IN RE: GOVERNMENT TO GOVERNMENT CONSULTATION BETWEEN
THE DEPARTMENT OF THE INTERIOR AND TRIBAL LEADERS

THE FOLLOWING IS THE GOVERNMENT TO GOVERNMENT CONSULTATION
BETWEEN THE DEPARTMENT OF THE INTERIOR AND TRIBAL LEADERS, TAKEN
BEFORE LISA NONNEMACHER, TRANSCRIPTIONIST, AT SHERATON CRESCEENT
HOTEL, 620 WEST DUNLAP ROAD, PHOENIX, ARIZONA, COMMENCING AT
APPROXIMATELY 8:30 AM, SEPTEMBER 29, 2011.
APPEARANCES:

STACIE SMITH, FACILITATOR
MEGHAN CONKLIN, DEPARTMENT OF THE INTERIOR
CLAYTON HONYAMPTEWIA, HOPI NATION
HILARY TOMPKINS, DEPARTMENT OF THE INTERIOR
JODI GILLETTE, DEPARTMENT OF THE INTERIOR
ELAINE FINK, NORTH FORK RANCHERIA
GREG ABRAHAMSON, SPOKANE TRIBE
VICTORIA GUZMAN, ON BEHALF OF THE WALKER RIVER PAIUTE TRIBE
THERESA ROSIER, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY
LARRY RODGERS, EASTERN NAVAJO LAND COMMISSION

(ALL CONSULTATION AUDIENCE MEMBERS STOOD AND INTRODUCED THEMSELVES. A LIST OF THESE CONSULTATION AUDIENCE MEMBERS IS ATTACHED.)
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PROCEEDING

Whereupon, the Government to Government Consultation between the Department of the Interior and Tribal Leaders was commenced at 8:30 AM, as follows before Lisa Nonnenmacher, Transcriptionist:

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STACIE SMITH: Hi everyone I just wanna let you know we’re gonna start a little bit late let people filter in. If you are representing your tribe at the table if you’re a tribally elected official or you’re empowered to speak on behalf of your tribe it’d be great if you could come and grab a seat at the table. Make sure that you have a placard or we’ll make sure that you have a placard and that way the conversation in the morning will take place primarily among the elected officials and people empowered to speak for tribes. And then after that we’ll open it to the to everybody all others. So if you are here as an elected official it would be great if you could come and sit at the table. We’ll probably get started a little bit late maybe in the next 15 minutes or so. Thanks.
(INAUDIBLE) late start we just wanna give people a little bit more time to get in here so we’re gonna start at 9:00. So that’s 10 minutes so if anyone wants to get a little more coffee before then we will we’ll all start at 9:00. And again if you are able to speak on behalf of your tribe we’d love for you to come and join us at the table. Thanks.

MEGHAN CONKLIN: (INAUDIBLE) welcome you all. I thank you for traveling here and joining us to embark on the fifth, is it the fifth Cobell consultation, on land consolidation. Before we get started here we wanna start everything off in a good way and so I’ve asked Clayton Honyampetewa from the Hopi Nation to come up and provide an opening prayer.

CLAYTON HONYAMPTEWA: Thank you. (Listening for translation) I said good morning it’s a good morning this morning. I just wanna say that we’re all happy to see all you here gathered here to work on this issue of the on the land, to hopefully make things better you know for the benefit of the people of our children our grandchildren and the ones still coming after them. So their they would benefit from this and make use of our lands and you know see the future that things will be great. On the other hand we pray for rain.

We’ve had a devastating few years or more than a few years and
our crops our animals they need it, so we pray for rain that way
you know they grow. They use the rain the grass eat the grass
and nourish themselves. So they’re the young ones will prosper
and benefit from it. And also overseas our young men and our
young women that are serving our country to protect them also
the hope that we see them all come back home to our land back
here and what they’ve been fighting for over there. And again I
wanna say I hope we come to an understanding on what this issue
is about and for the betterment of our people. (INAUDIBLE)
Thank you.

