could use some of the funds immediately for land
10 acquisition of fractionated interests.

11 The Tribe has identified, as a beginning point
12 in our consultations, several key areas where
13 administrative funds would assist on the reservation
14 in speeding up the processing of acquisitions,
15 including: Staffing to coordinate and to improve
16 communications between the Office of Special
17 Trustee, BIA Realty Office, Title Plant, and the
18 Tribal Land Program; additional staffing within the
19 Tribal Land Program to locate individual landowners
20 through examination of DOI records and probate
21 information, use of locator services, and
22 communications with Tribal members. This is work
23 that can truly only be effectively performed on the
24 reservation; more efficient access to Certified
25 Title Status Reports and data on fractionated tracts

1 required for land acquisitions; additional resources
2 for educating Tribal members on land acquisition and
3 engaging in estate planning; access to processes
4 that permit the Tribe to be informed of trust-to-fee
5 applications made, and of probates involving
6 fractionated land interests to reduce the number of
7 lands transferred from trust to fee status. The
8 appraisal process we currently use through use of
9 OST software to conduct appraisal valuation is
10 working very effectively and should be available for
11 land acquisitions under this settlement. We do not
12 agree with restricting us to the use of USPAPS
13 appraisals as has been done under the Indian Land
14 Consolidation Program.

15 We also want you to know that we do not support
16 the goal of prioritizing 2 percent or less
17 fractionated interests. The goal of the program
18 should be to right the wrongs done in the past by
19 the allotment acts by allowing the Tribe to
20 determine the priorities for which lands to acquire
21 within the Santee Sioux Nation.

22 We further support the use of existing legal
23 authority to delegate to the Agency Superintendent
24 authority to approve land acquisitions with
25 settlement funds without further review by any other

1 office or division of DOI, whether that is the
2 Office of Special Trustee, and Indian Land
3 Consolidation Program Office or any new office DOI
4 creates.

5 The scholarship funds need to be used for
6 enrolled Tribal members in our region. I am very
7 concerned about how educational scholarship funds
8 will be distributed under the settlement. There are
9 three things that must be conditions of the use of
10 these funds if this program is going to result in a
11 benefit to our Tribal members. First, the funds
12 must be distributed proportionate to the land
13 interests by region. With over one-third of all
14 fractionated land interests and one-third of IIM
15 account holders located in this region, the
16 scholarship funds should match this.

17 Second, the funds should be available to
18 enrolled members of federally-recognized Tribes who
19 are from Tribes affected by the Allotment Acts. If
20 the goal of the settlement is to right past wrongs,
21 then these funds should go to the heirs and
22 descendants of those wronged.

23 Third, no nationally centralized process for
24 distributing the education funds should be used.
25 Because of our rural locations, coordinating

1 distribution of and access to education funds with
2 our Tribal Higher Education Departments is critical
3 to make sure those most harmed by the past allotment
4 policies have access to funds.

5 In conclusion, we at the Santee Sioux Nation
6 know our reservation, the needs of our Tribal
7 economy, and the needs of our people in a way that
8 no person hired by the Department of Interior as a
9 contractor or Department staff could possibly know.
10 For this primary reason, and because of our
11 long-standing experience with Tribal land
12 consolidation during the decades when this was not a
13 concern addressed by or shared by the United States,
14 we are confident that we will be able to achieve
15 much more effective results if we enter into a
16 Memorandum of Understanding under which we have the
17 authority to act, and timely access to land
18 acquisition funds.

19 After all, we did not create this land
20 fractionation issue. We did not consent to the
21 allotment of our lands, forced patenting in fee of
22 those allotments, or forced sale of the fee patents
23 to non-tribal members that have caused the economic
24 devastation of our homeland. But certainly have
25 been on the forefront and will continue to be on the

1 forefront of achieving self-sufficiency,
2 self-determination and restoration of our land base
3 and control of our natural resources.

4 We look forward to continuing to work with the
5 Great Plains Tribal Chairman's Association and with
6 our sister nations in the Great Plains to ensure
7 that the region receives its fair share of the
8 settlement funds, that our goals as Tribal nations
9 are achieved, and to ensuring that nationalization
10 of this program, through creation of additional
11 agencies, additional lines of authority, or national
12 contracts for land acquisition functions does not
13 occur.

14 We look forward to working with you on a
15 government-to-government basis to ensure these
16 settlement funds are used appropriately, to ensuring
17 the Great Plains Region receives its fair and
18 proportionate share of settlement funds for this
19 program, and to ensuring that decision-making
20 authority, jobs, and resources remain on the
21 reservation so that our long-term goals of economic
22 self-sufficiency, protection of our individual
23 Tribal landowners' interests and restoring our land
24 base can be met. We hope that you will give us your
25 commitment today to engaging in meaningful

1 pre-decisional consultation prior to implementing
2 any decisions on the use of these funds or the
3 processes for use of these funds.

4 Thank you.

5 MS. JODI GILLETTE: Thank you.

6 I just wanted to let folks know, and I don't
7 think we explained it in the Power Point slides on
8 the "Next Steps," but I'm going to have Stacie put
9 the slide up there on how we are still accepting
10 written comments until November 1st, and that our
11 plan is after this consolidation -- this is the last
12 face-to-face consolidation. November 1st is the
13 last time that we're accepting comments to, at the
14 physical address, and then there's also some
15 information on how to get ahold of the e-mail if
16 you'd like to do comments through that process.

17 But after this then we are going to release
18 publicly a plan, an implementation plan for comment,
19 and that will be -- like somebody, I think the
20 Cheyenne Arapaho representative said that we're on a
21 time -- the clock is ticking right now and we're on
22 a time crunch. We do want to have your input on
23 that implementation plan before the final decisions
24 are made. So we're committed to doing that, and
25 we've announced that a couple of times during these

1 consultations, and we want to make sure that -- the
2 concerns that you're raising about us just going
3 straight into the implementation phase from this
4 consultation is something that we're very keenly
5 aware of, and we're trying our best to make sure
6 that you have time. It's not going to be a lot of
7 time because of the time crunch, but we are going to
8 put that out for consultation. We don't have an
9 exact date when that will be published, but we'll be
10 sure to work with the various regions and agencies
11 to make sure that you know when that hits the
12 Federal Register and you'll have an opportunity to
13 comment on it.

14 MR. JOHN STEELE: And let me put this in for
15 individuals, class-action lawsuit. The Oglala Sioux
16 Tribe, we've got our own lawsuit for the Tribe.
17 It's in the system now. And the settlement done on
18 behalf of individuals says that all claims would be
19 settled. I don't foresee that as affecting Tribal
20 claims like our Black Hills or the Missouri River,
21 but individuals, do they lose their claims in the
22 treaty on their right to hunting and fishing, on
23 gathering? Do they lose their claims that the BIA
24 messed up in their allocation of royalties? Do the
25 individuals lose all claims and cannot go for

1 settlement on individual claims anymore?

2 MR. MICHAEL BERRIGAN: Sir, I will address
3 that.

4 Stacie, do we have a slide about the orders
5 that are in place still in this case?

6 Sir, let me address your question because we
7 didn't go through this in the first part because we
8 started out having conversations right from the
9 beginning, but because this litigation is still, the
10 Cobell class-action litigation, we have a settlement
11 that's been approved by the district court judge but
12 it's not final yet, and in the course of that
13 litigation there were a number of no-contact orders
14 which were issued by the judge because of various
15 facts that had come out in the litigation. It was,
16 as you all know, very contentious litigation.

17 And so what that resulted in was that no
18 Interior officials were authorized to communicate
19 with class members, IIM holders about the
20 litigation, and that order was in place up until the
21 settlement was reached. We had to go to the court
22 to ask for permission to have that lifted, and it
23 was lifted for the Secretary, the Deputy Secretary
24 and the Solicitor. That was it. Those three
25 individuals are the only ones authorized to

1 communicate with class members. And that was at the
2 insistence of the plaintiffs' attorneys and the
3 plaintiffs.

4 We then had to go to the court and ask for
5 permission to have that, those orders lifted to
6 allow us to engage in these consultations about the
7 Land Consolidation Program, and the judge agreed and
8 lifted them but only for the purpose of Land
9 Consolidation Program.

10 And the reason I'm giving all that background
11 is what you've asked, sir, about the scope of this
12 settlement and the releases is the type of thing
13 that we're not authorized to give advice on or to
14 consult on in this setting or anything else because
15 those matters were appropriate between individual
16 class members and the plaintiffs' attorneys,
17 (unintelligible) and the other attorneys that
18 represent the plaintiffs, and we're under court
19 order not to opine to give advice on matters like
20 that.

21 So that's a long-winded explanation for saying
22 that I'm prohibited from --

23 MR. JOHN STEELE: You can't answer me?

24 MR. MICHAEL BERRIGAN: That's right. Yes, sir.

25 MR. JOHN STEELE: But what I see is what they

1 call a settlement is coming down in two different
2 amounts of money. "A thousand dollars" is a word on
3 the street, and it's okay for the individuals to
4 accept that for the BIA not being able to keep
5 records, just a small portion of what they possibly
6 lost because they don't have records.

7 And then there is \$500 being given to an
8 individual, and an individual can say they don't
9 want that \$500 because that's the money buying out
10 all their future claims, and it doesn't specify any
11 claims. It just says "all claims of individuals".
12 And so those related to treaty or BIA's not being
13 able to keep books to account, all claims an
14 individual would be giving up for \$500, is my
15 understanding, but you can't talk about that.

16 Anyway, getting on to another subject, we have
17 the ILCA money appropriated. You would not let
18 Rosebud use their TLE and their definition of how
19 they wanted to consolidate their lands. You used
20 638 (unintelligible) Chickasaw Nation who came in
21 and bought a whole lot of fractionated interests.

22 And the ILCA law says that the Assistant
23 Secretary, which is Mr. Larry Echo Hawk now, can
24 waive those liens. If the Assistant Secretary would
25 waive those liens now, the Tribe could get

1 ownership, get title to those lands and utilize them
2 for social and economic development. Otherwise it's
3 in the United States Government's, under its
4 authority yet.

5 And so you really haven't taken care of the
6 fractionated interests. You just took it from the
7 individual and put it to the BIA or the Federal
8 Government. And that's for what? It depends on the
9 amount of land taken and the time it takes for the
10 lease monies to pay it back, so that's about 50 or
11 70 years down the road.

12 I have a letter here dated April 21st that I
13 sent to Assistant Secretary Echo Hawk, and it's
14 requesting him to use his authority under the ILCA
15 law to waive those liens right now, and he hasn't
16 responded to me yet on this. And so I would like
17 that somewhere.

18 Because you're saying you're using ILCA law on
19 these settlement monies, that any liens not being
20 put on these settlement re-purchased lands --
21 because we're not going to get the intent that the
22 settlement says is for the Tribes then to utilize
23 those lands for social and economic purposes,
24 they're going to be under federal jurisdiction. And
25 so I would ask that the liens, that the Assistant

1 Secretary grant the Oglala's request and that the
2 settlement monies, also the liens be addressed and
3 answer to us.

4 But it's very disturbing to me when --

5 And, if I may, President Bordeaux --

6 MR. RODNEY BORDEAUX: Yes.

7 MR. JOHN STEELE: -- you had a program in place
8 since the 1940s on land consolidation and repurchase
9 of lands.

10 But the BIA could not utilize Rosebud's very
11 experienced successful program, the Tribal Land
12 Enterprise, TLE Program, and that you had to do it
13 your way.

14 I would request that these settlement monies be
15 given to Tribes. The Oglalas' priorities are
16 different than Rosebud's, as stated before, and so
17 you'd have to use individual Tribe's definition of
18 how they want to consolidate their land base.

19 These land bases are quite important to us, so,
20 so important. That's the number one priority in
21 everything. It keeps our people together. It
22 allows us to keep our traditions and our culture and
23 as a people our roots.

24 The BIA in the past in allowing trust to go
25 into fee, where are our people going to go?

1 Separated across the United States into cities, not
2 being able to participate or teach their children
3 our culture and traditions. This is quite important
4 to us this land base. And I don't know if the BIA
5 is playing with us or they're trying with best
6 intentions to do something, but you've got to
7 consult with Tribes and do it the way the Tribe
8 wants to do it.

9 Thank you very much.

10 This is Chris. She's on the land committee.

11 MS. RUTH BROWN: Good afternoon. My name is
12 Ruth Brown. I'm one of the Tribal council
13 representatives. I've been here 14 years. A lot of
14 your faces are very familiar. And I wanted to say
15 today I've been on top of this since the day that
16 Ms. Cobell started her lawsuit approximately 15
17 years ago, 14 of mine, and so it's very -- it's an
18 issue that -- and I think they elaborated at the
19 funeral. Both I and Mr. (unintelligible) was there
20 in presence.

21 And I wanted to share something with you.
22 Without the (native word), without the land we are
23 nothing. So it's very important to stay afloat.
24 Our elders always told us, "You look on the map for
25 the Oglalas. If you are 49 percent you are in

1 trouble," and we are in trouble today. We need to
2 look at repurchasing our lands out there. So it's
3 very important to look at this piece of pie that you
4 have here. What is our amount? I came here today
5 to ask who, what, where, when and why. I'm one of
6 those individuals that like to ask questions so I
7 can give that question back to those landowners,
8 original allottees.

9 What is our amount? What is our dollar amount
10 in this fractionated interest? We are very large
11 fractionated individuals in the Great Plains Region
12 and especially the Oglala Sioux Tribe. We are huge.
13 As it reads here in this letter, 233,420 interests
14 still can be purchased. That's echoed out there in
15 Indian Country.

16 And when you look at the other liens, liens to
17 remove from that previous Indian Land Consolidation
18 Purchasing Program and like it was echoed here, we
19 can do it ourselves. We have a state-of-the-art
20 (unintelligible) Department, first in the world,
21 right in Pine Ridge. We have the expertise and we
22 have the technology to do so.

23 Today I wanted all of our Oglalas to stand, and
24 you'll see them, from not only council but programs.
25 We have individuals that sit as their personnel and

1 attorneys that have gone to school over and beyond
2 and they have that expertise, and I want them to
3 stand today.

4 Superintendents, we have our original.

5 So if you can stand today, I'd really
6 appreciate that.

7 (People stood.)

8 MS. RUTH BROWN: From our Oglala Sioux Tribe
9 members, this is us today, landowners. So I wanted
10 to share that with you today.

11 The education portion, the lady that really
12 elaborated about that, to be educated is the
13 foremost important. That goes hand in hand with
14 land. And those young ones are getting educated
15 today, and those dollars are not available for them
16 out there. And I came today to look at that
17 education, the scholarships, that it would be
18 appropriated to the Great Plains Region. There are
19 so many of us. Numbers are growing. Our land is
20 not. We are getting smaller and smaller.

21 And I want to tell you today because of that
22 Homestead Act on the Pine Ridge Indian Reservation,
23 we have a case law that is building up in Aberdeen
24 that is ready to be put in motion into the court
25 system. So I wanted to share that with you today.

1 It's very important to pay attention.

2 The Great Plains Tribes, those dollars, those
3 appropriations, we're doing your job and correcting
4 a wrongdoing that began in time since the Dawes Act
5 and now we're turning that wheel and moving forward.

6 So I wanted to share those things. And not to
7 be up here, but I believe that I wanted to bring
8 this to your attention that as Oglalas, and I know
9 other Tribes do the same, education is there and we
10 can do -- the technology, we can do it ourselves.
11 We want to be given an opportunity to do it
12 ourselves, to purchase those lands that we see out
13 there for economic, for stability for our people out
14 there that can live on these lands once again.

15 We are in trouble today, but I know we can turn
16 that around because our people are very strong
17 people.

18 So again I want to say wopila (native
19 language). It is important to sit here and
20 understand a destiny.

21 There's a young man here. I was looking at all
22 of you, and I found a young individual from our
23 Tribe. He's 23 years old.

24 If you would come up.

25 He's 23 years old and he still practices our

1 culture. He still practices our language. We try
2 to hold together what we're looking to have, but we
3 still have that within our heart.

4 And so I wanted to share that with you just a
5 few minutes of your time to say a few words.
6 Because this is not going to affect us. It's going
7 to affect those children. Whatever happens here
8 today, our last leg, you always think, It's going to
9 affect those children down the road. It's very
10 important to pay attention.

11 Thank you.

12 MR. TYLER YELLOW BOY: Good morning. My name
13 is Tyler Yellow Boy, and I come from the Oglala
14 Sioux Tribe. I have family both on Oglala and
15 Rosebud.

16 I was just visiting with a council
17 representative from Rosebud, Ms. (unintelligible).
18 And I look around, and I went to the Indian Land
19 (unintelligible) in Hinckley, Minnesota, and I, too,
20 was the youngest one there. And my supervisor, my
21 boss had to point that out. Because this education
22 scholarship program, that was one of the topics that
23 was brought up.

24 And I agree, you know, there are people like
25 myself. I was visiting with one of the people out

1 there, and there's only nine of us in our local
2 college that are taking natural resources.

3 I'm 23 years old. I've been in gaming, an
4 ex-manager of a hotel. I left the position, and I
5 was gracious enough to have the land director ask me
6 to come work.

7 Land is what I'm going to be -- I sit here and
8 I listen because this is not going to affect you
9 right tomorrow. This is going to be me. This is
10 going to be your grandkids.