MEGHAN CONKLIN: Good morning everyone.
Thank you very much for being here this morning. We appreciate
all of you taking time, many of you to travel here today, to
spend the day with us to have a dialogue and for us to receive
your comments about implementation of the Trust Land
Consolidation Program that’s under the Cobell Settlement. My
name is Meghan Conklin, I’m Associate Deputy Secretary at the
Department of the Interior. Myself and Jodi Gillette who’s also
here are co-directors of Cobell implementation for Secretary
Salazar. There are a number of others who are here today who
are part of the Department of the Interior team working on this
issue that I’d like to point out. And first, she’ll be making
remarks later, we’re joined by the Solicitor of the Department
of the Interior, Hilary Tompkins. We are also joined by Jodi
Gillette who is Deputy Assistant Secretary for Indian Affairs.
Next to me I have Bryan Bowker who is the Regional Director for
the Bureau of Indian Affairs. And also behind us we have Kallie
Hanley who works in the office of the Secretary and Tony Walters
who works for the Assistant Secretary of Indian Affairs and both
of them have played a very integral part in helping get today’s
meeting together. I also know we’re joined by a number of BIA
employees in the audience. I wanna thank you for being here
today as well. I think all of you know that the Cobell
Settlement is a key priority for Secretary Salazar and for the
Obama administration, and a little bit later Jodi Gillette and I
are gonna be offering a power point presentation that will walk
you through some of the basics about the Cobell Settlement and
about the Trust Land Consolidation Program. And I just again
wanna thank all of you for being here today. Our number one
goal today is to listen to you and to hear your comments. All
the comments that we’re hearing throughout these consultations,
is our fifth one so far, are gonna be very valuable to us as we
go about figuring out our plans for how to implement this key
program. And our goal really is to make this a meaningful
consultation and to really sit here and to be able to receive
and listen to your feedback as we go about developing our plans
for this program. So again I wanna thank you all for being here today and I’m gonna pass it out now to Hilary Tompkins.

HILARY TOMPKINS: Thank you Meghan.

Good morning, I wanna first properly introduce myself in accordance with my Navajo culture, so and for those of you who speak Navajo bear with me. (Listening for translation). I’m a member of the Salt Clan on my mother’s side and Taos Pueblo on my father’s side, and I’m originally from Ramah, New Mexico. And it’s a real pleasure to be here. It’s really nice to get out of Washington D.C. and see the rest of the country and be here in the Southwest makes me a little bit homesick. I used to come to Phoenix at the beginning of my law career as a paralegal for the Navajo Nation. And I remember flying in the little plane from Window Rock down here to Phoenix for legal meetings and I always was confused with the time change ‘cause you know we were in different time zones. But it just brings back good memories to be here. As Meghan said I’m the Solicitor for the Department of the Interior. That’s the chief legal counsel for the department. So I handle all the legal issues of the department and the various bureaus and agencies in the department and obviously that includes Indian Affairs issues. I’ve been in that position for two years now, previously I was in Albuquerque, New Mexico. And I’m just thrilled to be a part
of this team at the Department of the Interior. Under Secretary Salazar’s leadership it’s been an amazing two years and I know that Secretary Salazar is committed to working with Indian Nations tribal leadership, respecting the government to government relationship. And as Meghan mentioned we have high ranking officials here from the department. From the Bureau of Indian Affairs and also Jodi Gillette who is the right hand woman to Assistant Secretary Larry Echo Hawk. And Meghan is the right hand woman to Deputy Secretary David Hayes. And we also have Mike Black from Montana who is the Director of the BIA who’s not here today but we work very closely back in Washington D.C. Also the head of the Office of Special Trustee, Ray Joseph. So from my vantage point in the legal department I see all these various arms of the Department of the Interior working together on these issues. So I’m thrilled to be a part of this amazing team. I also learned very early on when I started in this position and came to see very vividly the commitment of President Obama to empower Indian Nations, and support your goals and initiatives, along with Secretary Salazar. And from the very start of my appointment they emphasized to me the importance of turning a new page in this relationship. So as soon as I took this position I was working very closely with the Secretary, Deputy Secretary David Hayes, and all of these
amazing folks to settle the Cobell litigation. And that was something that I worked on for devoted the first 6 months in this position focusing on seeing if we could reach peace in that longstanding litigation, over 13 years of litigation. So it was it wasn’t always easy but we got there and we brought it across the finish line. So it was a real testament to me that even though we can have our differences between the United States and Indian Nations there we can have differences we can have disagreements but we can also reach resolution if we’re committed to it. And I think this settlement is a testament to that. I also in my office in my role have been looking at seeing if there’s opportunities to resolve other lawsuits that we have with Indian Nations. There are quite a few of them but I have committed myself and my team and the Department of the Interior as a whole has committed to seeing if we can resolve those issues. Given my experience working in the area of Indian law for it’s not quite two decades yet, but for many many years one thing that has been impressed upon me is that this relationship we have it’s a legal relationship it’s ongoing it goes into the future it’s long standing there’s a lot of history there, but it’s important that when we see opportunities to collaborate and work together we should seize those opportunities. And so I constantly think about that in the work
that I do. So with that I want to also recognize the tribal leadership here. I think it’s always been impressed upon me the importance of tribal leaders and the roles that they take on and the responsibilities that you have leading your governments your people and the huge huge responsibility that that is. And the importance that our leadership talks together and listens to one another and hears the concerns hears the complaints be candid be forthright. And I just wanna recognize the tribal leadership here today that took time out of your very busy schedules to come and meet with us because I know you have a lot on your plate and a lot of places you probably want to be or need to be. So I appreciate you taking the time out to come and meet with us. So today’s consultation is about one part of the Cobell Settlement. It’s on the Land Consolidation Implementation part of the settlement. So that’s the focus of today’s consultation. We wanna hear your thoughts we wanna hear your questions. This is an ongoing process nothing has been set in stone no decisions final decisions have been made about this program. That’s the importance of having these consultations. One final thought that I wanna share with you is I also believe it’s important that when we talk about consultation we also talk about implementation. And I know again from my work in Indian Country that there is an emphasis on government to government
consultation and it is very incredibly important to the decision making process. And I believe it’s important that we look to then what’s next after consultation and it’s important to have implementation. And I believe depending on how the appeals in this case turn out that we will be facing the implementation phase in the near future. So it’s important that we not only consult but we also implement. So I just wanted to share that thought with you. So thank you again for coming. It’s a real pleasure to be here and now I’m going to turn it over to Jodi Gillette for some comments. Thank you.

JODI GILLETTE: Thank you and I just also wanna echo Meghan and Hilary’s sentiments that this is really critical. This is a the consultations that we’re going through on Cobell are probably the biggest I think opportunity for tribes to really weigh in and let us know, and if you don’t have prepared comments today you can still submit them in writing and that’s available. Today we’re also announcing that we are extending the comment period to November 1st. I believe that’s gonna come out in the press release today later on. We’re also going to host one more consultation in the Great Plains region at the end of October, October 26th. And those are all some adjustments that we’ve made to reflect what we’ve heard in the field so far. We also know that the we’ve heard
this and we know that the commitment to meaningful consultation,
and I think that’s what we’re trying to emphasize here, is that
the department and the administration is committed to meaningful
consultation and how we’re doing that is in a few different
ways. But as you might already know the president issued a
memorandum that required all of the agencies to submit a plan to
the OMB and the Domestic Policy Council at the White House to
ensure that we are all of the agencies have a way that they’re
going to implement the executive order on Consultation 13175.
And we’ve done that and at the Department of Interior we’ve
developed a policy, we haven’t signed it into we haven’t
implemented it yet because we’re we still we’re going through
public comment phases but that’s coming within the next month.
But Kallie and I both work on that. Hilary you know as a
Solicitor is involved with you know how that’s looking and how
that’s going to be played out. But we’ve what we’ve tried to do
as much as possible in the Cobell consultations is reflect our
proposed policy in even if it isn’t put in place yet we we’re
reflecting it as much as we know, so the 30 day notice and you
know if tribal leaders really need more time we’re gonna be
flexible about that. But I think even more important than just
the logistics of consultation is the fact that we really are
here to listen and the way I look at it is that the how I
approach consultation is that I’m listening to what tribes are saying, and you can listen but sometimes you can’t hear. So I’m trying to play a very active listening role and I try to really hear what people say. And then the last thing is to not give up on what tribal leaders have told me. And I think that’s something that’s I’ve seen that expressed and followed through it’s not just me doing this I see leadership people like Larry and people like Hilary and people like Deputy Secretary Hayes especially Secretary Salazar, and these are really important conversations and dialogue that we go through internally but more importantly we want you to be able to see how we’ve implemented what you’ve said. The Cobell consultations we’ve held so far we’ve had five of them this is our fifth one and we are learning a lot. And I think that the thing that I’ve heard probably a theme throughout all of them is a real hesitancy to think that we’re here listening and I just wanna assure you that I understand where that’s coming from. And I just by way of background I’m a member of the Standing Rock Sioux Tribe and I grew up in Pine Ridge and never really worked in the Federal Government before, I’ve always worked for my tribe or for a non-profit that helped develop tribal capacity. And so my perspective is unique I see that when you are not part of the Federal Government things can seem like they’re just not really
reflective of what the needs are on the ground so that’s sort of my energy my drive my reason for being here, is to make sure that as a policy maker that I am doing everything I can to make sure that we are trying to meet the needs and really in a genuine way. I don’t think anyone would disagree that the president is an easy person to work for in that respect because he too is committed to Indian Nations to strengthening the government to government relationship the nation to nation relationship with tribes. And he’s told me in person that the work that we’ve done on Native Americans is something that he’s really proud of and he wants to see like Hilary talked about and I think Larry Echo Hawk also talks about we’re turning the page on some dark chapters. I think in a really good way we come out here and we know that the issue of land fractionation and land consolidation is a priority for the nations that face it, whether it impacts their development whether it impacts you know the probates the all the different ways that it impacts. But I think that in the opening prayer the Mr. Honyamptewa summarized it the best is that you know we really have to deal with land consolidation to look forward for our children. And its land is something that you know I was raised to understand as being very sacred and really embodying who we are as a people. So the more that we can focus on and I say who we are as a people as Lakota
people I’m speaking from the personal Jodi and not the Department of Interior Jodi, but we do know that this is a high priority and we look forward in a good way to working with tribal leaders and the expertise that’s out there on this issue. So with that I think we’ll get started with the land consolidation slides.

MEGHAN CONKLIN: (INAUDIBLE)
introductions?

JODI GILLETTE: Oh the introductions okay. Go ahead.