11 I ride around with a 79-year-old very elderly
12 man. He can sit there in his office and tell you
13 where the Tribal land is without even looking at a
14 computer. We can sit and go and do field checks.
15 And while riding in the car, you know, I'm soaking
16 this up because one of these days he's not going to
17 be there and they're going to come and say, Do you
18 know where this is at? Oh, I should have asked.

19 I was brought up, I was raised by my
20 grandparents. My grandparents never taught me how
21 to mouth off to an elder. "Sit and listen. You
22 will learn something." They also showed me respect.
23 And I apologize for standing up here, but the
24 council representative from Wanblee asked me to come
25 up and say a few words. Because I have a lot of

1 respect for all of you sitting here.

2 I hope that you all that came from Washington,
3 D.C. listen and take back all the comments that are
4 being held here.

5 Because this, like I said, it's not going to
6 affect you tomorrow, it's not going to affect any of
7 us tomorrow. It's going to be me, and they will
8 come back and ask me and say, What happened during
9 the settlement? Nobody else is going to know
10 because I'm the youngest one who took it upon myself
11 to learn where my land is, where our Tribal
12 boundaries are, what's fee land, what's trust land,
13 what's allotted land.

14 In my entire graduating class in 2007 there was
15 114 of us, and not one is in Tribal land, not one is
16 taking up natural resources. So I kind of hold
17 myself high because I'm the only one that's in my
18 graduating class that can say I know where landmarks
19 are; I know where Tribal land is; I know what's fee
20 land; I know what's trust.

21 And from that 79-year-old man I soak it all up
22 because one of these days he's not going to be
23 there. He tells me stories from 1943, 1973. He was
24 telling us about one of the stories where they were
25 cleaning up, the bureau detailed them to clean up

1 the (unintelligible) down at Wounded Knee. You
2 know, that was interesting because I didn't know
3 what was going on at that time. That was way before
4 my time. So he's a walking history book. I take it
5 all in. I take his landmarks.

6 So with that I want to say thank you for
7 listening to me.

8 And thank you, Ms. Brown.

9 MR. TEX HALL: Mike, I'd like to give some
10 comments on behalf of my Tribe. We want to echo
11 President Steele's comments about liens. We want to
12 echo that the Secretary has authority under the
13 Indian Land Consolidation Act, I believe it's
14 Section 102, the Secretary can release the liens
15 that are held on these tracts of land. Can bring
16 millions of dollars to the Great Plains and hundreds
17 of thousands to each Tribe, so I would make that
18 request.

19 I do have a copy.

20 Roger, if you'd pass that down.

21 I have one other copy of my testimony. I won't
22 read all of it. Instead I'll highlight.

23 The Cobell case, as we know, is about
24 individual trust allotments, but this portion is on
25 land consolidation affecting Tribes, so Tribes must

1 be fully involved. That's why the Department needs
2 to seriously study the Tribal comments from these
3 consultation sessions and why it needs to
4 immediately start making the changes necessary in
5 its operating structure to make this land
6 consolidation effort work more properly.

7 I called Aberdeen to see how many owners on the
8 average would be on a tract. It took quite awhile.
9 The normal realty staff person couldn't find it, so
10 I called somebody who would know. That's Alice
11 Harwood (phonetic), and Alice told me that there are
12 14.1 owners average on each tract of land out in
13 Fort Berthold, so that's quite a bit. And obviously
14 there are some tracts of land where there are
15 hundreds of owners on a particular tract of land,
16 making it difficult to develop. So that little
17 scenario, if it took me awhile to get to 14.1, I
18 wonder what the average is of each Tribe here, and
19 is Aberdeen set up to give that information to you?

20 So it is a little concerning to me. And we
21 have to make informed decisions, but we have to have
22 the information readily available. So again I'll
23 emphasize that the Bureau has to be set up to do
24 this, administration of this Land Consolidation
25 Program.

1 And ten years is not very long. If 34 billion
2 was the maximum amount that the Bureau spent, 1.6
3 billion would be 160 million a year in order to
4 accomplish all this money or many of it will be
5 returned. And so that's why we really advocate the
6 contracting or the Memorandum of Agreements, so I
7 want to again emphasize that.

8 We manage our lands at our Tribal governments,
9 and on behalf of our members, our members will come
10 to us to look at selling their interests, their
11 shares, and so that process is well in place, and
12 it's the other parts of the process that get hung
13 up. And it's one of the reasons why I'm emphasizing
14 that our Tribes be allowed to contract through a
15 Memorandum of Understanding. We just don't feel
16 that the Bureau has enough adequate staff to fully
17 implement this program.

18 However, the Bureau needs to have oversight to
19 ensure the trust responsibilities as these are trust
20 lands, and so a good way to do this would be for
21 the, whoever is going to handle this in the Bureau,
22 sit down with each agency and each Tribe to discuss
23 the perspective role and the responsibility, how and
24 when to go forward and what that process will be and
25 where those tracts should be prioritized.

1 And the Great Plains should be number one for
2 implementing. Of all the 12 regions of the United
3 States, the Great Plains should be number one
4 because one-third of all these tracts are, of
5 fractionated tracts and these allotments are in the
6 Great Plains. The Bureau should not go last with
7 the Great Plains, and by doing that the biggest
8 region would then not be able to spend all of its
9 money within those ten years.

10 So as you are hearing today, it's not just
11 land. Land is a part of who we are. So we feel
12 that the BIA land consolidation representation
13 coordinated in the Great Plains needs to be in place
14 and, again, prioritize our region and start the
15 consultation with the Tribes here and each agency so
16 that decisions can be made and implemented in a
17 timely manner.

18 And we talked about the goals. We seen the
19 Bureau's goals, and then we heard the Great Plain's
20 goals. Obviously we differ on, we want to allow --
21 I, for one, am not only a Tribal chairman, I'm an
22 allottee as well. So one of the things at Fort
23 Berthold we would like to do is to give families
24 first right of refusal. Before the Tribe would
25 acquire, would need to give families the first right

1 of refusal to acquire those fractionated lands.
2 Maybe that homestead or that ranch or that farm has
3 been within the family for hundreds of years. And
4 so that could be done through a BIA guaranteed loan
5 program or USDA's guaranteed loan program, but those
6 funds would have to be made available to those
7 families in order for them to accomplish that first
8 right of refusal in a timely manner and in such
9 amount of time that they could. Then of course the
10 Tribe would have that option then to purchase using
11 these funds since the law was made the way the law
12 was and that is for the Tribe to be, to utilize
13 these monies to buy out these fractionated
14 interests.

15 We're concerned that in our region of the Great
16 Plains that the staffing, there's a shortage of
17 staffing at the realty, appraisal and recordkeeping
18 necessary to make these purchases happen in a timely
19 manner.

20 There needs to be time frames. There needs to
21 be, it's almost like a business plan, initiated, a
22 strategic business plan initiated for this region,
23 and the region is very key. And we just -- based on
24 what we know in Fort Berthold, what we're hearing
25 from other Tribes, there's a backlog here and we're

1 not set up right now to accomplish this task. So
2 there really needs to be kind of like a staffing
3 evaluation, not only at the region but our agencies.
4 Our agencies are going to have to process these
5 applications.

6 And so we all know, we heard today that
7 appraisals are a big problem for the Department, and
8 now it's time for the Department to start proposing
9 solutions, both through a broad expansion of the
10 staff at Great Plains and through Tribal contracting
11 of many of the land consolidation functions because
12 we just know how it works and there will never be
13 enough staff adequately at the Bureau.

14 So the contracting function has been very
15 successful under Self-Determination for Tribes in
16 the past, and I think it's only obvious to go with
17 what's worked. And the work, we are large
18 land-based Tribes in the Great Plains, and we really
19 need our own appraiser on our own realty staff, our
20 own realty team to really make this time sensitive
21 and to reach those time frames and to accomplish
22 those goals. If we're sitting there waiting for an
23 appraiser, the clock is ticking, as we heard today
24 from, not only from the Tribes but from the Bureau
25 as well.

1 If you look at some of the -- if we had a map
2 on the Power Point that showed the Great Plains and
3 each of the reservations, I don't think people would
4 say my comment was too far fetched or too far
5 outreached. There are hundreds of thousands of
6 acres of tracts of land that could be available for
7 purchase, and we're just not going to get it with
8 the same system that we have. And so technology,
9 the GPS, all of this really needs to be enhanced so
10 that realty staff that are proposing and Tribal
11 staff, need to have those tracts of land at the
12 touch of their fingertips. They need to be able to
13 pull that up, and they need to be able to talk to
14 interested allottees that are interested in selling,
15 and then we can't be waiting for that appraiser.

16 Maybe, as we talked about earlier, very small
17 interests maybe should be estimated values versus an
18 actual full-blown appraisal. Waiting for a
19 full-blown appraisal for a very, very fractionated
20 piece of land just doesn't make any sense at all.
21 And time is money, as we heard already.

22 So who's in charge of the Indian appraisals at
23 the Department, and will they be the person
24 reviewing outside appraisals? I feel strongly that
25 Interior needs to bring more appraisers back into

1 the BIA system itself. And to make this effort
2 work, we need qualified appraisers who know and
3 understand Indian trust land, Indian Country, and
4 who can get these appraisals completed and back to
5 the appropriate parties in 60 days or less.

6 Can independent appraisals be used to speed up
7 the process? I believe it has to happen, and the
8 Tribes definitely need to have the authority to hire
9 their own certified appraisers. Ideally that should
10 come from the budget that's been proposed from this
11 settlement. If federal money cannot be made
12 available in a timely manner, funding from the
13 settlement should be set aside for this.

14 How will fair market value be determined? In
15 my opinion fair market value can only be determined
16 by the use of a certified appraiser, which is
17 accomplished by a quick and open appeal process.
18 This appeal process should allow both the allottee
19 and the Tribe the right to appeal a finding, and it
20 should provide that a fair decision will be handed
21 down within no more than 60 days.

22 Will the Department use Appraisal Institute
23 standards? Nothing short of a certified MAI
24 appraisal and appeal process like the one I
25 described will be acceptable to the Tribes. As I

1 mentioned earlier, due to oil and gas development in
2 the (unintelligible) formation, two and a half acres
3 could mean significant money to an IIM account
4 holder. They will not want to sell without having
5 that certified appraiser.

6 How will the Department ensure that
7 improvements are included in an appraisal at the
8 proper value? Clearly a direct examination of the
9 property is necessary. This can be done by a site
10 visit by the appraiser, or by a Tribal employee who
11 has the required training and expertise to properly
12 document any improvements on the property. In some
13 instances the appraiser may be able to use modern
14 technology like Google Earth, but Interior has to
15 insure that any such tool that they use provides
16 them with a true and accurate picture of all
17 improvements on and all unique attributes to any
18 given tract of land.

19 How will mineral interests be appraised? The
20 certified appraisal needs to be based upon the most
21 current geological information and on the best
22 production, if it's a producing well, capability
23 information available on any given tract of land.
24 Geology and production are two different things.
25 They both need to be included. And this is where

1 Interior's various minerals and mining staff need to
2 play a role. And I would encourage BIA to start
3 talking to these experts immediately and involve
4 them in the planning process that this undertakes
5 for an allottee to be considered in selling their
6 interest.

7 I think I'm going to try and just skip and try
8 to summarize. I'll go to the bottom of
9 Page 7 (sic). It is still abundantly clear to me
10 that the only way that the Department can
11 efficiently complete its required work is by working
12 closely with Tribes either through 638 contracting
13 or some other type of agreements. Tribal members,
14 Tribal employees, and Tribal governments have the
15 information that you're asking for, that the
16 Department needs to run an efficient program.
17 Tribal governments are also the only ones who have
18 the information necessary to insure that the
19 acquisitions made are in the best interests of the
20 Tribe and the families involved.

21 Our Tribe feels strongly that any process
22 adopted by the Department has to allow family
23 members the right of first refusal on any purchase.
24 This may be something if we don't think the Bureau
25 will consider, it's probably something the Tribe

1 will do on its own policy, develop our own policies,
2 but it would be beneficial if we could work together
3 so we can promote other government guaranteed loan
4 programs, as I mentioned, BIA, USDA and other
5 agencies. This is not only the fair thing to do, it
6 also respects our cultures and values many of our
7 people who have developed these allotments and lived
8 on these allotments for the last hundreds of years.

9 Finally, to limit future fractionation, the
10 Department should be funding BIA and/or Tribal staff
11 to help individual Indians develop wills, and to
12 help Tribes develop and implement Tribal probate
13 codes and procedures. My understanding there's one
14 Tribe here that has a probate code still at the
15 Solicitor's Office. Our Tribe will soon. We have a
16 draft. Major Russell was our attorney here that
17 drafted our probate code, will soon be submitted to
18 our Tribal government for approval and then on to
19 the Solicitor. So as Tribes we're wanting to make
20 sure that the probate is done within our own customs
21 and our own cultures. We cannot afford --
22 especially with these transactions, these are moving
23 transactions. If you get a tract of land and yet
24 somebody passes on, that stops the process,
25 especially if a solicitor is still having to review

1 these probate codes or a probate judge on who the
2 rightful heirs would be. So BIA should reinstate
3 its policy of maintaining a repository of Indian
4 wills. If any of this requires a legislative or
5 regulatory change, then it should be done, because
6 none of us wants to go through this again.

7 The Department's third goal is to "consolidate
8 land in areas of Tribal preference". This should be
9 the overriding direction, should be number one, not
10 just one of the list of stated goals. We will have
11 fallen short of the grand objectives of the Elouise
12 Cobell case if all we do is buy up small
13 fractionated interests and close a small percentage
14 of individual Indian trust accounts. The Cobell
15 case was about the trust responsibility of the
16 United States as well, a responsibility that was
17 broken by the allotment and fractionalization of
18 Indian land.

19 If we are going to repair the legacy of
20 allotment and restore the trust responsibility, then
21 Tribes need to be fully involved in the Land
22 Consolidation Program. The Cobell Settlement gives
23 us this opportunity, and we should not let it pass.

24 And finally we would like to comment that the
25 Indian Education Scholarship Program should be

1 renamed in Elouise's honor and be funded as the
2 Elouise Cobell Indian Education Scholarship Fund.

3 Mazagiddatts. Thank you.

4 MS. JODI GILLETTE: Thank you, Tex.

5 So we're at twelve o'clock right now. I'm
6 willing to see if the Tribal leaders want to keep
7 going. We could resume back after lunch and
8 continue with Tribal discussions, if that would make
9 sense, or we can keep going until you all feel that
10 you're finished. See if you want to keep going.

11 MR. RODNEY BORDEAUX: After we break I think
12 that the chairmen would like to caucus.

13 MS. JODI GILLETTE: Sure.

14 And I just wanted to say that I'm really,
15 really glad that even though we have gotten a lot of
16 feedback on the fact that we did come out to the
17 Great Plains, I just want to comment on the
18 excellent comments that we've received this morning
19 already and that in all the consultations that we've
20 been to, it seems to me, and I've only been to four
21 out of the seven, but it seems to me that a lot of
22 thought and a lot of preparation and a lot of work
23 has gone into the Tribal leaders' comments, and I
24 can't tell you how much we appreciate that
25 meaningful -- this is very meaningful, and it's very

1 helpful to how we're proceeding with the next steps.

2 MR. JOHN STEELE: I'd like to do a little on
3 what you just said.

4 Now, when the BIA has an issue they call the
5 National Congress of American Indians to represent
6 everybody and get their input. We have established
7 a new organization called COLT, as the Congress of
8 American Indians cannot speak to our issues like we
9 can. They don't deal with having to do regulations
10 of different areas, all areas. That's sovereignty
11 from ownership. They don't have the issues of not
12 only the governments that we have to put up with
13 every day, but also the -- the Oglala is the number
14 three poorest per capita income in the whole United
15 States. Rosebud, Cheyenne River are with us with
16 the rural areas. I challenge you to try and live on
17 the amount of money an individual gets each month
18 back home. This is what we deal with on a daily
19 basis, besides trying to make a future for the young
20 people.

21 We're very, very, very busy, but one of us can
22 come to the table to represent our issues. So
23 remember the organization that Tex put together,
24 COLT, because we've got issues that we deal with and
25 we know what needs to be done. So please call us to

1 the table next time you have an issue needing to be
2 addressed. Like this time you forgot us completely
3 on coming to our area on this issue. Please.

4 Thank you.

5 MS. JODI GILLETTE: And I just want to thank
6 you for your comments.

7 We'll break for lunch. We'll come back at
8 1:15.

9 Thank you.

10 (Lunch recess from 12:15 p.m. to 1:40 p.m.)

11 MS. JODI GILLETTE: We can get started. I want
12 to make sure we have time to hear from the public.
13 Any help that you all can provide would be greatly
14 appreciated, because I'm willing to stay past four
15 o'clock if we have to, and I'm going to volunteer
16 Mike that he'd be open to that. But we, you know,
17 just would want to get to that part of the agenda
18 eventually where we're not in any rush. We want to
19 make sure the Tribal leaders have the full amount of
20 time that you feel necessary to provide the
21 information, comments, feedback, concerns, anything
22 that you'd like to present here today, and we are
23 looking forward to further discussion. And if
24 there's anything that you would like answered, we'll
25 do our best and that would be helpful. We are in a

1 listening mode because we're hearing a lot of good
2 things here. And if we have any questions, then
3 we'll bring them up as well.