STACIE SMITH: So we wanna just welcome the leaders we have the table and representatives of tribal leadership to just introduce themselves briefly and oh I’ll introduce myself. My name is Stacie Smith and I’m a facilitator. I work for a non-profit organization based in Boston and the department has asked me and my colleagues to just help out with structuring these sessions and making sure they run smoothly and also making sure that the feedback that they hear is all gonna get put together synthesized and can really help them in making any decisions. So if we could just take a moment ask you to introduce yourselves then we will move onto the presentation.
ELAINE FINK: I’m first. My name’s Elaine Fink and I’m Tribal Chairwoman for North Fork Rancheria (INAUDIBLE) Indians in California which is the exact center of California geographically and with me today is Councilmember Pat Beihn.

GREG ABRAHAMSON: Good morning and thank you. My name is Greg Abrahamson, I’m chairman for the Spokane Tribe and I also have a tribal councilmember here with me it’s Rodney Abrahamson.

VICTORIA GUZMAN: Good morning my name is Victoria Guzman. I am not a tribal official but I am here I work for my land department and I am here on behalf of the Walker River Paiute Tribe. The Walker River Paiute Tribe is thankful for the opportunity to participate in this tribal consultation with the Department of the Interior regarding the Trust Consultation component of the Cobell Settlement. We feel that the tribal involvement is important and necessary to make this program a success and to get our comments questions and concerns on the issues heard by those responsible for implementing this program. Thank you.

STACIE SMITH: Okay thank you. So with that Jodi I’ll be handing it to you to.
JODI GILLETTE: (INAUDIBLE) Meghan

(INAUDIBLE).

STACIE SMITH: (INAUDIBLE).

MEGHAN CONKLIN: Oh okay I can start off.

We’re gonna what Jodi and I are gonna go is we’re gonna offer a
PowerPoint presentation that’s gonna provide some basic
information about the Cobell Settlement and about the Trust Land
Consolidation Program. And each of you when you checked in this
morning should’ve received a packet that has some basic
information about it on sort of breakdown of land fractionation
by regions within the BIA, and also some basic information about
some preliminary goals and strategies that the department has
identified for the Land Consolidation Program that we’d love
your feedback on this morning. And so let’s go to the next
slide. I’m gonna offer a little bit of background and then turn
it over to Jodi Gillette. (Speaking to a third party: That’s
okay. (INAUDIBLE). Looks like we’re having a little bit of
technical difficulties (INAUDIBLE) get it sorted out. Thanks
for your patience time.

(Transcriptionist's note: there is
audible background noise that is unrelated to the interview that
was not transcribed.)

STACIE SMITH: You’re all set now.
MEGHAN CONKLIN: Okay great we’re gonna start on the power point. Thanks for your patience as we figured out or some technical difficulties. I just wanted to point out another lady from the department who has joined us back here, this is Sharon Pinto she’s the Acting Regional Director for the Navajo Region NBIA, so thanks for being here today. So I’m just gonna provide a little bit of background and then pass it over to Hilary or to Jodi to add to add in. But as many of you know the Cobell Settlement was approved by Congress on November 30th, 2010. The name of the law was the Claims Resolution Act of 2010 and then signed by President Obama into law on December 8th, 2010. This was after at least a year of work of a number of people on Capitol Hill and in the department to try and get this law passed. In the audience we have a very important lady in helping get this law enacted Allison Binney who at the time, I know you spent a lot of sleepless night helping get this law enacted as well as Hilary and my boss David Hayes. And there’s two major components to the Cobell Settlement, the first is a one point five billion dollar fund for class members to compensate them for their historical accounting trust fund and asset mismanagement claims. I wanna make it clear that this part of the Cobell Settlement is not the purpose of today’s consultation. Any questions about this
section need to be handled by the plaintiffs, and the way to reach them if you do have a question they have a website IndianTrust.com and they have a 1-800 number 800-961-6109. The second portion of the settlement is what we are here to talk about today and this is a one point nine billion dollar fund for the voluntary buyback and consolidation of fractionated land interests. So going onto the next slide, so if you look at again I said the there the what we’re talkin’ about today is this one point nine billion dollar fund for the voluntary buyback in consolidation of fractionated land interests. Per the settlement agreement only up to 15 percent of that one point nine billion which comes to 285,000,000 can be used for administrative costs. And another key component is as an additional incentive for land consolidation up to $60,000,000 of that one point nine billion will be set aside, provide scholarships for higher education for American Indian and Alaska Native youth. Which if you kind of add up all those numbers together that means that a grand total of about one point six billion will be used for land the land purchasing program. Next slide. There are a number of provisions that were outlined in the Cobell Settlement and if any of you are interested in reading the settlement documents we have a specific area on the Department of the Interior’s website that has a lot of these
documents that you can download if you’d like to read some more background it’s www.doi.gov/cobell and a copy of the settlement agreement is up there. But we have a number of requirements that were laid out there for the Land Consolidation Program that I just wanted to remind everyone today as we go through talking about this program. The Land Consolidation Program can be used for the following purposes, the first is acquiring fractional interests in trust or restricted lands including the administrative costs that I mentioned earlier related to such acquisitions. And one important point that I wanna make sure to let all of you know today, since this has been a question that’s been asked of us at a number of the previous consultations, is that the fees cannot be used for the purchase of fee lands. And the second is that for every land sale as I mentioned a portion of the sale will be set aside in a scholarship fund for Native American and Alaska Native students and that’s up to $60,000,000. And the third is these funds can be used to support the work of the Secretarial Commission on Indian Trust Administration and Reform. And just as an aside there around the time that the Cobell Settlement was agreed to Secretary Salazar issued a secretarial order sort of initiating a Secretarial Commission on Indian Trust Administration and Reform and a few months ago the department went ahead and published a
charter for this secretarial commission and we had a public comment period where we solicited nominations from Indian Country and from others for people to serve on this commission. It will be a five member commission. This will be a commission that will take a look at sort of trust administration broadly and offer recommendations to the secretary on how to make improvements in our handling of trust assets moving forward. The department has not yet announced or moved forward with naming people to be appointed to the commission but if you are interested in seeing a copy of that charter the same website doi.gov/cobell is the best place to find that information. Next slide.

UNIDENTIFIED FEMALE VOICE: I THINK THAT THIS (INAUDIBLE)...

MEGHAN CONKLIN: I can I’m just gonna turn it over to Solicitor Tompkins if you’d like to just offer a little bit on sort of the legal status of the settlement ‘cause that is a question that comes up today.

HILARY TOMPKINS: Yes thank you Meghan. So after we obtained congressional approval of the settlement then President Obama signed that Bill into law but we still had the third branch of government the judicial branch that needed to act on the settlement because the lawsuit was
before Judge Hogan in the federal district court. So in December of 2010 Judge Hogan granted preliminary approval of the settlement and then we went through the class notification process which took several months. And after that process Judge Hogan held a hearing on the fairness of the settlement and that’s where the judge assesses the components of the settlement and makes a decision on whether it meets certain criteria in order to be deemed a fair and reasonable settlement. So on June 20th of this summer this past summer Judge Hogan issued a finding and approved the settlement. And the actual order that he issued was issued on August 4th. So from August 4th of this past summer there’s a 60 day window in which to file any appeals and we have used we have had some parties appeal, and those are pending there’s various issues involved with those. For the briefing schedule of that appeal briefing will conclude in early January, January 6th. And the briefing part of the appeal is where parties that are challenging the settlement submit written briefs to the court and then Department of the Interior and plaintiffs will also submit written briefs to the court, and that all concludes I believe on January 6th. Then the appellate court and this is the D.C. Circuit Court of Appeals will review all those briefs may have a hearing and make a decision. So that’s the next phase in the appellate process. The settlement
does not become final until we receive a non-appealable final decision. And once that occurs and assuming it’s an approval of the settlement then the funds will be disbursed under the settlement. So we’re waiting for that final non-appealable decision from the court.

JODI GILLETTE: Do you wanna talk about the timeline?

HILARY TOMPKINS: Sure. So another component of the settlement is that we have 10 years to expend the funds on the Land Consolidation portion of the settlement. And that time period begins once all of the appeals have been exhausted. So we haven’t started that 10 year time period yet. Again that has to wait until we receive a final judgment. So that’s the timeframe we have in order to expend the funds for land consolidation. All right.

JODI GILLETTE: And just one more point sometimes we get questions about whether or not we have to wait for anybody to appropriate or Congress to act to make sure that those funds are there but they’re in Treasury right now we don’t have to wait for any kind of budgetary process on Cobell.

HILARY TOMPKINS: Right, that’s right. In the Treasury we have a fund, the Land Consolidation Fund. And it is there for 10 years.
MEGHAN CONKLIN: Okay and Jodi you wanna take over?