4 So with that I would just open the floor up.

5 MR. JOHN STEELE: I need to address one thing.
6 I brought it up before and you said you couldn't
7 answer it, on individuals. I've got the settlement
8 here and the wording. And, boy, these are long
9 sentences. "The historical county releasers shall
10 be deemed to be forever barred and precluded from
11 prosecuting any and all claims and/or causes of
12 actions for a historical accounting claim that were
13 or could have been asserted in the complaint when it
14 was filed on behalf of the historical accounting
15 class by reason of or with respect to or in
16 connection with or which arises out of any matters
17 stating in the complaint or historical accounting
18 that the historical accounting releasers" --

19 Anyway, can I ask my Tribal member, Mrs. Dora
20 Brown to stand up back there, please?

21 (Mrs. Dora Brown complied.)

22 MR. JOHN STEELE: Many, many years back Dora
23 told me, "John, as Tribal leader you are the ears,
24 the eyes and the tongue for the people."

25 I thank you for that, Dora.

1 MS. DORA BROWN: You're welcome. You're still
2 young. Keep going. Yeah, keep going.

3 MR. JOHN STEELE: I feel obligated on behalf of
4 the Oglalas to say that they're being fooled.
5 They're not being told the full truth.

6 We look at history and people say, "Oh, the
7 Indians are treated so bad." I don't know how this
8 is coming down. Like I said before, I believe the
9 thousand dollars will be okay to accept, the Federal
10 Government paying a small portion of what they
11 should owe us, but the \$500 is connected to this
12 individual and probably all their descendants saying
13 that they would not put any more claims against the
14 Federal Government. I don't think we're being told.
15 The judge said that they couldn't tell us. But I
16 become somehow responsible for letting my people
17 know the truth, and I don't really know it. I'm
18 only guessing because of the wording.

19 I hate to -- I know I have to be a part of
20 this, but I hate to be a part because it looks like
21 I'm sort of responsible now to the people and I'm
22 fooling them, too. So just like history, it seems
23 that we're fooling the people here with a little
24 amount of money. That makes me very mad at John
25 (unintelligible) for making such a settlement.

1 But I'd like to put this up and put it into the
2 record under my, my words that I hate to be a part
3 of this when I don't know the truth. What are our
4 Tribal members releasing claims against the
5 government for? What is it all? We're not being
6 told. And I think we're all responsible now that we
7 know a little bit about it, to find out what it's
8 really all about.

9 Thank you.

10 MS. JODI GILLETTE: Thank you.

11 MS. LYNN DUBOIS: Good afternoon. My name is
12 Lynn DuBois, and I represent the Sisseton-Wahpeton
13 Oyate, the Lake Traverse Reservation.

14 We have an opportunity to engage in meaningful
15 consultation and collaboration regarding the Cobell
16 Settlement in an attempt to manage the settlement
17 fund efficiently, fairly and use what we have
18 learned from our land purchases programs to reduce
19 the amount of land fractionalization in a way that
20 will best serve individual Tribal members and the
21 Tribe's spiritual, cultural, economic interests,
22 among many others.

23 The Sisseton-Wahpeton Oyate is located in North
24 and South Dakota and currently consists of 12,981
25 enrolled Tribal members, and our enrollment is

1 increasing. The Lake Traverse Reservation consists
2 of over 114,000 acres, spans over five counties in
3 the State of South Dakota and two counties in North
4 Dakota.

5 It is also important to note that for the
6 purpose of this consultation in that Lake Traverse
7 also possesses some of the most highly fractionated
8 lands in the country.

9 The Sisseton-Wahpeton Oyate will be providing
10 its official written comments by the November 1st,
11 2011 deadline and provide the following comments
12 here today, and respectfully we request the
13 following: That Tribes should be provided the
14 ability to either opt in or out of managing the
15 program by entering into a formal MOU to implement
16 the program. Tribes that elect to opt in would then
17 implement their own program to purchase fractionated
18 interests pursuant to Self-Governance and inherent
19 sovereignty of the Tribe through a
20 government-to-government Memorandum of Understanding
21 or Agreement.

22 It is a concern for the Sisseton-Wahpeton Oyate
23 that the Bureau of Indian Affairs will be unable to
24 implement the program within the ten-year time frame
25 without the assistance of the Tribes.

1 The Sisseton-Wahpeton Oyate is competent,
2 capable and eager to accomplish the goals of the
3 settlement. The Sisseton-Wahpeton Oyate has a
4 Realty Department. We have a Geographic Information
5 System Department, Office of Environmental
6 Protection, Tribal Historic Preservation Office and
7 a Higher Education Endowment Program and many other
8 programs and committees too numerous to mention.

9 We have made efforts to reduce fractionation
10 through land exchanges and purchases when available.
11 The Tribal possesses the staff and expertise to
12 manage this project. However, what would be needed
13 is an on-site appraiser. Appraisals can take many
14 months to be completed and in some instances longer.

15 Should the Sisseton-Wahpeton Oyate enter into
16 an MOU to implement the program, we would hire an
17 appraiser or a consultant or even provide education
18 to one of our own Tribal members so that the
19 turnaround time for purchases would be less.

20 Number two, it is essential for the Tribe to
21 have an official position of whether liens will
22 attach to any purchases of fractionated interests
23 through the settlement. This question has been
24 asked continuously throughout the consultations
25 without an official response. The Sisseton-Wahpeton

1 Oyate recommends no liens to be attached to the
2 purchases. Should liens be attached, we request the
3 Secretary to immediately remove all liens.

4 If liens are attached to the property, it is
5 critical for the Tribe in making its final decision
6 regarding priority. These priorities must come from
7 the individual Tribes to truly meet the goals of
8 reducing fractionation, any manner to best represent
9 each Tribe's cultural and economic needs and to
10 promote and enhance Tribal Self-Determination.

11 Some of our lands on the Sisseton-Wahpeton
12 Oyate or Lake Traverse Reservations are land
13 blocked, and we need to purchase these lands
14 surrounding these areas to access our trust lands.

15 Number three, disbursement of settlement funds
16 should be allocated pursuant to the number of
17 undivided interests.

18 Number four, the Sisseton-Wahpeton Oyate
19 recommends that the scholarship portion be
20 administered by the Tribes, should they elect to do
21 so, through a Memorandum of Understanding. The
22 Sisseton-Wahpeton Oyate has a Higher Education
23 Program which can successfully manage the
24 scholarship program. The Higher Education Program
25 has been continuously working towards higher

1 education for our Tribe and can manage the
2 scholarship portion of the settlement.

3 In conclusion, I would like to close by stating
4 this: Next to our Tribal members, our children and
5 future generations, land is one of the greatest
6 resources of the Sisseton-Wahpeton Oyate. Many uses
7 include home ownership, equal land development and
8 education. The Sisseton-Wahpeton Oyate is capable
9 and eager to enter into an MOU to implement to the
10 program.

11 MS. JODI GILLETTE: Thank you.

12 MR. MICHAEL JANDREAU: My name is Michael
13 Jandreau. I'm the Chairman of the Lower Brule Sioux
14 Tribe.

15 The Lower Brule Sioux Tribe has been a very
16 active participant in reacquiring fractionated
17 interests and other lands that was in the
18 reservation boundaries. Our reservation land base
19 was all but destroyed back in the '50s during the
20 time that the Bureau had implemented the
21 consolidation program and were providing small
22 increments of money. The reservation at that time
23 was actually almost split into two separate little
24 reservations. In 1960 our Tribal council took
25 action to create a new consolidation area, which

1 included the whole of the lands within the
2 boundaries, the whole exterior boundaries of the
3 reservation.

4 The purchasing that has taken place has taken,
5 begun in 1936 as soon as the reorganization or the
6 act was passed to allow Tribal governments to be
7 more effective and efficient in running their own
8 businesses. We have spent hundreds of thousands of
9 dollars and even maybe millions of dollars in
10 reacquiring our land base.

11 I've had the opportunity to serve our Tribe,
12 through their generosity, for the last, I'm going on
13 my 40th year. Of those 40 years, I'm in my 33rd
14 year as a Tribal chairman. There's many things I've
15 learned during that period of time. You know, the
16 Self-Determination Act was passed the year I was
17 elected, and I've watched consistently as
18 Self-Determination has been eroded from its very
19 inception. I've watched as the government in its
20 direct relationship with our Tribes has manipulated,
21 diminished and totally absolved themselves of trust
22 obligations to our Tribes.

23 Although the activity of Elouise and the
24 Plaintiffs in this case are to be respected and
25 admired for the courage it took to do them, the fact

1 is that legalese entered into the picture and began
2 to formulate a destruction process that was aimed
3 only at acquiring money.

4 Our land bases, if left in a situation that we
5 find ourselves, will not be allowed to expand to the
6 acquisition of all of those lands within our
7 reservation boundaries. And even the lands that are
8 fractionated, if the choice is to the individual,
9 may not be able to be acquired.

10 We watch as this program currently being laid
11 out to us follows a route that is not beneficial to
12 us unless certain elements are put into the
13 perspective of the reservations that it's impacting
14 and the people that it's impacting.

15 While we are 30 percent or 32 percent,
16 according to the graph, of those with fractionated
17 interests, that seemed to be causing the problem for
18 the Federal Government. With elimination of a
19 responsible party in this activity, namely the
20 Federal Government, and placing that responsibility
21 back onto the Tribe who have not been allowed to
22 develop the expertise necessary that could be
23 contracted for or that could be further utilized to
24 make our Tribes fully a trustee.

25 In Billings, Montana when the first

1 consultation was held, at that consultation there
2 were policymakers, i.e. the Assistant Secretary and
3 Deputy Secretary of Interior. Today I don't believe
4 you folks are policymakers. I don't believe that's
5 within your capacity. It's almost as though this
6 effort, although granted to us and for which I'm
7 grateful, is a charade that shows to us that the
8 real concerns that we have, although we can document
9 it on paper and provide it to you, will never be
10 responded to in a way that can be debated and can
11 really be dealt with in a real consultation process.

12 While we sit here and listen and hear those
13 things that you have identified that are secret,
14 that the judge has restrained you from being able to
15 respond to, is not a reflection of democracy because
16 in any democratic scenario those responses would be
17 afforded us. It's like giving us a car but keeping
18 the keys. And unless we have those keys, unless we
19 know totally what we're dealing with, you are agents
20 of an entity that's singular cause is to diminish
21 our existence and we can't sit by idly.

22 You know, we have responsibilities to our
23 constituency, and I'll let you take my place. You
24 come down and tell them, I can't tell you that
25 because it's none of your business what's said and

1 see how far you get. You might get a bat alongside
2 of your head or a bullet between your eyes, you
3 know.

4 I mean, the volatility of our existence is at a
5 peak at this point in time. We realize, at least I
6 do, that the Federal Government's singular goal, and
7 this is bipartisan, has always been to diminish that
8 relationship in whatever capacity that was
9 permissible and acceptable by the general public and
10 not by the people who it immediately impacts, which
11 is us.

12 I don't really know the true value of all the
13 documentation and all the comments that you will
14 receive here today unless we would have the
15 opportunity to have a debate back and forth during
16 the preparation under a true consultation
17 methodology. You're sitting here listening to our
18 words, but I don't think you're really hearing it
19 because you've already indicated your own
20 restrictions.

21 Where do we go from here? Do we go home and
22 tell everyone, Well, went to a heck of a meeting but
23 I don't know what's going to happen? Because that's
24 what it's about; that's what's happening here. When
25 we come out of this room from presenting to you the

1 many things that the Tribal leadership has
2 presented, what is the real response? Has that
3 response already been pre-determined? It appears
4 that way. And so like I say, if there is reality to
5 what is happening here today, how are we really
6 going to be recognizing that?

7 We feel that what we offer you is our
8 standpoint, is our position, and what you've
9 indicated to us in so many different ways today is,
10 This is not acceptable; we can't do this.

11 I listen to you talk about the delays in time
12 in changing the law so it's applicable to what we
13 are requesting and you talk about huge obstacles to
14 that. Well, I think that we've all been around long
15 enough to realize that can be as quick as the people
16 who want to make those changes happen happen.

17 Everyone wants to blame the idiocy of Congress
18 and their stupidity and how they're reacting to one
19 another right now. Well, it's politic time so
20 they're going to act that way, but that does not
21 mean that they will neglect a responsible request
22 that helps the Tribes to meet those obligations or
23 the representatives of the Tribe to meet those
24 obligations that they have to their own
25 constituency. Because it's our life that you're

1 talking about. It is not just some transaction that
2 is dealing with something abstract. Everything that
3 is impacted here means the success or failure of the
4 life of those who come after us who are granted the
5 opportunity to deal with the assets we've been able
6 to preserve for them through our efforts and through
7 the generosity I guess of government.

8 So, you know, it is very frustrating. It's
9 frustrating to try to be kind, a gentleman. That's
10 never happened, a gentleman, I guess, but I try to
11 be.

12 So how do we deal with this? You are not
13 giving us enough of an indication that there is
14 going to be any success whatsoever or that there is
15 going to be any real hearing and listening and
16 analyzing and accepting those things that are being
17 presented. You know, I mean, there was several
18 questions asked today, Why can't this be put up
19 there; why can't that be put up there? Why can't
20 you show good faith by saying, Yes, we can do that?
21 But no, you come with a preconceived notion of what
22 position that the Department and the Federal
23 Government has taken under what they believe is the
24 instruction of a judge or of Congress.

25 We have no opportunity to effectuate until you

1 release down and tell us what you're going to do,
2 and of course we all know that that will not be
3 forthcoming, that we will again become a nation of
4 people who has to deal with the duplicity of
5 government. And there's no other way that you can
6 say it. There's no other way that you can look at
7 it.

8 Every Tribe that I'm aware of has done their
9 best, with the resources they've had, to really try
10 and hold together their most significant asset. And
11 if they haven't been able to do it, they've been
12 assisted by other Tribes in doing it.

13 We can't -- we can't accept the ideal that,
14 Well, maybe. This is such a crucial point in our
15 history. It's more significant than anyone wants to
16 give credit to. You know, and it's all operating
17 off from the resentment that occurred when the law
18 realized the inequity of dealing with the Federal
19 Government's dealing with our assets and accounting
20 for the utilization of those assets. I mean, it
21 goes back many, many, many years. You know, it goes
22 back to the years where millions and millions of
23 dollars were lost because of the inadequate
24 investment processes of the Savings and Loans where
25 Tribal dollars, interest dollars were lost and we

1 had no way of recouping those. Say, Hey, thanks,
2 you know. I'm sorry that that place went broke.
3 We'll see what we can get out of the interest. And
4 in some of those cases the interest never was
5 forthcoming.

6 I mean, all you need to do is really set back
7 and study the historic overview of what has happened
8 when we've come up to situations that have, from the
9 exterior all the looks of solving tremendous
10 problems, and today you're talking about not only
11 the trust responsibility but really the elimination
12 of that trust responsibility by preparations to do
13 and to have Tribes acquiring those lands and then
14 being responsible for them. And that would be fine
15 if we had the wherewithal.

16 You know, every appraisal, and it's been
17 pointed out here by others, is no less than a
18 six-month period, every appraisal, if you can get on
19 the list. So the possibility of making this work is
20 not going to, is not going to be there. And so if
21 you use generalities to try to deal with that and to
22 use values that are not real, there is still an
23 inadequacy; there is still a process that destroys
24 people's right to value, Tribal members' right to
25 value.

1 We have dealt with this for many, many, many
2 years, you know, and during those years, no matter
3 how we screamed or hollered or tried to make the
4 process work, even utilizing the words that are on
5 paper, we've always found the government's idea of
6 what should happen happens. Legal or illegal, it
7 happens. And so, you know -- even to the point of
8 us completely being left without. And the process
9 that is being set up is so obstructionary that our
10 ability to fulfill it is going to be nearly nil, to
11 expend those kinds of dollars with the process
12 that's being set up right now is going to be
13 impossible.

14 And as has been stated before, the ten-year
15 period is someone's pipe dream because it can't
16 happen in that period of time unless we are
17 full-blown players in the entire process. In order
18 to be that player in the process, the truth of what
19 is out there needs to be told.

20 Thank you.

21 MR. CHRIS LINDBLAD: Again, my name is Chris
22 Lindblad, the attorney for the Standing Rock Sioux
23 Tribe.

24 I want to thank the representatives from the
25 Department for appearing at today's consultation.

1 I would also like to thank all the Tribal
2 leaders, Tribal members, Tribal employees and Tribal
3 attorneys who shared their views and insights on
4 this issue.

5 Standing Rock Sioux Tribe will be submitting
6 its official testimony in writing before the
7 November 1st deadline. And along with all those
8 concerns shared by the other Tribes today, we hope
9 that the Department gives full consideration to
10 those and sees that this plan is implemented in a
11 way that will serve the Tribes, will be able to
12 achieve the benefits in terms of economic
13 development and land consolidation that will help
14 the Tribes not only expand its jurisdiction but to
15 exercise its sovereignty.

16 Thank you.

17 MS. JODI GILLETTE: Thank you.

18 Any other comments from the Tribal leaders?

19 MR. WILFRED KEEBLE: Good afternoon. My name
20 is Wilfred Keeble, Chairman of the Crow Creek Sioux
21 Tribe.

22 At this time I wanted to say thank you to all
23 the people here, all the representatives, Tribes,
24 staff for allowing me to be part of this
25 government-to-government consultation.

1 And thank you to Ms. Cobell for her efforts and
2 on her behalf.

3 Our reservation, Crow Creek, its original
4 boundaries were located where Pierre, South Dakota
5 is now and on down the river to where Chamberlain,
6 South Dakota is now. (Unintelligible).

7 Our reservation was first established as a
8 concentration camp after the ancestors or the
9 relatives that moved there, from Minnesota in 1862
10 after the (unintelligible) that occurred in that
11 area. The boundary of the reservation when it was
12 first established and where it's at now is half of
13 what we started out with. And that's probably my
14 biggest concern is (unintelligible) some
15 fractionation issues. (Unintelligible). It seems
16 like when we as a Tribe, as a nation deal with the
17 United States Government, seems we're always on the
18 receiving end and always on the losing end, and I'm
19 just trying to figure out what the catch is to this
20 one.

21 I guess one of the questions I have is what
22 will happen to Tribal members who don't have an IIM
23 account? (Unintelligible). I mean, they have a
24 part as Tribal members.

25 MS. JODI GILLETTE: You want me to answer that

1 or --

2 MR. WILFRED KEEBLE: And I guess we've been
3 talking about lands that belong to the Tribes. When
4 we're talking about land, back here we have a
5 situation where the IRS came in and was going to
6 auction off some land in Crow Creek, and it
7 jeopardized our livelihood. To have the IRS come
8 into my homeland and threaten me and my family,
9 something needs to be done. I don't like it. When
10 that happened to our ancestors, they picked up
11 weapons and defended what they had, and that's the
12 same situation that the IRS put my relatives in.

13 And we're supposed to -- supposedly we have
14 treaty, treaty rights that supposedly protect us.
15 Back home right now we're looking at our IRA
16 constitution. We're not an IRA Tribe but due to
17 politics, due to political pressures, we picked up a
18 constitution. And right now we're going over that
19 constitution to see how this, to put some language
20 in it that will protect us to an extent. When -- I
21 looked at this constitution, and I see no language
22 in there that says that we will be protected. And
23 it kind of makes me think, I mean, this is supposed
24 to be, this document is supposed to be taking care
25 of us, but it doesn't say it.

1 The lands that the Tribe has now, the lands
2 that we utilize through the years the Tribe has
3 accumulated debt from dealings trying to survive in
4 this society that we're in now, we accumulated debt,
5 and the land that we utilize now, they're paying a
6 big portion of that debt for us right now.

7 And then they start talking about lands, Tribal
8 lands, that kind of makes me real edgy because we're
9 utilizing what little we got left now, and when they
10 start talking about it again, it makes me wonder
11 what we're going to give up again.

12 And I guess with the IRS, IRS coming onto the
13 reservation, it kind of opened my eyes, kind of an
14 awakening to know that the United States Government
15 can come in and do this to the Tribe under their law
16 that they have saying that we're protected and that
17 are not really there.

18 I want to say about that much. I want to say
19 thank you for your time.

20 MS. JODI GILLETTE: Any closing comments? Do
21 we want to start going to the individual, individual
22 Indian landowners? We'll start opening it up, if
23 that's okay, for folks who have traveled here to
24 visit with us about this.

25 You can either go to the microphones or there's

1 also mics on the table.

2 MS. STACIE NICOLE SMITH: I'd ask you to just
3 state your name for our transcript as you begin.

4 MS. DARLENE RENVILLE PIPEBOY: Thank you for
5 the opportunity. My name is Darlene Renville
6 Pipeboy. I'm a (native language). I'm a landowner.
7 And I believe all of you people here are talking
8 about us.

9 I, for one, believe there should be solutions
10 beneficial to landowners. The three of us sitting
11 here, plus two more, went to Washington. We gave
12 testimony before Judge Hogan. Our understanding was
13 when we walked into the courtroom, there wasn't a
14 place for us to sit. Judge Hogan had to take
15 recess, and they sat us in the jury box.

16 I think and I believe that landowners should be
17 sitting here also. It's our lives that you're
18 talking about. We say as landowners the issue is
19 not about money. The issue is land. I say this
20 (native language). I'm a Dakota first. I'm a twin
21 second. I'm a woman last. The people in my Tribe
22 come before I do.

23 My grandfather, and I've said this more than
24 once, my grandfather (Gabriel, Native last name), on
25 my mother's side (Native name), my grandfathers,

1 they are the original allottees, my grandfather,
2 original allottee. Their relationship, very close.
3 They gave me nothing. I did not inherit homes and
4 material things. What they left me as my ancestors
5 was land, that one day I would live there.

6 I brought my grandfather's, great grandfather,
7 Gabriel Renville (phonetic) -- everyone today, and
8 I'm sure the delegates from the Sisseton-Wahpeton
9 Oyate will agree with me, the most fractionated land
10 area is Gabriel Renville and his father
11 (unintelligible) Crawford, the most fractionated
12 pieces of land. Why? Why? He had three wives,
13 that's why.

14 But the irony of this, when they started to
15 document Gabriel, my Grandpa Gabriel's land, they
16 were already breaking down on paper who the land
17 would go to. And, in essence, the Bureau and the
18 Department of Interior have always said, "The
19 decimals are getting to be too great." That's not
20 our problem.

21 The government created a policy on paper. You
22 fractionate on paper, but I believe that if you go
23 to Lake Traverse Reservation, my grandfather owns
24 320 acres. There are wásícu farmers that lease his
25 land. They could not lease cupfuls of dirt. They

1 lease the 40 acres, the 60 acres, 160 acres. We get
2 the income.

3 The irony, a lot of irony, when we went to
4 Washington, no one helped us to go. The irony is
5 that one of our Tribal members owns land. She went
6 and borrowed \$1,200 so that we could go to
7 Washington. No one helped us, and yet we're saying
8 that the landowners can't seem to generate revenue
9 from their lands. Well, we do.

10 If I can read one of the descendants, and this
11 is in the early 1900s already. 193 over 1323? The
12 land had just been allotted. Where did you get
13 these numbers from? You know who has access to
14 these files? We do. No one. Tribal governments,
15 United States Government have the right to access
16 these files because they belong to our family. What
17 right do you have, anyone, to look in my
18 grandfather's files? But yet we're doing it.

19 I believe, and I could be wrong, Elouise
20 Cobell, I'm an IIM person, she included me in her
21 case. I believe in federal law, International law,
22 you have to give people the right of consent.
23 Someone has to ask me if I want to join her. The
24 answer would have been no, a violation of my right.
25 Do we not live in a country where there's a

1 Constitution? Or maybe it doesn't apply to the
2 landowners and the full bloods. No one asked us and
3 yet we're locked in?

4 Excuse me, Elouise, but I believe you used us
5 to pursue your case, and then we cannot opt out. We
6 say that's wrong.

7 When we went to Washington, the Case Number is
8 1:96CV01285, Cobell versus Salazar, and this is a
9 letter that I sent in April, we said, "We need to
10 make comments here." We said, "We are the Lake
11 Traverse Reservation, IIM account holders,
12 descendants of original allottees. As landowners we
13 object to the class action status portrayed by the
14 Cobell plaintiffs. The United States Government
15 policies has defined, redefined our rights as
16 stakeholders in land inheritance. The Cobell case
17 violates and redefines our inherent rights as
18 indigenous people. Traditional laws, oral history
19 are the guidelines to the inheritance of our mental,
20 spiritual, physical and environmental survival. The
21 settlement issues are a controlling mechanism. Our
22 right to self-determination as (unintelligible) by a
23 family, development and longevity has been
24 undermined by legal recourse. Our evaluation of the
25 key settlement issues, a violation of informed

1 consent."

2 Canada Dakota allottee owners, uninformed.
3 Because there are allottee owners in Canada, it
4 makes it an international issue, does it not?
5 Historical accounting class, we said, "By now we
6 can't opt out as IIM holders, but we maintain our
7 right to exclude ourselves from the class action.
8 We maintain collective rights of ownership and
9 self-determination that property aggravates from the
10 original allottee. We have dominion and indefinite
11 right to land. It's an invasion of the right of
12 IIM owners. We object to the definition of
13 fractionated land and the 1 point billion trust land
14 consolidation fund to purchase fractionated trust
15 lands. We define the action by the United States as
16 another taking of land and resources.

17 We object to the Indian Education Scholarship
18 Fund. Funds for education for indigenous people
19 fall within the realm of treaty entitlement," and we
20 put down the names of all of the people who
21 objected.

22 We look at ourselves as traditional people.
23 I'm a traditional court judge, and I'm the lead
24 judge for traditional court. People have yet to
25 recognize us as who we are.

1 We talk about it, about government policy. We
2 sent this letter to Mr. Black. I believe he did not
3 receive it, when he was still area director of the
4 Aberdeen office. We said, "The (native language)."
5 That's who we are. We are not Sisseton-Wahpeton.
6 The (native language) is a movement and a challenge
7 to the democracy of the United States. This
8 challenge extends to the SWO constitutional
9 government. The wisdom of our ancestors voted no to
10 the IRA, Indian Reorganization Act in 1934. Our
11 ancestors knew that the treaties signed by them in
12 good faith were the basis of our relationship with
13 the United States Government.

14 Even though our ancestors voted against the
15 IRA system, a constitutional type of government was
16 still put in place on our behalf. The IRA was meant
17 to undermine the traditional mechanism of Native
18 governments. The act was designed to supplant the
19 unit making of traditional societies. Tribes would
20 be governed by corporations and boards.
21 Constitution and/or charters were drafted by the
22 Bureau of Indian Affairs.

23 We, the traditional people, landowners and full
24 bloods, have maintained a low profile indifference
25 to the political system of our environment. The

1 subversive growth of power has not, will not provide
2 positive outcomes to traditional governance.

3 We sent this letter to congressional
4 delegation, Bureau of Indian Affairs, Indian Health
5 Service, (unintelligible), Department of Interior
6 and Secretary of State. No response was given.

7 When we look at land tenure, my great
8 grandfather was born in Minnesota in 1824. He died
9 when he was 62 (sic) years old in 1892. Once they
10 had passed the Allotment Act it broke his heart to
11 realize that he had been moved from the State of
12 Minnesota for killing white people, a crime.
13 President Lincoln signed the order. He was placed
14 in the internment camp. He gave up his pride and
15 honor of being Dakota. The government told him, "If
16 you will scout for us, we will let your people free
17 so they can move to the, to Dakota territory." He
18 did. He gave up his honor and pride so that his
19 people, his people would live, and they moved them
20 to Dakota territory.

21 One unique thing that happens, we do a lot of
22 research. The enabling acts that created North
23 Dakota, South Dakota, Montana, Wyoming and I believe
24 Nebraska, all under Dakota territory, mentions
25 Native people, Indian people, so we have a

1 significance when it comes to federal policy,
2 government policy. I always say, "I don't talk off
3 the top of my head because I don't want to." I feel
4 that when you define facts, you need to have the
5 laws back them up.

6 So Gabriel Renville, this is his fund, all
7 names. There must be 1,500 of us today. Are we
8 going to lose Gabriel Renville, my grandfather's
9 land? I say no. That's his right. That's his
10 right to hold onto land tenure, 320 acres.

11 And as a descendant, it's my right to defend
12 his property right. He gave me a gift. And as I've
13 told congressional people and everyone, you will
14 take his land over my dead body. You are not going
15 to take his land simply because it's fractionated.
16 I think you'd better listen. I think there was a
17 man named Custer, right? He didn't listen either
18 and they cut off his ears, traditional history.

19 So I'm here today. Like I say, I'm a woman. I
20 have to stand up for the rights of my children, my
21 grandchildren. Who else is going to do it for me?
22 Constitutional governments cannot. We know our land
23 areas. We know where everything is. When you ask
24 us, we will tell you.

25 We have joined Kimberly Cravens in her appeal

1 as landowners because we believe Cobell violated our
2 rights as landowners, that we have a right to live
3 on our land.

4 In 1988, I believe, my grandfather's land,
5 (Native name), I have a land site there long before,
6 you know, people decided they wanted to move back on
7 the land.

8 You know, I'm a land person. I'm not a city
9 person. I grew up on the land. Like many people
10 say, we haul water; we chop wood. That's us. We're
11 land people. We don't belong in the city. We don't
12 belong in the cluster housing. We're farmers.
13 We're good farmers.

14 In 1895 when they had allotted land to the
15 Sisseton and Wahpeton, there were 1,500 people. We
16 did not create the system. When they gave them
17 160 acres, they put Dakota people, homestead people,
18 Dakota people, homestead people. They divided them
19 up. Why? Because we had to learn from the wásicus
20 how to be civilized, shall we say.

21 The beautiful aspect of people, that we learn,
22 we learn from the environment around us. In 1895
23 the Dakota landowners outproduced the wásicu
24 farmers. They outproduced them. What good did it
25 do them? They took their land because they didn't

1 understand the mechanics of economy. They charged
2 implements. They did not realize how to deal with
3 white society. So parts of the land were lost, but
4 that did not deny their right as Dakota farmers.
5 They outproduced the wásícu farmer.

6 So when we look at policy, I believe many
7 senators, congressional people have always
8 commented, "We are tired of Indian policy." If that
9 is what is happening here, shame on us. I want my
10 comments. If we could give them to God, give them
11 to God. Someone has to speak on our behalf.

12 You're already dividing up money here. Just
13 like when we went to Washington, Judge Hogan had
14 already decided that he would settle with Cobell.
15 We knew that. We gave testimony at 1:30. I believe
16 it was 1:30. We gave testimony. There was 14 of
17 us. By 4:30 Judge Hogan had decided, before the
18 comments were even made part of the record, he
19 decided in favor of Cobell. Did he listen to our
20 testimony? More than likely not.

21 So we come here today, good faith again, good
22 faith, to be heard, to be given the opportunity to
23 live as family and (native language) because that is
24 all we have. But we're already dividing up money.
25 We can't decide how we're going to use the money,

1 who's going to give us money, the Cobell lawsuit.

2 What you're doing is not right.

3 Maybe the upmost respect that I would have for
4 Elouise Cobell does not exist. She had no right to
5 include us. When you look at the little map that
6 you have made, most of the land areas that you're
7 talking about, what do they call us, the Plains Area
8 or the Mountain Area? Great Plains area, most of
9 the land area is there. I believe our ancestors did
10 not hold onto the land holdings so that we today as
11 generations later would sell them out.

12 Kimberly Cravens, when I talked to her, a
13 woman, she owns land on the Lake Traverse
14 Reservation, if they haven't taken it from her. She
15 said, "People call me up. I had to change my phone
16 number three times. People call me up because they
17 want to kill me. They want \$1,500." They want to
18 kill her for \$1,500. Unbelievable.

19 I'm not about money and neither is my family.
20 While we sit here and write with pencil and paper,
21 you're sitting there with laptops. How fair is
22 that? Don't talk to me about right and wrong. I
23 believe that we should all understand (native
24 language).

25 My grandfather, John Max (native language) was

1 the first delegate to the National Congress of
2 American Indians. He could not talk English,
3 neither did he understand. They sent him to Denver
4 with an interpreter. He went there to talk about
5 land and water. He did not go there to beg for
6 money. So I come from a line of people who tried to
7 make innovative changes to their lifestyle.

8 My grandfather, allottee, lived all his life
9 with handouts from the Catholic church. Did he
10 care? No. He was a proud human being. He
11 understood what it meant to be Dakota. He passed
12 those attributes to us, his grandchildren.

13 I tell my family members, "Don't sound like
14 your grandmother and grandfathers because you want a
15 thousand dollars." We told Judge Hogan that we do
16 not accept money, a thousand dollars, 500, we're not
17 accepting money, and we will tell you the same
18 today, we're not accepting money. We have to live
19 on the land because we're survivors and we're
20 spiritual people. If you ask me where plants are, I
21 will tell you. If you ask me where the water is, I
22 will tell you, and then I will tell you the Lakota
23 names.

24 When we hunt for herbs, we go back to the State
25 of Minnesota because our grandmother took us. She

1 remembered what it was like to live in Minnesota
2 from her grandmother, oral history, which brings us
3 to an important court case, Tripp, United Nations,
4 declaration of the rights of indigenous people. The
5 United States voted against Tripp. Why? I'll tell
6 you why. Article 26, "Indigenous people have the
7 right to the lands, territories and resources which
8 they have traditionally owned, occupied or otherwise
9 used or acquired," that's why. The United States
10 struggles with itself because they still fear the
11 man who stood in his path while the settlers were
12 crossing the land. You still fear the man, the dark
13 man who stood in his path, that's us.

14 There is a court case. We don't carry bows and
15 arrows anymore. We carry paper. We have learned
16 that the non-Indian believes in paper. One day
17 we'll have a big fire or bring it to our sweat lodge
18 and you'll help us to make a fire.

19 There's a case called Dana Buke (phonetic)
20 versus British Columbia. Those people in British
21 Columbia, they too did not understand English in
22 that province, but they remembered where their lands
23 were, where the rivers flowed, where all the creeks
24 were, and they challenged the Province of British
25 Columbia for their rights to the land. When they

1 gave testimony, and I believe it's ongoing, the
2 judge said he had to decide whether or not oral
3 history was evidence. We're all historians. 200
4 years ago there were no paper. The judge ruled in
5 their favor that when they talked about their lands
6 and where they were at, that was oral history and it
7 could be used as evidence.

8 So this is not a simple battle of money going
9 to Tribes so that they could buy our land. I say
10 this: Buy the wásícu land. If you want to buy
11 land, buy wásícu land. Don't take land away from
12 your people. We say this: It's not a threat. What
13 goes around comes around. In a spiritual way, our
14 teachers say, "For all the good that you can do, it
15 will come back to you. For all the bad that you can
16 do, it also will come back to you."