JODI GILLETTE: Okay sure so some of the key features of the Land Consolidation Program and I know in the beginning I talked about how we really wanna listen during consultation, I think it’s important to set the framework. And this is really where why we have this slide presentation is that there are pieces of the Land Consolidation Program that are by law and through the settlement there were you know numerous negotiations and so we just know that by law we can we have some parameters that we can work within. And the main thing that’s important to know is that the Cobell Settlements Land Consolidation Program (INAUDIBLE) existing statutory authority and that’s all set forth in the Indian Land Consolidation Act ILCA. The purpose of the ILCA and the Cobell Land Consolidation Program is described in the law to acquire as many fractionated interests as economically feasible and to consolidate these land interests into tribal ownership to promote and enhance tribal self determination economic social and cultural development needs. So it’s pretty key to know that we have to follow the existing authority and the tribes who have had some experience in the current, we know ILCA didn’t reach all of the tribes that it only had a limited number of tribes because of the
limitations we had on the budget there, but we also want you to know even though it (INAUDIBLE) that authority it doesn’t mean that we’re going to absolutely duplicate what we’ve already done in the past. And so that’s still that’s why we’re having these consultations is so that we could better understand what could be improved upon what were some of the challenges and even what were some of the strengths. So this is the next slide we’re talking about how to best implement the Cobell Land Consolidation Program. We have an internal Cobell implementation team and Meghan and I co-chair that the team and we have regular meetings and we’ve identified some guiding principles for the Land Consolidation Program and we are seeking input and especially related to the goals here today. (Speaking to a third party: You can go to the next one.) So the potential guiding principles for the Cobell Land Consolidation and then I do wanna echo what Hilary said is that these are not set in stone we wanna have feedback on those. The program should serve multiple goals and the first goal that we’ve identified is that it should reduce land fractionation in highly fractionated areas. Goal two implement a plan that is time and cost efficient. And goal three consolidate land in areas of tribal preference to be determined through tribal consultation. And I think that the to get more specifically into each of the goals
it’s really important to understand how we’re looking at each of
them. The first strategy under goal one is to prioritize highly
fractionated lands. Strategy two is to target individual Indian
money account owners. Strategy three target landowners having
the most number of purchasable interests. Strategy four target
landowners having the most number of tracts. So this is these
are all strategies that we would employ under the highly
fractionated goal. Goal two implement a plan that is time and
cost efficient and this is something that is important to note,
that earlier we had talked about there’s constraints on the
administrative costs that we can spend on land consolidation, so
if we had unlimited funds to do land consolidation on the
administrative side you know the questions might be different.
But we’d there is a cap on what we can spend to implement it on
we can buy purchasable interests under the one point six or so
fund that’s set aside minus the 60,000,000. But it we are
really capped out at the administrative side and as I think
we’ve heard a lot of tribal leaders speak to the need for to be
more efficient in general at the Department of Interior and so
these are some things that we’ve set forward as strategies.
Strategy five target lands requiring minimal prep work prior to
offers being made. Target tracts which have landowner consent.
Strategy seven target tracts with the largest per interest owner
largest interest per owner. And then goal three consolidate land in areas of tribal preference to be determined through tribal consultation. Strategy eight target tracts identified by the tribes. Strategy nine target tracts with economic opportunity for tribes. And just wanna emphasis that these goals are not in prioritized order we just have them in a random order and we have heard from tribes on numerous occasions that they believe goal three should be moved to goal number, and that’s something that we said we could we can do but we wanna go out to all the tribes. So if you feel the same you know we’re open to that and we’d love to hear your feedback, even on the numerical order of how these are laid out. The next steps for the Land Consolidation Program is to incorporate tribal input through these consultations. We would develop a Cobell Land Consolidation Program implementation plan based upon the feedback that we’ve received through these consultations. We would conduct an outreach and additional consultations and that’s something that is really important is to have follow up and see if to double check with you, and I think we do this on all kinds of different fronts the you know regulations and all the different places we have consultations and interactions, we try to go out again and see if what we heard was okay or we let you know what we how we’re reflecting what we heard, conduct
outreach and additional consultations and then proceed with implementation. And as Hilary, as the Solicitor had noted we are in an expedited timeline because we have were able to get an expedited process in the appeals side and so these are things that are gonna happen pretty quickly and we really appreciate all of you coming here and helping us think about this. I think that’s all I have.

MEGHAN CONKLIN: (INAUDIBLE) Stacie.

JODI GILLETTE: So I guess we’ll start of by...

UNIDENTIFIED FEMALE VOICE: Is Stacie do you want me to go Stacie?

STACIE SMITH: No I’m gonna I’m just gonna say a few things to supplement this to just review a little bit more about the process overall and what we’re gonna do here today in a little more detail. So...

JODI GILLETTE: Stacie I just wanted to...

STACIE SMITH: Yeah.

JODI GILLETTE: Make sure that people understand you have explained your role here and what we’ve but the reason that we’ve asked a third party facilitator to come in and help us facilitate is that we did hear from the folks early
on that there was that we wanna make sure that you know that we are reflective of what you’re doing and so we have a third party facilitator to make sure that however we’re moving forward that we have the a neutral body that’s sort of checking us. And so it’s a good thing that Stacie, I think it’s a really good step that Stacie’s here and we’re not making all of our decisions in a vacuum, and Stacie’s free to she is a third party facilitator so she doesn’t she’s not part of the Department of the Interior and she’s been a real asset to us in helping us to reflect on what we’ve heard and how we’re moving forward.