17 We live by traditional laws. It's the only
18 thing that we know. Many of the landowners say
19 (native language). "What are they talking about
20 here? We don't understand." We don't understand
21 either, but we try to translate as best we can.
22 When the Cobell case came about, the
23 (unintelligible) people didn't understand.

24 MS. JODI GILLETTE: I just want to be mindful
25 of the time. We have another hour, and you've been

1 talking for 30 minutes now, so I just want to see if
2 you want to wrap it up and get to some conclusions
3 so we can open the floor up to other folks. And I
4 do this in the most respectful way because I know
5 that you have a lot to share with us and I thank you
6 for all that you've provided so far.

7 MS. DARLENE RENVILLE PIPEBOY: Well, we have to
8 drive all the way, nine hours to go back to
9 Sisseton. I go home and babysit my granddaughter,
10 my grandson.

11 Poor people, landowners live in poverty. Our
12 families work one day a week, two days a week,
13 that's their income. How many people live on
14 minimum wage, work for one day a week? And
15 everybody sitting here wants to take from us again.
16 We said treaties took the land. Allotment Act took
17 the land. And now Cobell and (unintelligible) wants
18 to take more land. We say no.

19 (Native language).

20 MS. JODI GILLETTE: Thank you, Darlene. I do
21 appreciate those comments.

22 And, you know, I really think that the point to
23 emphasize is that we do want to hear from more than
24 just Tribes. And, again, the program is all
25 voluntary, so sellers always have to be willing to

1 enter into the Land Consolidation Program.

2 And then just one more thing not related to
3 land consolidation but something that was raised is
4 the Declaration on the Rights of Indigenous People,
5 that the United Nations, the United States had voted
6 against it, and we're isolated as being the last
7 country to support it, but last year during the
8 Tribal Nations Conference the President announced
9 that the United States now supports the Declaration
10 of the Rights of Indigenous People.

11 MR. CALVIN WALN: My name is Calvin Waln,
12 member of the Rosebud Sioux Tribe.

13 And I have a lot of concerns about this, and
14 I'm going to try to keep this brief and just hit
15 some points. But one of them is, my primary one is
16 that the trust relationship precedes the Allotment
17 Act and the Indian Reclamation Act.

18 What I'm reading between the lines here worries
19 me on the allottees because I am pro allottee.

20 (unintelligible) my family, all of it, but they are
21 a part of the Tribe. The Tribe is -- we keep
22 separating things here, and the allottees are the
23 Tribe.

24 Now, what I'm reading here, you're talking
25 about money, IIM accounts. Once all the allottees

1 are gone, and Rosebud is an example here with our
2 executive assignments, we -- the Bureau is still
3 collecting the money and throwing it into an account
4 and ask the Tribal Land Enterprise for us to pay the
5 money out. And once our allottees are gone and IIM
6 accounts are gone, how do we define the trust?
7 Where is it laying at? We're talking here Allotment
8 Act. We're not really talking about treaties.
9 We're not going into that. That's one of my primary
10 concerns.

11 Secondly is the Homestead Act, the Black Hills,
12 surplus lands, take it away, declare it surplus,
13 that's what I feel we're doing to our allottees here
14 right now, we're declaring them surplussed, throwing
15 them under the bus. I am greatly concerned about
16 that.

17 Consolidating interest has always been one of
18 my goals. I respect Mr. Jandreau a great deal as
19 one of my mentors on land.

20 Elouise Cobell, my friend for over 30 years,
21 we've parted ways many years ago over this lawsuit
22 because it doesn't cover everything that's in here
23 because it's about the money, it's not about the
24 land.

25 And when we talk about consolidation and we're

1 saying highly fractionated, we're going to target
2 highly fractionated, well tonight we may have two
3 allottees pass away. There may be 50 heirs between
4 them two. (Unintelligible).

5 But I love that, the Homestead Act, because if
6 this becomes a reality and as Tribes you do get MOAs
7 to get the money, I like to play word games with
8 paper, highly fractionated where all the homestead
9 land is at within our territories, we have Tribal
10 land that's highly fractionated land, then homestead
11 tracts should be classified as eligible to purchase
12 with the land within this lawsuit. And I know
13 everybody would disagree with that, but I throw that
14 out for people to think about because they are
15 highly fractionated areas. That's the term you're
16 using, "highly fractionated".

17 And we can never buy fee interest. People have
18 touched on that. And that's what I'm talking about
19 here, "Highly fractionated," there's fee interests
20 here. You're just waiting to buy them using the
21 words from this court case, "highly fractionated".

22 I'm always concerned and Mr. Jandreau and
23 others have talked about ILCA and (unintelligible).
24 It's those two words used together that bother me.
25 Is it authorizing the Secretary of the Interior to

1 acquire at the discretion of the Secretary and with
2 consent of the owner? We all know where that goes.
3 That discretion is a huge tool. They do what they
4 want to do with that whether they have our consent
5 or not, and that's what's going to happen here.

6 But allow our landowners to consolidate,
7 please, as Tribal governments. And there is a
8 program that was written in the '80s with how this
9 can happen and how it can be funded. Our Tribal
10 Land Enterprise Program can fund this right now. I
11 have had people come to me saying, "My brothers want
12 to sell their interests. And my brothers have
13 (unintelligible) problems, too, but I want to keep
14 that land in the family. I have no means to buy
15 it." That's a helpless feeling because you know
16 that person wants to keep that land in the family,
17 but the only buyer in town is our Tribe. We can't
18 fund them guys. Tribal Land Enterprise can.

19 Look at ways within your own Tribe to help them
20 do that because you can protect that land. It's a
21 privilege. And in my mind to lease land is a
22 privilege, to own land is a privilege, and you can
23 set up a lending program to help them consolidate
24 and let them buy their heirs out, one of the
25 privileges being the land can go nowhere but stay in

1 Indian hands, back to the Tribe or to a family
2 member, anything you want to put on there, but we
3 can protect that.

4 Trading reservation to reservation, big problem
5 because we own interests everywhere. That's doable,
6 but we want to get out of the fractionation
7 business. But there is a plan (unintelligible) to
8 do that many years ago also that exists.

9 I'm just trying to get to all of my quick
10 points here. I've got so many of them I want to
11 address.

12 Owning land is economic development. You know,
13 our unemployment rates are extremely high, but a
14 little piece of land has value. There are options
15 there as far as things that you can do. You can
16 consolidate them, you set up family trusts,
17 (unintelligible). There's all kinds of options
18 there that we can do, but respectfully to our Tribal
19 governments, it's like over the years we've bought
20 into the Federal Government's mentality of we have
21 to get rid of the landowner; he's the problem.

22 Today we have very educated young people like
23 the young man back here. Give them the opportunity
24 to own property, to really begin to show people what
25 we are capable of doing as Tribal individuals, that

1 we can bring economic development to our Tribes. We
2 don't have to depend on the Tribe and Federal
3 Government. We as individual landowners can do
4 that. We have to give that opportunity.

5 And I'm also concerned about the appraisal
6 which everybody has talked about, but under ILCA and
7 the formula that's used, our landowners do not
8 receive fair market value. What really is fair
9 market value? I think Mr. Jandreau or somebody
10 testified, our Tribal members and even our Tribal
11 land does not carry the same value as other people's
12 land who are not Tribal members. It's like -- and
13 what is the problem? Is it because it's a trustee?
14 What is the problem? Land is land. So all these
15 things come into play on appraisals.

16 But appraisals are a problem. In reading the
17 comments I heard "mass appraisal" in reading
18 comments from some of these other hearings. I do
19 not support that process because each tract of land
20 is different, and these tracts gotta be appraised
21 differently.

22 I need to sit down here because I'm taking too
23 much time.

24 And then one more thing that Cobell did not
25 consider, and this is important because we have

1 people black, white, red, yellow, you name it, who
2 don't trust banks, so they kind of keep their money,
3 they keep it under the mattress and do things. We
4 have allottees, especially the older ones, who
5 didn't trust the Federal Government.

6 (Unintelligible), so they chose to lease their land
7 outside, to deal separately.

8 Three years ago, four years ago, two grandmas
9 leased their land separately. (Unintelligible), but
10 they leased it separate whoever got the lease. The
11 person who got the lease said their land wasn't
12 worth that amount of money. The BIA set the
13 appraisal rate, the minimum rate for allotted land,
14 but this lessee chose to say it's not worth that.
15 The Bureau couldn't help because it's an outside
16 lease, "Nothing we can do." Tribal government and
17 our Tribal Land Enterprise would help because it's
18 their jurisdiction.

19 So one of the sons of the grandmas came to me
20 and explained to me. So we had a meeting. I called
21 it a "Coming to God Meeting". I called the
22 superintendent and said, "I'm having a 'Coming to
23 God Meeting' with the two grandmas on this land.
24 You have the lessee there tomorrow at two o'clock.
25 We're going to resolve this." So I go between our

1 superintendent and one grandma over to the lessee
2 (unintelligible) and back negotiating, but we
3 resolved it. Now, who is looking out for them?
4 Cobell didn't and the Bureau didn't, but they had
5 the right to make their own decisions on what was
6 best for their land, but nobody protected their
7 rights. And I shouldn't have had to step in there.
8 It should have been the Bureau's job to protect.
9 That is trust land. They were enrolled Tribal
10 members. They should have been protected. And they
11 were left out of this equation. They won't get
12 bought out in this process, but did they lose money
13 over the years, did they have their lease in there
14 not get paid but nobody knew about it because their
15 land was being utilized but they couldn't get any
16 money because somebody said, Your land ain't worth
17 no money, there's no water on it. I'll give you a
18 dollar an acre?

19 And with that I'm going to sit down here
20 because I could go on with a whole bunch of comments
21 I have on this.

22 But, Jodi, I appreciate this opportunity and
23 you bringing this here, bringing it home to us.

24 And I appreciate everybody here, and I thank
25 you for all of your comments.

1 But please remember the allottees are our
2 Tribe, and they have a role. We can make them fit.
3 Because to me they are the backbone right now of
4 what's holding our trust responsibility and our ties
5 to the Federal Government.

6 MS. JODI GILLETTE: Thank you, Calvin.

7 MS. WANDA WELLS: Good afternoon. My name is
8 Wanda Wells. I'm an enrolled member of the Crow
9 Creek Sioux Tribe. I'm an IIM account holder and a
10 landowner.

11 I just want to remind the Federal Government
12 that they not only have a trust responsibility to
13 consult with Tribal governments but also have trust
14 responsibility to individual Indians as well, and
15 that seems to be forgotten.

16 It seems very apparent that the United States
17 Government is going to have to take a good look at
18 this Indian Land Consolidation Act and review and
19 make changes, if necessary, to fit what the Tribes
20 are going to need to rebuild their land bases.

21 I'm a little disappointed that the Federal
22 Government took so long to come to the Great Plains
23 area and probably wouldn't have if our chairmen and
24 our Tribal leaders didn't demand it. We should have
25 been first on the list. On the other hand, it shows

1 that the Federal Government is still afraid of how
2 to deal or is unsure of how to deal with the Tribes
3 in the Great Plains and that's what it seems to me.

4 I'm a little bit worried because there's some
5 things that have happened because of the Indian Land
6 Consolidation Act in the past. We have Tribes in
7 the Great Plains area who did constitutional reform,
8 along with adopting Tribal ordinances under the
9 first Indian Land Consolidation Act, in which they
10 made legislative moves so that Tribal members, or
11 Tribal people who were not enrolled with that Tribe
12 or living on that reservation could not own land.
13 My daughter is one of them. She owns land on
14 probably six, seven different reservations.

15 Spirit Lake passed the constitutional
16 amendments and did their ordinance changes saying
17 that if you were not enrolled there, you couldn't
18 own land there. So she received a letter back in
19 2003 or '4 saying that they were going to outright
20 purchase her land, which we're not in agreement
21 with.

22 I'm just curious how those Tribes that did that
23 type of legislation are going to be impacted by
24 this. Is that, those funds for the land
25 consolidation going to be made available to them so

1 that they can further implement the legislative
2 changes that they made within their Tribes and
3 within their reservations? That's one concern I
4 have.

5 Another concern I have regarding the Indian
6 Land Consolidation Act in particular is the fee
7 land, not being able to purchase fee land. That has
8 to be taken out of that act. Within our
9 reservation, and I'm sure on the other reservations,
10 there's fee land that's surrounded by allotted and
11 Tribal land that would benefit the Tribe to own for
12 farming purposes and so forth.

13 One of the things that I guess I'm kind of
14 upset about is it seems as though -- you know, I
15 didn't know Elouise Cobell, but it seems as though
16 what she did was try to correct a wrong that was
17 done to our ancestors. As a result now we have to
18 sit here and be forced fed a congressional act that
19 is not going to adequately meet the needs of the
20 Tribes and Tribal people and Tribal landowners in
21 the future.

22 So I'm concerned that there wasn't enough
23 thought put into it and not enough consultation. I
24 don't know of anybody that came to our reservation
25 to talk about any of this stuff to our people before

1 it all went down. You know, and so the lack of
2 communication by the United States Government
3 directly to Indian people, you know, that's just
4 wrong.

5 And then to force these time frames upon us,
6 you know, say, Oh, you have such and such, I didn't
7 even know about this opt-out thing until after the
8 deadline passed. That is not fair to our people.
9 Those deadline dates have to be reviewed. You know,
10 I was told by Aberdeen, "You can go ahead and submit
11 them, but they probably won't be considered." Quite
12 frankly a thousand dollars for IIM account holders
13 is pennies. That ain't even nowhere close to what
14 our people should be getting.

15 And yes, I am concerned about the other Indian
16 people, our Tribal members who are not IIM account
17 holders. Because of historical things that
18 happened, they no longer have IIM accounts. Well,
19 what about them? Quite frankly my grandma would be
20 very upset and mad to think that she was only going
21 to get a thousand dollars for all that they lost.

22 The reality is these claims that they don't
23 want the Tribes to go forward with involve
24 corruption on the part of the Bureau of Indian
25 Affairs, employees and others, title records

1 changing within the Bureau, illegal land
2 transactions, things like that.

3 Now, I am a little bit concerned because my
4 grandmothers had land that was somehow taken out of
5 their name and put into somebody else's name. The
6 Bureau has not yet provided copies of the
7 documentation of how that happened. Now you're
8 saying that once we obtain those records we can't go
9 back in and claim because there was a wrong done to
10 our family? You know, all of that needs to be
11 explained to Indian people, to our people on the
12 reservation level because that just hasn't happened.

13 And so I'm worried about these claims that
14 they're saying there will be no more claims. That
15 really concerns me, you know. That needs to be
16 reconsidered, you know, because if there are
17 legitimate claims, then the United States Government
18 very well better listen to those claims and hear
19 those claims.

20 One of the things that concerns me, I guess, in
21 my opinion it looks as though the Cobell Settlement
22 is a way just to keep the BIA around for at least
23 another ten years, probably another 50 because in 40
24 years my granddaughter will be sitting here telling
25 the Federal Government how the Cobell failed to meet

1 what it was supposed to do for our people and our
2 Tribes. I believe that's what's going to happen, in
3 40 or 50 years there will be a report saying how it
4 failed to implement the changes that the Tribes
5 needed to better themselves economically.

6 And so here again the United States Government
7 goes and puts this game plan in front of us, makes
8 all the rules, doesn't allow us to have any input on
9 them and somehow we're supposed to think that that's
10 justifiable economically? I don't think so. I
11 really don't think so.

12 I know when we go home, everybody at home,
13 because the government said, "Oh, \$1,800," everybody
14 at home thinks they're getting 1,800. Boy, they're
15 going to be mad when they find out it's only a
16 thousand dollars, I can tell you right now.

17 The other thing that I'm upset about is this
18 meeting was not promoted in a way to fully capture
19 Tribal involvement, landowners, IIM account holders.
20 You know, it was just kind of slid in. If people in
21 the Great Plains area had known about this meeting a
22 little bit sooner, I think you would have had a
23 whole room full of people from the Great Plains area
24 upset about all of this.

25 The scholarship fund, who in their great mind

1 decided that it shouldn't go to the Tribes? You
2 know, it's just another -- to me this whole Cobell
3 thing looks as though it's just another way to
4 undermine and to do away with Tribal government in a
5 roundabout way.

6 The other thing I don't like about it is now
7 that we're finally becoming educated about being
8 landowners, about how to use our land, now, Oh,
9 let's give the Tribes some money so they can buy out
10 that land. Because we know on our reservation who
11 the superintendent likes and doesn't like and all of
12 that kind of stuff, who will get favored, who won't
13 get favored, you know.

14 And I am a little bit concerned about this
15 appraisal stuff that the BIA does. Our land is way
16 under-appraised, way under-appraised, and the length
17 of time that it's going to take to get those done.

18 So this whole thing of -- you know, I'd sure
19 hate to see the Federal Government be kicking out
20 checks for \$10 and \$9 like that like they do with
21 the lease income on this Cobell Settlement to
22 purchase land. For goodness sakes, at least make
23 the check worthwhile cashing. That would really be
24 disheartening to people, you know, to think that
25 they're going to get some kind of good land sale and

1 then all of a sudden they get a check for \$10 for
2 their share of their interest, what an insult.