STACIE SMITH: Great thanks Jodi. Yeah as you already said my role is really to ensure that the conversations allow people’s input and then after the conversations that we have at the consultations that the department is really hearing and seeing what we learned from all of the consultations together, and to the extent possible trying to make sure those get into the implementation plan. So that’s part of what my role is. So to overview the process again this is the fifth of these regional consultations. They’re taking place all over Indian Country. The first four were in Billings in Minneapolis in Seattle and earlier this week in Albuquerque. We have another one scheduled for Oklahoma City next week and then as Jodi said they’ve added a seventh in Rapid City that’s
gonna be Wednesday, October 26th. The written comments have been extended to November 1st so in addition to all of the feedback that’s coming from this process all written comments will also be incorporated into the thinking of the department as they move forward in trying to come up with an implementation plan that’s responsive to the needs of Indian Country. And this is the information on how to submit written comments it’s also in the Federal Registers and it’s I think posted on the Cobell website on the DOI site. So an overview of what we’re doing today and this might shift a little depending on how much conversation and input we have, but the plan is to begin the conversation on a government to government level. That is with tribally elected leaders and with those who have been authorized by their tribal leaders to speak on behalf of the tribe. That’s not necessarily limited to the people sitting at the table. We’ve heard that there are some elected officials who are sitting back as well and so you all also during this early session if the people who are at the table can defer to you you can also add your comments. That’s really helpful. So this is really important to for the officials to hear from the officials. So this is really a government to government section of today’s consultation. And then this was scheduled to go ‘til lunch that component of it, since we don’t have that many
elected officials in attendance today it may not go ‘til lunch. But until we exhaust the comments from government to government on the government to government level we’ll have that. After that we’ll take a break whether it’s a lunch break or a morning break a short break. And then we’ll come back and we’ll open up the floor to hear from tribal members, tribal organizations, landowners, other members of the public who have comments about this program and how it affects them and concerns and questions all of those are welcome. For other federal employees the hope I think is to be really in listening mode primarily today. Just a couple of meeting guidelines and probably not that crucial given the small group we have but we just wanna make sure that everybody gets a chance to speak. So to speak one at a time, to share the floor, I think the one about being respectful and constructive are important no matter the size of the crowd. There really is a lot of emotion this is a very important topic for a lot of people it affects you directly. There’s a lot of history that isn’t necessarily pleasant. There’s some acrimonious history to this issue. Just to remember that the people at the table here aren’t necessarily the one’s responsible and even if they are to speak respectfully to each other so that we can be as effective and constructive as possible. The more specific you can be with any kinds of
recommendations or ideas that you have of how this program can work for you the better that’s gonna be. Because they’re gonna have to come from this take all this feedback and come up with an implementation plan. So the more you can advise them on what that plan should contain from your perspective the more they’re gonna have to work with as they’re moving forward. So I think that’s the goal. A couple of housekeeping notes the bathrooms are down the hall and if you can silence your cell phones and pagers, put them on vibrate mode, and if you do need to take a call to just step out of the room so that everybody’s able to continue on with this conversation that’d be great. The other thing I wanna say is that the transcripts of all these sessions are being posted on that Cobell website. It we need a little bit of time to get them finalized and up there but I know the first three are already up there. The fourth one we’re still in progress and the one that take place this week you in two or three weeks we expect to be able to post those as well. So this is a really transparent process. Everyone can see what kind of input the department’s been given and then when the implementation plan is ready to distribute for comments you’ll be able to see how those comments fed into whatever comes into that plan. So I think that’s all I have to say and with that I think we can open the floor to the tribal leaders at the table
and if you wanna also call on your counterparts who are sitting behind you to speak as well you can use these mikes when you do that. So I hand it over to you.

ELAINE FINK: Well my interest here today, I’m Elaine Fink Tribal Chairwoman of North Fork Rancheria, we’re virtually landless. We have an 80 acre parcel that is an allotment land but it is owned by individuals. So actually what our interest is is there’s some allotments lands around in the area our interest is how we can help with the fractionization as far as purchasing these properties and condensing it down to where there’s just a few owners and maybe then the tribe can have housing or something on these properties at that time. Other than that the scholarships that’s exciting as far as how we’re gonna do that. One of my concerns is we have the Bureau of Indian Affairs taking care of our allotment lands in the area but actually we don’t get that much care and some of the reasons is because they haven’t got the staff. One of my concerns is that when we get down to this level as far as helping with the fractionization we need to have people that’s able to help us and I guess I’m just concerned about that’s going to be. For instance with probate properties we can help as a tribe in our area when there is probate issues but then I’ve been told that that would open up a can of worms, that we
couldn’t that because if the BIA would include the tribal
governments in the area in our particular case we could help out
with that. We could expedite the process we could give ‘em the
owners names and those kinds of things. But we were told that
it just wouldn’t work. So I would like to see more tribal
involvement in each of our areas.