3 And I am concerned because of this stuff with
4 the energy and oil and gas development, who knows
5 how much our people are going to get ripped off if
6 they sell their land now. What if that has oil and
7 gas and things like that? Are they just out it?

8 What about the mineral rights? I haven't heard
9 anything really about the mineral rights. Are the
10 water rights, are they going to still have water
11 rights for the land that they're selling back to the
12 Tribes? How is this all going to work? It just
13 doesn't seem like a lot of time and effort was put
14 into really fully thinking about how this is going
15 to be implemented and how it's going to impact
16 Tribal people.

17 And I just really think that whole Indian Land
18 Consolidation Act, you know, if the Cobell
19 Settlement can't be changed then let's change that
20 act because there definitely has to be changes for
21 it to work in the Great Plains area.

22 And I certainly would hate to see a whole bunch
23 of scholarships go to the eastern Tribes or the
24 western Tribes or the southern Tribes when it's
25 probably us that deserve our fair share of that

1 scholarship money.

2 Anyway, you know, the United States Government
3 has done a great job in undermining our ability to
4 govern ourselves, to grow economically, to develop
5 our resources. And, yeah, it sounds like a lot of
6 money, billions of dollars, but look what we gave
7 up. Look what the families that are not IIM account
8 holders gave up to this great nation to be one of
9 the richest in the country. What about them? It
10 doesn't look as though the United States will ever
11 really compensate Indian people for what we have
12 given.

13 Thank you.

14 MS. JODI GILLETTE: Thank you.

15 I think we still have time for as many folks
16 as, that are in the audience want to speak.

17 Are there more individuals or organizations?

18 MS. PAULA ANTOINE: Good afternoon. (Native
19 language). Good afternoon. My name is Paula
20 Antoine, and I'm the (native language) Oyate land
21 office coordinator for Rosebud, South Dakota. And I
22 submitted some written comments, but in addition to
23 those comments I'd like to add a few more concerns
24 that I've been thinking about.

25 Everybody is concentrating on what the Tribes,

1 you know, the Tribal interest, but we need to also
2 focus on the allottees and what they want. There's
3 a lot of allottees that have small interests on
4 other reservations and they don't want to sell it
5 and they want to keep their own land. And they want
6 usable portions of their land.

7 So I had an idea that within this ILCA program
8 a program could be developed to trade the land among
9 Tribal allottee members with other Tribal members on
10 different reservations. Like, for instance, if I
11 had a fractionated interest in Lower Brule, that
12 this program would help me find another person with
13 equal and comparable land that was willing to trade
14 with me on my own reservation so I could combine
15 that land and my interest to create a usable portion
16 for a homesite or for any other economic development
17 or anything, a business site that I would want to
18 start on my own. But there needs to be some kind of
19 mechanism for them people to do that, and right now
20 there isn't, there isn't anything like that
21 available for the people to consider if they don't
22 want to sell.

23 And then also I had some concerns about the
24 scholarship fund. The scholarship fund was, I was
25 reading back to the original documents that were

1 sent out to the IIM account holders, and the points
2 of the settlement stated that there was going to be
3 1.9 million for land consolidation, 60 million for
4 scholarship fund and the settlement claims, but it
5 did not specifically say that the 60 million was
6 going to come out of the land consolidation part.
7 It made it seem like it was a separate fund of
8 money, and so I feel that we were misled with that
9 information at the beginning thinking that the
10 scholarship money was like the icing on the cake
11 offering to the IIM account holders that, This is
12 what we're going to do for you if you agree to this
13 settlement, and now it's a part of the land
14 consolidation portion, which I think is wrong.

15 And with that, the scholarship fund also states
16 that it's going to be given to every member of a
17 federally-recognized Tribe even though they aren't
18 affected or they don't have IIM account holders, so
19 there's going to be Tribes that are landless that
20 are, will be receiving money that was supposed to be
21 originally for IIM account holders and I don't think
22 that's fair to the IIM account holders.

23 And also I believe that the liens should be
24 waived on there because that land is supposed to be
25 used in the future to generate economic development

1 for the Tribes, but if it's unusable for 20 or 30
2 years we're not going to be able to have any income
3 or any economic development created on the
4 reservations from the lands held under liens, and
5 that's really not doing anybody any good right now.

6 And appraisal for land is another, I also did a
7 lot of research on that, and some of the comments
8 were on mass appraisal. And I do believe that every
9 tract is different, as another gentleman had stated,
10 and that they need to be held uniquely and
11 appraisals need to be done that way.

12 And accurate data needs to be shared with the
13 Tribes concerning all land transactions. It is
14 shared up to a point that you -- you know, to jump
15 through so many hoops to get that accurate data, it
16 takes a considerable amount of time to get that
17 information.

18 And another comment I wanted to say that, about
19 the distribution amounts according to the land base
20 or the number of allottees on each reservation, and
21 as you know and you've heard our Chairman Rodney
22 speaking about our Tribal Land Enterprise, this
23 organization has been in existence since the 1930s,
24 1940s, and it is a successful land consolidation
25 program. And we do have the ability to provide

1 those services to other Tribal organizations or
2 other Tribal nations that do not have the ability to
3 or the knowledge to do that themselves. Providing
4 consultation services to other Tribes in land
5 consolidation activities would be something that we
6 need.

7 But the main thing I wanted to point out was
8 that there needs to be a mechanism for people to
9 obtain, to increase their own, to try to get their
10 land together.

11 That's all I wanted to say. Thank you.

12 MR. ERIC SOLIS: Thank you.

13 My name is Eric Solis, and I am here
14 representing an Indian-owned company with an
15 interest in this conversation.

16 And, first of all, thank you for just the open
17 forum that you've created for the public. It's been
18 very informative.

19 To the Tribal leaders, thank you for your
20 sharing as well.

21 My comments are directed towards a concern with
22 regard to the sustainability of the program. And
23 we've heard a little bit about the need to create a
24 business plan. And just looking at this, with the
25 15 percent maximum going towards administration, I

1 think it would behoove the Tribal leaders, as well
2 as the Department of Interior to really consider
3 that the sustainability of any program is going to
4 require that they have the resources, in particular
5 when you've got a ten-year time frame, to sustain
6 itself.

7 So, for example, 250 million sounds like a lot
8 of money, but when you break it down over a ten-year
9 period of time and you do the math on a per interest
10 basis, I don't know that you have enough allocated
11 to managing the program. So what could happen is
12 that suddenly you have a program, you make your
13 distributions or you presume to be in the process of
14 making your distributions and you don't have the
15 administrative framework around it, and then, you
16 know, lo and behold you can't afford to continue
17 with the program, and over the ten-year period of
18 time it then shuts down and the money reverts back
19 to Treasury. That could be a real problem,
20 especially when you measure it against the fact that
21 the DOI, at least to some of the research that we've
22 done, is spending about \$84 per account today. So
23 if you take the number of interests, multiply it by
24 four, they're spending the amount of allocation in
25 the Cobell case just about every year. So if you

1 multiply that by ten, you come up with it consuming
2 just about the entire balance of what has been
3 allocated in the Cobell case. So I think that that
4 is something vital to uncover is to make sure that
5 you don't plan a bunch of distributions and then not
6 have the money to finish the job. You know, it
7 would be sort of like planning to build a beautiful
8 hotel and then you figure out that you only
9 allocated 10 percent of the cost to completing the
10 project.

11 Also I think it's vital to understand what the
12 current state of the recordkeeping on the back end
13 at the DOI looks like. What state is it in? And
14 maybe you can answer that question, maybe not,
15 today. But understanding the current state of the
16 recordkeeping and what it's going to take to compile
17 that data and channel it into some sort of efficient
18 system that will allow -- you know, if you're
19 talking about a ten-year time frame, it can take
20 years just getting the data in some sort of file
21 that can be properly inputted into any kind of
22 system, so I think that that's going to be a really
23 important question for the Tribal leaders to ask and
24 to really ascertain and understand so that if you've
25 got a ten-year time box that you've got to get all

1 this done, it seems to me to make really good sense
2 to understand that.

3 The other thing is that there's been a lot of
4 talk about the probate issue, and that's a big deal
5 because over one generation about \$6 billion is
6 going to be spent on probating the interests of
7 those that are alive today. That's money that could
8 be going into the pockets of Indian Country. So the
9 land fractionation issue, and I know that there have
10 been some people that have talked about the fact
11 that it perhaps doesn't serve them to resolve the
12 problem through Cobell. That may be true, but it
13 definitely serves you to solve the problem because
14 land fractionation will at some point in time likely
15 have a negative impact on Indian Country. If not
16 now, it could be that you're next on the list of
17 having your property driven to zero through this
18 destructive element. So organizing and coordinating
19 around it with some sort of system is vital.

20 I think that's all that I have, but I just
21 wanted to get that on the record. And I want to
22 thank you for the opportunity to share.

23 MS. JODI GILLETTE: Thank you.

24 MR. CRIS STAINBROOK: My name is Cris
25 Stainbrook. I'm the President of the Indian Land

1 Tenure Foundation.

2 It's good to see you all again since I saw you
3 at Shakopee. Over there, of course, we have an
4 audience that's much more Minnesota nice. When I
5 get back over here it's like coming home. I know
6 that we can hand out some good ear meetings over
7 here and keep you active and jumping.

8 One of the things that occurred at Shakopee
9 that we told you we would get back to you on was the
10 suggestion from the Flambeau Chairman to hold a
11 meeting of Tribal officials and Tribal land staffs
12 and come to some agreement among all of them around
13 certain issues related to the Cobell Land Trust
14 Consolidation Program. We, in fact, did hold that
15 meeting, and we held it hosted by the Mille Lac
16 Tribe at Hinckley. We had 26 Tribes represented,
17 some of which are around the table. I think four or
18 five are around the table today. And we came up
19 with a number of kind of agreements on different
20 pieces, including some basic premises about the
21 issue at hand. And let me run through those first
22 before I give you some of the recommendations that
23 the Tribes also came up with.

24 But some of the basic premises include: Indian
25 Nations are sovereign nations with the ability and

1 right to self-determination. And I think if you
2 look at the back of the handout that you have today
3 under the Amendments of 2000, Policy of the United
4 States, number 4 is to promote Tribal
5 self-sufficiency and self-determination, and we
6 believe this particular program really is an
7 opportunity to move to that fulfillment of that
8 policy.

9 Another premise was that the issue of
10 fractionated land title is a product of the federal
11 policies, primarily the General Allotment Act but a
12 number of other acts as well, and that the Federal
13 Government should bear the cost of resolving the
14 issue and hold the Indian Nations and the Indian
15 individuals harmless in that process.

16 The third piece was continued fractionation of
17 Indian land title is a problem for everybody. It's
18 a problem for Indian Nations; it's a problem for the
19 individual Indian landowners, and it's a problem, a
20 major problem for the Federal Government, and it's
21 continuing to grow and some resolution needs to be
22 brought to the . . .

23 And finally one of the things that was most
24 strongly expressed during our meeting and has been
25 ever since we've started over ten years ago is that

1 one size doesn't fit all. The circumstances of
2 every Tribe is different. And in coming to that
3 conclusion in Hinckley, there was the distinct
4 opinion not to go through the various strategies
5 that were laid out in the program that you even put
6 on the board this morning simply because those were
7 good suggestions for the Tribes to consider as they
8 design their own program, and rather than say that
9 this particular Goal 1, Strategy 1 fits all Tribes
10 is just not possible and not doable.

11 So the recommendations, we have several.
12 First, each Indian Nation should be able to choose
13 whether or not it will operate the program on its
14 reservation, and that needs to be a Tribal decision,
15 not a DOI process for Tribes to go through and then
16 either be able to do it or not be able to do it
17 based on a DOI decision. Rather, it's a Tribal
18 decision. It's part of self-determination of
19 Tribes, and it needs to rest with the Tribes. That
20 also means that the Indian Nations can decide not to
21 run the program on their reservation. That's an
22 equal decision that they could make based on
23 information that they've gotten and their own
24 desires. And outside of that, who they decide
25 should run the program should also be up to the

1 Tribes.

2 The second part of that or the second
3 recommendation would be that Indian Nation
4 priorities for acquisition should control every
5 aspect of the program as it gets run on the
6 reservation, and this is independent of whether or
7 not the Tribes are running that program. If the
8 current ILCP runs the program, the Tribes'
9 priorities and, in fact, even drawing from the
10 strategies that you've laid out at this point,
11 should be the Tribal priorities guiding those pieces
12 and the acquisitions and the delivery of it, even
13 down to how are the acquisitions occurring. So
14 we've heard from a number of Tribes that under the
15 American Indian Probate Reform Act, the 5 percent
16 provision in there, a number of Tribes do not like
17 imposing that on their Tribal members and opt not
18 to, and that should be their decision, the Tribal
19 decision.

20 Other Tribes have the feeling and, in fact, I
21 heard this yesterday from two, that they would like
22 to go to imminent domain, especially on fee
23 interests that are held within trust allotments.
24 How many of those are out there, I have no idea, but
25 their intention if they don't know where the fee

1 holder is, that they will try and use imminent
2 domain to close out that interest. Other Tribes
3 won't use that process at all. But these are
4 decisions that should be at the Tribal level and a
5 part of the Tribe doing them.

6 The other thing, and we've heard this several
7 times today, is consolidation needs a broader
8 definition than has been applied, certainly by the
9 Bureau of Indian Affairs, if not the Department of
10 Interior. As I told you, during the Shakopee
11 discussion we were instructed after doing the Will
12 Writing Pilot Project under AIPRA that what we
13 thought was consolidation and it was from individual
14 to individual or from preventing fractionation by,
15 or directing that all of one particular holding
16 undivided interest would go to a single heir, we
17 were instructed that that, in fact, was not
18 consolidation and the only true consolidation
19 occurred when that interest went from an individual
20 to the Tribe. And from our viewpoint from an
21 individual buying out another individual undivided
22 interest and consolidating those two is clearly
23 consolidation, and I think over the long haul you
24 will find families much more willing to consolidate
25 within the families than to be selling their

1 interests outside of the family, even to the Tribe.
2 And it also, in many cases, will be bringing in yet
3 another outside element into that ownership in the
4 individual allotment, so we would like to see the
5 definition of consolidation include consolidating
6 among individual owners.

7 The third recommendation is that accurate data
8 on all allotments and owners of every interest must
9 be supplied to each Tribe, and this should be done
10 in advance of whether a Tribe or when the Tribe
11 makes the decision about whether to run the program
12 themselves or not. In order to make an informed
13 decision you have to know kind of the scope and
14 scale of what you're about to take on, and I think
15 it's important that the Tribes have this. We know
16 that some Tribes have been able to get it, at least
17 get the information that is in TAAMS directly to
18 them, but other Tribes seem to be having some kind
19 of impediments put in place in order for them to get
20 that information.

21 And the other piece of that -- two other pieces
22 of that particular recommendation: One, the BIA and
23 OST must ensure the accuracy of the data. We need
24 to know who really owns these parcels and undivided
25 interests within the allotments so that those folks

1 can be engaged in the conversations about whether to
2 sell or not.

3 The other piece is this is a ten-year program,
4 and as time goes on, one of the things we've seen,
5 particularly as it relates to probates getting done
6 and processed, is that oftentimes there's a lag, and
7 we need the Bureau and OST to ensure that the most
8 up-to-date accurate information is always available
9 to the Tribe, and that includes titling. And so
10 anecdotal information out there would suggest that
11 there were people being paid for leases on undivided
12 interests that they had sold four years earlier that
13 had not yet been titled properly, and so we need to
14 get that information up to date.

15 And then one of the bigger pieces that we
16 talked about at Shakopee as well, and I know that at
17 each of the preceding consultations there has been a
18 statement around not placing liens on these
19 undivided interests, and I appreciate that but
20 you're going to hear, hear about it again from me
21 because we have not seen anything in writing to that
22 end. And placing liens on these particular
23 interests, and for that matter even continuing the
24 liens that have already been placed on properties
25 purchased under ILCP, we would suggest that if liens

1 are going to be placed on these properties, that
2 that lien be waived immediately under the
3 Secretarial authority that's provided under ILCA for
4 a lot of reasons. One, this is essentially a third
5 party forcing a loan on another party in order to
6 have that property, in this case the Federal
7 Government making the purchase and then it's really
8 a loan that the Tribe is going to have to pay off
9 through foregone, you know, revenue.

10 Another piece really goes to the administration
11 of the program in that you would have to maintain
12 those interests as separate until the lien is paid
13 off, and that will end up costing the Department of
14 Interior in our estimate somewhere between 40 and
15 \$50 per undivided interest per year. And I did a
16 real quick calculation on that, and if you were
17 buying 10 percent of the interests every year and
18 you got all 4 million cleaned up by ten years, the
19 entire program through administrative cost savings
20 would be paid off in 14 years. And so in many ways
21 there are several arguments to not put liens on
22 these properties, and that's aside from what it does
23 in terms of Tribal revenues and the ability of the
24 Tribes to utilize those revenues as leverage.

25 Our fifth recommendation is that mass appraisal

1 be used wherever possible. In looking at this, and
2 we have looked at it and studied it for two years,
3 and we believe that, and, in fact, the former chief
4 appraiser at the Bureau of Indian Affairs believes,
5 that mass appraisal is actually more efficient and
6 effective and perhaps far more accurate than
7 individual appraisals on individual properties
8 simply because you take out the individual variation
9 of the different appraisers and you come to much
10 closer appraisal values that are accurate for a
11 particular area. Now, the models have to be built.
12 Once they're built, then it becomes much cheaper and
13 much faster to do large-scale appraisals. And we
14 would also caution against trying to use mass
15 appraisals when doing mineral interests because
16 those are much more difficult to do on a mass basis.

17 Our final recommendation is around the
18 distribution of settlement funds. This was a
19 question that you asked when we were at Shakopee
20 about how would this get divided up, and we
21 approached that with the Tribes that came to
22 Hinckley, and we have since been working on it to
23 try to come to some fair basis on how it might be
24 looked at. First and foremost, the Tribes that were
25 at Hinckley said two things are important: One is

1 fairness, and the other is transparency. Now,
2 fairness, one could argue is kind of in the eye of
3 the beholder, but transparency should be fairly
4 straightforward and easy to accomplish. People
5 should be able to understand whatever basis is used
6 for dividing up the settlement funds. And when we
7 talk about the settlement funds, we're talking about
8 both the acquisition pool and the administrative
9 pool. And, you know, as I sat here and listened
10 today about the concerns around the scholarship
11 funds, those could be divided in the same way.

12 But generally there were two pieces that should
13 factor into this: The number of undivided interests
14 on a reservation and the number of allotments on the
15 reservation with fractionated title. Now, the
16 discussion that we had at Hinckley led us around to,
17 "What do we do about Tribes who have been working on
18 this on their own for quite some time?" And so
19 we've come up with the following recommendation, and
20 that's to use the average of three percentages. The
21 first percentage being the total, the percent of the
22 total allotments in 1934. So those essentially are
23 a point in time the IRA had passed and allotments
24 had ended, and that's a point in time where we could
25 look at the allotments that were originally on the

1 reservations.

2 The second percentage is a total of allotments
3 today. And the third percentage is the total of
4 undivided interests today. If you found those three
5 percentages for each reservation and averaged the
6 three percentages, it begins to factor in changes
7 from 1934 to today and also allows for those Tribes
8 that have high numbers of undivided interests on
9 their allotments as opposed to low numbers on a
10 large number of allotments.

11 The one caveat we would put on that is that no
12 Tribe should be allocated more than the estimated
13 value of all fractionated allotments on the
14 reservation.

15 We will be submitting written comments by
16 November 1st. And I believe you will or have heard
17 from a number of the Tribes that were at Hinckley
18 and others will be submitting their comments to you
19 as well.

20 Thank you.

21 MS. JODI GILLETTE: Maybe we could do a round
22 of closing comments, if any of the Tribal leaders
23 would like to provide any additional comments at
24 this time.

25 MS. PATRICIA DOUVILLE: Hello. My name is

1 Pattie Douville. I'm from the Rosebud Sioux Tribe.
2 I am also an IIM account holder. As an account
3 holder, I feel that my rights have been violated, as
4 with the others, that I wasn't informed or asked to
5 be a part of the settlement. And, you know, just
6 arbitrarily doing that for me I felt, you know, that
7 stepped on my rights to do that.

8 But as a Tribal leader, I would like to remind
9 the Federal Government that if it wasn't for every
10 single Indian, Native American, first American in
11 the United States, we wouldn't be the number one
12 nation in the world, the biggest super power in the
13 world.

14 And I'd like to remind all of us here that
15 every single inch from one seed to the other seed
16 was all Indian land, every single inch, so in
17 reality America is Indian land, fractionated or not.

18 As an individual I have a lot of fractionated
19 interests in land, and not only on just my
20 reservation which is Rosebud, I have land in Oglala
21 country, too, so, you know, I have stepping stones
22 there also.

23 But as a landowner, no matter how small it is
24 and no matter what amount of money that I'm
25 presented, I can honestly say that I won't sell my

1 land, I won't consolidate it. Even if it's just an
2 inch, it's mine. So -- and I think that there's a
3 lot of us that feel the same way. Because
4 eventually I believe that -- you know, as a
5 landowner I believe that one of these days the
6 government is going to come and say, You're only an
7 Indian if you have the land. And what's that going
8 to do for the people who consolidated their land?
9 You know, eventually it's going to come up to that.
10 It may not; it may. You never know what the
11 government is going to do nowadays, it's so
12 unpredictable. But one of these days down the line
13 the government is going to say, If you can prove
14 that you have land, no matter how big it is, you are
15 an Indian. You deserve to stay here.

16 So, you know, no matter how small my land is,
17 I'm not going to sell it, and I believe that's true
18 for a lot of others on every reservation across
19 America because we're connected to the land. We
20 didn't have individual ownership of our land. It
21 was a communal ownership. Because, you know, the
22 earth doesn't belong to anybody. So -- and in a
23 sense, you know, I just want to remind everybody
24 that all of America is Indian land.

25 Thank you.

1 MS. JODI GILLETTE: Thank you.

2 MS. REBECCA KIDDER: My name is Rebecca Kidder.
3 I'm an attorney with Fredericks, Peebles & Morgan,
4 and I've had the privilege and pleasure of working
5 with some of the Tribes in the Great Plains for 13
6 years.

7 Mike, I know you at least some, and it's been a
8 pleasure working with you.

9 Today we're here working with Santee, and we're
10 here working with Three Affiliated, but we also have
11 had the privilege of doing some of the work to put
12 together the recommendations that came from the
13 Tribes.

14 I want to give to you, which you have probably
15 already seen, (unintelligible) from March of 2008
16 that was presented to the Inter-Tribal Monitoring
17 Association that tells you the real story.

18 60 percent of the 2 percent or less of
19 fractionated interests in the United States lie on
20 25 reservations. That's not undoable. 16 of them
21 were here. Nine of those are in the Rocky
22 Mountains. These Tribes have been running these
23 programs (unintelligible) since 1943. They know.
24 They know what it takes. They know the land
25 exchanges that need to be done. They know their

1 title plans. And so we would respectfully say that
2 government-to-government consultation is where this
3 needs to be. There should not be discussion with
4 national contractors going on, between the
5 Department and contractors. Those contractors
6 should come to the Tribes. You know, we cannot have
7 contractors, with all due respect, who have never
8 worked here, don't understand what it takes to do a
9 land exchange, don't know where people live handling
10 this.

11 I think one of the biggest recommendations
12 you'll see in the paper that has come across is it
13 is not, we don't think, too much to ask and we do
14 not believe it would take too much time to handle
15 60 percent or more of the acreage issues that you're
16 looking at with this particular fund to meet with 25
17 reservations, their agency, staff and their title
18 plants. You know, we need our title plants, but the
19 Office of Special Trustee was created above the
20 objections of the Tribes. Their funding was really
21 cut. And so we respect that those need to be built
22 back up if you're going to do a lot more recording.
23 And, of course, all of the Tribes in the
24 (unintelligible) formation know the delay is only
25 going to get worse if we don't deal with it, but

1 that's a discussion that should be happening between
2 the Department of Interior, the Bureau of Indian
3 Affairs, the Office of Special Trustee, the agency
4 superintendents who already have legal authority to
5 sign every land transaction document. You can
6 delegate it from the Secretary of Interior right
7 down to the agency superintendent and the Tribes.

8 You know, I know if you start to look at the 25
9 programs on the 25 reservations that comprise over
10 60 percent of the interest here, you're going to
11 learn a lot because they do that work to find the
12 people. They know how to find them. They know what
13 they need to do better at that. They know how the
14 money needs to flow to get people paid if they wish
15 to sell. They understand the complexity of -- I
16 haven't heard anyone say, but it's in our paper, I
17 don't think that even some people understand there
18 are undivided fee interests.

19 I know Mike you do.

20 There are undivided fee interests in trust
21 tracts even owned by counties. That the Bureau has
22 never known what to do with because legally speaking
23 that shouldn't even be a possibility. If we can't
24 buy those undivided fee interests in our undivided
25 trust tract that's fractionated, what are we to do?

1 So we just -- I just wanted to give you that
2 little detail in terms of how you proceed, we don't
3 believe that there should be any discussion with any
4 national level outside contractor, unless the Tribe
5 is asking for that. Outside experience and
6 expertise, the contractors can be helpful but only
7 if the Tribes doing those programs believe that it
8 will be.

9 We have experience in law enforcement, Bureau
10 of Indian Education Reorganization where we can tell
11 you, and the statistics will bear out, that
12 centralizing the office located somewhere else in
13 the United States and asking them to deal with this
14 region is hugely costly in terms of travel and
15 hugely costly in terms of not gaining the results
16 that you want.

17 So we just ask you as you proceed to even begin
18 to look at the issue that we think if you talk with
19 the 25 Tribes and agencies and title plants that
20 comprise this issue, that that needs to be the focus
21 of the discussion.

22 Thank you.

23 THE COURT REPORTER: Can we take a break?

24 MS. JODI GILLETTE: I think we're almost done.

25 MR. MICHAEL BERRIGAN: Let's take a five-minute

1 break.

2 (Recess taken from 4:07 p.m. to 4:21 p.m.)

3 MS. JODI GILLETTE: We have an individual who
4 would like to present, a landowner who would like to
5 present.

6 You can come on up.

7 MS. CAROL LAKOTA: Good afternoon. My name is
8 Carol Lakota, and I work with the Oglala Sioux
9 Housing Authority. I was asked to come in place of
10 my supervisor. And I listened to everybody talk
11 here, and when I came I thought, Boy, the Tribe gets
12 to buy back land. On our reservation we have
13 cluster sites.

14 Paul Iron Cloud is the Chief Executive Officer,
15 and we were doing new development this past year
16 with new ownerships on the reservation. And we
17 sought for grants, looked for money for grants, and
18 we were given money for some low rents. And we
19 needed infrastructure. We needed water; we needed
20 sewer; we need money for lagunes, you know, all this
21 sort that we carry the burden for the people. And
22 we talk about the people and wanting to care, I know
23 it's probably all over the United States about
24 Indian County.

25 And I was sitting there thinking about these

1 cluster homes, it's just like we're putting people
2 back in groups or forts all over the reservation and
3 telling them, You have to live there because this is
4 the only place to be, but you also listen to the
5 kids saying, "I wish I didn't have to live here.
6 There's so much going on here." A lot of our people
7 are country people. They live -- grew up in the
8 country.

9 I, myself, you know, I own small pieces of
10 tracts of land on the reservation, a total of
11 30 acres between my brother and I. He passed away.
12 I own 15 and he owned 15. I own some land up by
13 Kadoka. And at one time I wanted to consolidate my
14 land and trade for Tribal land. Then I talked to
15 this guy that worked for the Indian Affairs. He has
16 long since passed away. I said, "I'm thinking about
17 trading for Tribal lands somewhere close," and he
18 said, "No," and we talked about appraisals. He
19 said, "Carol, your land has a lot of value there." I
20 said, "Why?" He said, "Because we had an individual
21 allottee sell his parcel of land to a non-native.
22 That land went on fee." What happened was when that
23 happened, the allottee that sold the land did not
24 get any right-of-ways through the parcel of land,
25 access to the main roads, so that parcel of land is

1 sitting in fee surrounded by allotted land. He
2 could not gain a right-of-way to put horses there or
3 put any improvements upon that land. So he, in
4 turn, advertised it. So another non-native bought
5 the land. So, in turn, this value -- this parcel of
6 land went up in value, so my land went up in value
7 on that little hundred and sixty acres that I own
8 probably about, back then probably about 8 acres,
9 10 acres. I'm talking about fractionated interests,
10 and I'm one of those members.

11 So I think about that land over there. And
12 it's a small share. It's more than that, it's like
13 maybe 16 acres. Like I said, I own 30. So I gave
14 that valuable piece of land, I have four children, I
15 gave them each 4 acres each, in hopes of trading
16 with the Tribe, that they would trade with the
17 Tribe, and I kept a partial, maybe 2 acres of that
18 land. Because for me, that's my lineage. I
19 inherited that on my mother's side.

20 And, you know, for me land is important. It
21 identifies you and tells you where you come from. I
22 also tell my children where they come from. And so
23 as a landowner I want to talk about this, the fact
24 that this settlement says that we cannot buy back
25 fee land. I think they should take into

1 consideration, you know, waive that and allow it,
2 because you see a parcel of land sitting where now I
3 own 2 acres in it, my kids still own, but that's
4 really (unintelligible) because no one can use it.
5 That's fee land. Why can't we buy it back?

6 And, you know, you see the Tribe in an allotted
7 parcel of land and divide its share the Tribe owns
8 and they're a landowner. They're no longer the
9 Tribe, they're an individual. If I want a
10 right-of-way and the Tribe owns interest, I go and
11 ask them. As an individual, as a person I ask them,
12 "Can I have your signature for my right-of-way?"

13 I think through the settlement, through here
14 the Tribes should be able to go and ask that fee
15 owner and that allotment that they own to be able to
16 buy back that land. I would like you to consider
17 that, because they are, the Tribe is an individual
18 once they are allotted lands.

19 And since Elouise Cobell started this case, how
20 much land has gone out into fee? Can we buy that
21 land back since the day she filed in court? Would
22 that be considerable -- considered?

23 So I just sat here listening to other people
24 talk. And about the lady that owns somewhere else,
25 I have a relative that owns I think in the Cheyenne

1 River. They have a resolution where if that person
2 is not enrolled there that they take back the land.
3 We don't think it's right because there's
4 considerable, a family that owns allotted land, and
5 the land was taken and the children were left, they
6 were left without nothing. So what happens to those
7 IIM bank holders since that Tribe took that land
8 from them? They're no longer one. So those are my
9 concerns.

10 And the other thing is that, I've been asking
11 about is infrastructure. When the Tribe buys back
12 this land, what about moving our people back out on
13 Tribal land that's been purchased near the highway
14 where we have water lines, utility lines? I find it
15 so hard for people to move home out of the cluster
16 sites. Is there going to be something -- are they
17 going to be -- will the Tribe be eligible for money
18 through that? Because I heard somebody talking
19 about dams and the infrastructure. You know, those
20 are my concerns.

21 We're trying to help the people or we think
22 that they won a case on behalf of the people. I
23 hear people saying they're going to get \$500 or a
24 thousand dollars. You know, what if they're living
25 on assistance? What's that going to do to them?

1 They're going to cut off their food stamps. They're
2 going to cut off their assistance that they give.

3 I have a cousin that's a firefighter. He goes
4 to work every summer when there's a fire, but he
5 gets cut off because he makes too much money, and
6 his family is suffering. So when you decide to give
7 out the money to these IIM holders that are living
8 on limited income and their resources are low,
9 what's going to happen to them? Did you ask the
10 government if they would waive that payment or
11 consider it something else?

12 Because the IRS, the taxes -- maybe I'm getting
13 off the line, but these are things that, I think
14 that should be considered if we're talking about the
15 individual.

16 Thank you.

17 MR. SCOTT WESTON: Thank you.

18 First of all, I want to thank all three of you
19 for being here.

20 Mike is one of my Tribal members. Jodi who's
21 lived in Kyle, I know she's from north --

22 -- but you're still a home girl. You're a
23 Mustang, yes.

24 But you guys, you have taken on a big
25 responsibility and it's hard, but that's a chosen

1 thing. We have no choice but to be where we are.
2 We have no choice to be in the position that we are.
3 It's the United States Government that put us here
4 through the treaties that were peace treaties from
5 1851 and 1868 that said that as long as the grass
6 grows and the water flows we will be given adequate
7 health, education and welfare. But the question
8 that comes to mind every time that I say that is
9 we've been peaceable people because of it, and the
10 only thing we've been doing is fighting paper wars,
11 but we're losing.

12 You know, I go back to what I said in
13 Minneapolis, my uncle, Paul Iron Cloud, former
14 Tribal Chairman, now the CEO of the housing, we had
15 a consultation here on housing, and he said, "As
16 long as our treaties are there, we have ground to
17 stand on." He said, "The thing you have to remember
18 is that our men that signed these treaties did not,
19 didn't even have, didn't have a bachelor's degree, a
20 master's degree, a Ph.D. All they did was put an X
21 on this treaty." And he said, "We believe in that
22 because that came from their heart, and they can't
23 stop that. The only way they're going to stop it is
24 through our lawyers, through our government system,
25 but they have to deal with us as a nation-to-nation

1 consultation."

2 And the question is, and I've heard it before
3 all day, where is the Department of Interior? Why
4 aren't they at the table? I know that Secretary
5 Hayes was in Billings. You know, and why aren't
6 they coming to the Tribes?

7 We need to be -- we as Tribes need to sit down
8 and go to Washington, because they're not going to
9 come here. We need to go and be one.

10 And, The Chairmans, remember I was saying that
11 yesterday. We need to be collective in our decision
12 making.

13 Because this is where it's all going to happen
14 is when we decide that this is going to happen, we
15 will do it now and if it means we pull out the bows
16 and the arrows and do what we have to do. Because,
17 you know, it's not so much for us, it's for our
18 children and for our grandchildren down the line.
19 We need to do this because this is who we are.

20 And the thing that I haven't heard all day was
21 I haven't heard any types of timelines.

22 Can you guys -- when will we know? Are you
23 going to put it on the Internet, or is there some
24 type of documentation that we could get back as
25 Tribes as far as when and where and how this process

1 is going to play out? Because I think that today we
2 are more frustrated than we were when this thing
3 started because of the, I don't know, the questions
4 that have been raised, because of the, it's still an
5 ILCA thing, we're not getting a chance to be able to
6 be masters of our own destiny like I said earlier
7 this morning.

8 We don't have -- we don't have a lot of time.
9 We're backed in the corner. If you remember, we are
10 the only, we are the only war that the United States
11 Government has ever lost.

12 So we need to take that and be strong. I say
13 this to all of our people is that we need to be
14 strong in our decisions. We need to be strong in
15 everything that we have to do. And when we start
16 doing this, I believe that we are going to make a
17 statement because we are very proud people. We are
18 strong of who we are. And today I think is going to
19 be a turning point in our lives, because if we stay
20 to the task, we will be able to do what we set out
21 to do and to be the leaders that we are supposed to
22 be, but we need to be together.

23 Thank you.

24 MR. TEX HALL: Jodi, just to make a quick
25 closing comment, you've heard from the Great Plains

1 Tribes and the allottees. And we worked hard on
2 presenting the information that we submitted today
3 in our testimonies from the Great Plains and each
4 respective Tribe. We hope you find it helpful and
5 useful.

6 And we tried to show -- Rebecca showed a graph
7 that showed, I think it's 1.5 million acres of
8 interest tracts, so it really jumps out at you on a
9 national level that this is the most highly
10 fractionated of trust allotment interests in the
11 regions, of all 12 regions.

12 So in your deliberations, sometime maybe in
13 February or so we hope to have another consultation,
14 if we could. The contracting is still very
15 important to us. We just feel that that's a real
16 key link to accomplish mutual goals, not only for
17 the Tribes but for the Department of Interior, for
18 the Bureau of Indian Affairs. To be successful one
19 party can't do one thing and the other party can't
20 be opposed. We both gotta work together. And we
21 feel strongly that with this kind of partnership we
22 can accomplish and be a win-win for the Tribes and
23 the allottees and for the Department.

24 And I also want to mention to the allottees,
25 because I'm an allottee, too, nobody has got a gun

1 to nobody's head. This is a volunteer transaction.
2 If you don't want to sell your land, you don't have
3 to sell your land. And -- but, you know, sometimes
4 you have to kind of think, What am I going to do
5 with a half an acre or .25 percent or .0025 percent
6 of 1 acre? You know, it's not going to do you any
7 good. But those are voluntary questions that
8 allottees have to ask themselves, but the Tribes are
9 not trying to force their way in to buy land. I
10 don't think that's what the Department is trying to
11 do as well. It is a volunteer program, and that's
12 just the way it is. That's the way the suit, that's
13 the way the settlement, that's the way the laws are
14 intended. That's what they're designed to do.

15 So, Mike and Jodi and Michael, we really
16 appreciate you coming today.

17 And especially Mike and Jodi are from here.
18 It's always good to see some of our own members come
19 back to the Black Hills in the high government
20 positions that you are and to consult with us, so we
21 want to welcome you back and appreciate your
22 understanding and being with us all day to hear our
23 concerns.

24 I also want to recognize our Acting Regional
25 Director back there, Bruce Maytubby.

1 Tribal leaders and Tribal members, I just
2 shared a few words with him out in the hallway, and
3 he hit the ground running. I think he landed in
4 Aberdeen on Monday and yesterday drove over here, so
5 he looks like to be one of those guys that hits the
6 ground running, so take the time to go shake his
7 hand and say hello to him.

8 Welcome, Bruce. We're glad you're here.

9 Thank you very much. I appreciate it.

10 MS. JODI GILLETTE: Thank you.

11 MR. ROGER TRUDELL: Very briefly, I thank you
12 for being here. Thank you for hearing our plea for
13 you to come out here.

14 It's always good to see you, Mike.

15 Jodi, I don't know you very well, but it's
16 always been a pleasure.

17 And, Mr. Berrigan, I'm glad you were able to
18 come out and see us.

19 Just to echo what Chairman Hall has said about
20 the allottees, it is their individual choice to sell
21 or not. And I know in our setting at home, you
22 know, when people have come to us, you know, when
23 they weren't going to be able to retain their
24 holdings because of the existing laws and stuff,
25 that we adopted a resolution where they can keep it

1 because it's more meaningful to them if they can
2 have that. Even if it's only a spoonful of dirt,
3 it's theirs. If they want to own that, then they
4 should be able to own that.

5 The thing I think that is really important and
6 I think needs to be really considered is an
7 equitable proportionate of what would go into the
8 future educational component of the act, and that
9 that is if we have 33 percent of the fractionated
10 interests here, then somehow 33 percent of the
11 60 million or potential 60 million should come back
12 there.

13 And thank you for being here. Thank you for
14 coming out and sharing your time with us. Thank you
15 for your patience. We can be pretty hard out here,
16 you know that.

17 Thank you.

18 MS. JODI GILLETTE: Thank you.

19 MR. RODNEY BORDEAUX: I'm Rodney Bordeaux,
20 Rosebud Sioux Tribe.

21 I want to thank you for all coming out on
22 behalf of the Rosebud Sioux Tribe and Great Plains
23 Region.

24 Based upon all the testimony that was, happened
25 today, it just brought to light some necessary

1 adjustments I made to my testimony. One big
2 adjustment I did make is that we're requesting
3 Secretary Ken Salazar to waive all the liens on the
4 current ILCA land purchases, and that's with the
5 current program. And I know the Oglalas said they
6 asked for that and didn't get a response back, but
7 the request needs to go to Secretary Salazar, so
8 hopefully through this consultation it'll get to
9 him.

10 And the lands purchased, you know, we talked
11 about being the larger land purchases, I think you
12 really need to, the Bureau of Indian Affairs and the
13 Department of Interior really need to consider that
14 because of the Allotment Act and the settlement
15 acts, that there were vast amounts of lands lost,
16 especially -- I gave a good example on Rosebud. So
17 there needs to be some type of adjustment made. And
18 if you need to, contact us and let us know whether
19 or not, how we have to change this law, but we lost
20 tremendous amounts of land in those counties, and
21 there needs to be some type of adjustment made with
22 these settlement funds to include larger land
23 purchases in those counties. We just missed out on
24 some. One was 10,000 acres, and the other one was
25 3,500 acres. That would have took us right on the

1 Missouri River and a big ranch that was right in the
2 middle of Gregory County that would have really
3 added to our base. So we need to make those
4 adjustments to that settlement fund, but please let
5 us know how we can -- if it has to be done, we can
6 take that up if we have to amend the law.

7 And I wanted to add, too, and I'm adding in my
8 testimony that the scholarship fund at the Rosebud
9 Sioux Tribe has concerns about the distribution and
10 the use of the scholarship funds. And I'll give
11 this to the reporter over there.

12 But basically that's it. I just have to add
13 those comments. And we're really concerned, and
14 thank you for coming to the Great Plains Region
15 because often the large land-based Tribes are
16 overlooked when it comes to National Congress of
17 American Indians. And even in this setup for these
18 five regional consultations, we were basically put
19 to the back burner.

20 And concern was expressed earlier about the
21 lack of the higher levels like Ken Salazar and
22 Larry Echo Hawk, those higher level people not being
23 here, but that's just an indication of what we see
24 in the Great Plains and the Rocky Mountains that our
25 large land-based Tribes are kind of put to the side,

1 and we're really concerned about that, and we hope
2 that the Department of Interior does not follow
3 along those lines with what National Congress of
4 American Indians is doing. You know, we need to be
5 heard. We will be heard, and we'll continue to be
6 there.

7 Thank you.

8 MS. JODI GILLETTE: Thank you.

9 MR. WILFRED KEEBLE: I just wanted to say thank
10 you for your time coming down. Good to see you
11 again.

12 And I'd like to acknowledge our superintendent
13 over here, Mr. Duffy from the Crow Creek Agency.

14 Thank you.

15 MS. JODI GILLETTE: Thanks.

16 MR. WINFIELD RONDELL, JR.: Thank you,
17 Ms. Gillette.

18 Winfield Rondell, Jr., Tribal Secretary,
19 Sisseton-Wahpeton Oyate.

20 Like our relatives have been saying all day,
21 that Sisseton-Wahpeton is also capable of managing
22 our own affairs, education, land. Whatever it be,
23 we can manage our own, and we have been. We have
24 been managing our own programs.

25 Thank you.

1 MS. JODI GILLETTE: Thank you.

2 MR. CHRIS LINDBLAD: Thank you, Mike, Jodi and
3 Michael for taking the time to listen to our
4 concerns.

5 In order to make sure that all the voices that
6 spoke today are heard, in closing remarks I wanted
7 to request that you address what you will be doing
8 in terms of copying Mr. Salazar, Mr. Echo Hawk about
9 the concerns of the Great Plains Regional Tribes and
10 possibly that soon Tribes who are sitting at the
11 table have the opportunity to speak with those
12 gentlemen directly about their concerns.

13 As I mentioned before, the Standing Rock Sioux
14 Tribe will be preparing and submitting written
15 testimony in advance of the November 1st deadline.

16 And I thank you for your time.

17 MS. JODI GILLETTE: Thank you.

18 I just want to thank all of you for the time
19 that you put into this.

20 And I do want to respond to the sort of over --
21 maybe four or five people have mentioned the level
22 of leadership that are present at the table here
23 today, and I do apologize for not being the
24 Secretary of the Interior or the Deputy Secretary of
25 the Interior. I am the Deputy Assistant Secretary,

1 which is basically Larry's deputy. And Larry Echo
2 Hawk is the Assistant Secretary. He's a
3 commissioner of the President, and he's been Senate
4 confirmed. He's a commissioner of the President.
5 When you're at that level you have the authority to
6 act on the President's behalf. And he's not here
7 and he can't be here because he's related to a
8 person by the name of John Echo Hawk who's very
9 close to the case, so he's recused from all Cobell
10 matters so he's not able to join in any of the
11 discussions, policy or otherwise because of that.

12 And the other thing is that I'm the co-chair of
13 the Cobell implementation body. We have a work
14 group that goes, we meet on a regular basis, on a
15 weekly basis, and I co-chair it with the Associate
16 Deputy Secretary Meghan Conklin.

17 So I apologize for not having the sort of
18 stature that you all desire here.

19 I would also like to say that Mike Black has
20 been at all the consultations that I've been at, and
21 this is pretty high level that the ILCA program is
22 under his purview, under our purview, and it's going
23 to have a lot of authority in how this is played
24 out. And we're working very closely with the
25 Solicitor's Office and the Department of the

1 Interior to make sure that we're reflecting -- and I
2 said this in the beginning, but we are working very
3 hard to make sure that we're reflecting what we're
4 hearing during the consultations.

5 We did have a very -- we were very fortunate to
6 have the Secretary and the Deputy Secretary come to
7 the first consultation, and neither of them have
8 come to another consultation since that time. And
9 we did try -- they did want to come to more, but it
10 didn't work out with their schedules, but they do
11 have regular conversations with us about the
12 different matters that are being discussed during
13 the consultations and then also what we're working
14 on as far as implementation plan and how that, how
15 that timeline is so important to all of the Tribes
16 and having a transparent way of sharing that with
17 you. And to have feedback on that is also something
18 that we've been pushing really hard.

19 And we will come back out with a plan. And as
20 far as a confirmed timeline, I would like to say
21 that we're -- we would like to have something out
22 before -- and this is being really, probably
23 ambitious, but -- we might surprise you and come out
24 with something earlier, but before the end of the
25 year we'd like to have a plan that's ready for

1 public comment.

2 And the other thing is that I do say that, like
3 I am not -- I really don't feel like I'm even worthy
4 to sit across the table from all of you because I do
5 know that the things that you deal with on a daily
6 basis are nothing compared to, I mean, are so much
7 more than what I have to deal with. I don't have to
8 deal with hardly anything compared to the jobs that
9 you have as Tribal chairmen, and the constituency
10 issues that you deal with on a daily basis are very,
11 very difficult, and it's always a challenge to
12 balance out your lives, your personal lives with the
13 jobs that you have undertaken as leadership for your
14 different nations. And I only say that because I do
15 have family members that are on council, and I do
16 have family members that were leaders of our
17 different Tribes and I know that it is not easy.
18 You're constantly in a battle for time and energy to
19 make sure that you're paying attention to all the
20 things that come to you from the people.

21 We are taking active -- we're having active
22 conversations on liens. You know, the Deputy
23 Secretary Cris Stainbrook from the Indian Land
24 Tenure Foundation talked about how David Hayes
25 mentioned in the first meeting that we don't intend

1 to put liens on this. We're working closely with
2 the Solicitor's Office to figure that out and figure
3 out a process of how we can do that. We're also
4 looking at cooperative agreements, what that will
5 look like. We know that we have parameters that we
6 can work within right now under ILCA to look at
7 cooperative agreements.

8 And we're also trying to figure out a way to do
9 appraisals. And we hear different things in the
10 consultations where we hear people say we have to do
11 site specific appraisals because each land is
12 different, and then we hear that we have to do mass
13 appraisals because if not we'll run out of money
14 doing appraisals if we do every piece of land site
15 by site. So it's a balancing act on our part, and
16 the more information that you can provide to help us
17 figure out that balance is going to be extremely
18 helpful.

19 You know, I just want to close by saying that I
20 think that the words that we can say up here, all
21 day we can sit up here and say that we're looking at
22 this and we're looking at that and we have
23 discussions, we're having internal conversations,
24 and I can speak a lot to the words that we're saying
25 but words are not actions. And so I just ask for

1 your patience so that you can see that we are going
2 to act in a way that is honorable and is going to be
3 something that I can come home and be happy with the
4 time that I've served with the United States
5 Government.

6 And I really never -- I mean, somebody said, I
7 think Councilman Weston said that we chose this. I
8 don't think I really chose this. It just kind of
9 happened. I say that because I worked most of my
10 life advocating for children's issues, and this is
11 really far from children's issues but it relates
12 back to our future and it relates back to just the
13 understanding that our hope in the future is really
14 dependent upon our children and our land. And the
15 two are very related, and when I hear people say
16 that I get really excited because it is going to
17 make all the difference in the world in how you take
18 the opportunity we have here to build a future for
19 them.

20 So thank you for that.

21 MR. MICHAEL BLACK: I just want to echo Jodi's
22 thoughts, but, again, it's always good to be home,
23 and this is home for me. This is home for Jodi. So
24 it's always good to be here. And I appreciate the
25 opportunity to sit here and to hear you all out.

1 And I'll tell you just a couple things. Number one,
2 one of the things I enjoy the most probably, and I
3 know people kind of look at me a little strange when
4 I tell them this, but I never have to guess what the
5 Great Plains Tribal leaders are thinking, and I
6 appreciate that because it's always an honest, a
7 direct dialogue.

8 And I don't do this job -- I didn't -- kind of
9 like Jodi, I didn't ask for this job, but I'm doing
10 it because I think it's the right thing to do. And
11 I'm doing it because I really am trying to make a
12 difference, and I know darn well Jodi is trying to
13 make a difference in what we're doing.

14 And I can sincerely say for the two of us and
15 for the team that we're working with in the Interior
16 Department right now on this, this initiative, is we
17 are taking these consultations serious. We are
18 taking these comments serious. We realize that we
19 can't implement this program without the Tribes, and
20 we can't implement this program without the input
21 that you're giving us here today and that we've
22 received in all of the other seven consultation
23 sessions around the country. That's going to be
24 vital to the success of this program. And we're
25 going to have to work together. We're going to have

1 to work in collaboration and cooperation to make
2 this thing really truly happen.

3 I had the opportunity to glance through some of
4 the written testimony. I look forward to really
5 sitting down and going through all of it here over
6 the next week or so, but in just looking at it,
7 there's been some serious thought put into this and
8 I appreciate that. I know you guys took time out to
9 do that, your staffs, yourselves, put a lot of time
10 and effort into that. And we're taking it serious,
11 and it will go into whatever comes out of this.

12 It was asked of us what the next steps are,
13 well, we're taking all of these comments, we're
14 developing an overall implementation, a draft
15 implementation plan that, again, we will come out
16 with, and we'll be soliciting your input on that.
17 And hopefully you'll be able to see where your
18 comments and stuff are incorporated into that plan.
19 And there again, I expect another round of
20 information to come back to us.

21 And I know -- I mean, I can't go back and fix
22 all of the things that happened in the past. I'm
23 hoping that we can move forward to a better future,
24 better relationships between the BIA and the Tribes.
25 As Jodi mentioned earlier, it hasn't always been

1 good. But, there again, I mean, we have family out
2 here that we have to answer to, and we hope we can
3 make everybody proud, and we hope we can move
4 forward and do some good things into the future here
5 and that you'll see a difference in this plan.

6 And there again, I can tell you this, but our
7 actions are going to speak for us, and hopefully
8 you'll see that they do.

9 But, again, thank you all very much for taking
10 the time to be here with us today. We really do
11 appreciate it. We know how busy everybody is. It's
12 been a pleasure and an honor being with you all here
13 today.

14 Thank you.

15 * * * * *

16 (The proceedings concluded at 5:00 p.m.,
17 October 26, 2011.)
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1 STATE OF SOUTH DAKOTA)
2 COUNTY OF PENNINGTON) ss.
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4

5 I, CINDY K. PFINGSTON, hereby certify that
6 the foregoing pages numbered from 1 to 202, inclusive,
7 constitute a full, true and accurate record of the
8 proceedings had in the above matter, all done to the best
9 of my skill and ability.

10 DATED this 2nd day of November, 2011.
11
12

13 CINDY K. PFINGSTON
14 Registered Professional Reporter
15

16 My commission expires:

17 February 4, 2016
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