GREG ABRAHAMSON: Morning thank you
again. Greg Abrahamson (INAUDIBLE) Spokane tribe. We’ve been
at the Spokane or I mean at the Seattle one and we’ve given some
comments there and we will be turning some written comments in
by the end of November 1st or whenever it is. Some other
comments that we do have though right now is the timeline and I
appreciate the timeline that we have there but after we get back
with all the comments that are received and with a draft and as
we get the draft and if whether there’ll be another set of
consultations along that line there too with a draft of the
implementation plan, and within that timeline if this takes if
the consultation takes longer than when everything is done with
the judicial part of it does that timeline start right then even
it we if it takes longer for the implementation plan to go does
that timeline 10 years start then? Because we have within our
Spokane tribe we are located in eastern Washington and we have a
195,000 acres in there that we deal with and we have somewhere
about 90 mid 94 or 95 percent that’s in trust status. And we have quite a few areas within here that are fractionated. And some of them have less than one percent or (INAUDIBLE) that there. And part of that too is if we have some of them and we’ll go through this process what happens if we don’t get nobody that wants to sell? They say that this is my this is my land this has been given to me by my ancestors I’m gonna keep it I am not gonna sell it. I know that there’s always been this talk of trying to eliminate OST out of out of the department to where they don’t have to worry about that always having (INAUDIBLE) sunset on that office. Another portion is the payback or we’ve heard that this is this is a settlement fund and that it will be a loan and we disagree that it’s a loan that it’s part of the settlement and that the tribes shouldn’t have to pay it back because it’s the settlement there, and some of the aspects that go with that portion. And on parts of the appraisal process I know when we go through it right now it’s a very timely it’s very timely to get our lands appraised to purchase ‘em a lot of times it take so long that sometimes by that time it too long expires too long a time expires by the time we go through that bureau process right now of gettin’ appraisers, so I think that that’s one thing that the tribes will be trying to look at. And I know that we looked when we
talked about this in the Northwest we talked about if there’s a way that we can that the money comes out and then it comes to the tribes to where the tribes can compact that or it to where we can utilize it, ’cause we know a lot of these a lot better than what the department knows there so. And thank you very much.

UNIDENTIFIED FEMALE VOICE: (INAUDIBLE) again you want me to?

MEGHAN CONKLIN: Yeah you can start (INAUDIBLE)...

VICTORIA GUZMAN: I have quite a few things here but we wanna start out with that Walker River asks that you allow tribes to develop and administer their own Land Consolidation Programs. Be able to contract the funds established to purchase those interests fractionated interests from the landowners on their own reservations. Tribes know what is in the best interest of their tribe and tribal members. They know which fractionated lands would be priority and benefit most for agriculture wetland preservation protection for cultural resources and economic developments. So one our questions was how would these priorities be considered when dealing with interest purchase. You know out of the one point nine billion what formula will be used to allocate for purchase to purchase...
the interests and will the administration dollars be going to consultants in the BIA? Who’s going to be in charge of the one point nine billion and how are they going to implement monitor and make sure the money is spent in the time required for the Land Consolidation Program? There is a 10 year timeframe that all the money must be spent and I think we answered this on the slide was what if what if the timeline is not met and when does the 10 year timeframe start. We oppose liens being placed on the income from the acquired interest as it was done with the former buyback program through BIA. We find it completely unacceptable as a tribe should be able to use the income from the land and not the federal government for financing other tribal projects. And we ask that if the liens are placed on the income that we that they be waived by the secretary who has that authority. Our tribe is concerned with checker boarding on the reservation. When the tribe does not have money to buy interest from landowners they are taking their lane out of trust and moving it into fee where they can sell to non-Indians. On the other hand there are non-Indians with 20 acre fee parcels for sale and the tribe has no money to purchase. Could lands such as these be purchased for the tribe to put back into trust and I think you answered that by saying this money would not be used for buying fee land, however we have a problem on our
reservation where there are interest of fee land within the
allotments. So in order to consolidate those you are going to
have to buy out those small pieces of those fee interest, due to
the fact that when probate came those Indians married to the
non-Indians they did not at that time have those interests go to
the heirs Indian heirs, it went to the non-Indian spouses. So
now after years and years and years those fee interest are a
problem. How will the appraisals be done and will they will it
be same from reservation to reservation? And is BIA going to
hire more key positions such as appraisers and realty personnel
to expedite the process of purchasing land? As this chairman
said it takes a long time for appraisals it takes a long time
for everything that’s requested from the BIA. Will the
landowner be required to sell both surface and mineral rights or
can they be divided, and again if so does this require two
appraisals? BIA Realty and OST staff will be needed to will be
assigned specifically to assist tribes with the necessary
documents title status reports to identify tracts landowners
shares etcetera. If the tribes are successful and a decision is
made to allow to tribes to administer their own programs. Will
any of this money be used to help tribal members who don’t wanna
sell don’t have the resources but wanna consolidate their lands?
Because it is also important to our tribe that we help our
tribal members. How are you going to educate our tribal members
and individual landowners regarding the trust consolidation
component of the Cobell Settlement? How do you keep track of
these persons’ whereabouts unknowns? Because that is also a
problem that’s ongoing. And when you purchase their or sign off
to purchase their interest and you put the money into their IIM
accounts what happens to that money and how long does it sit?
How do you track those? Will there be additional consultation
meetings held on the 60,000,000 that can be set aside for
scholarships for post-secondary vocational or higher education?
This may not relate to this consultation but a recommendation to
help individual landowners with their land is to change the
regulations in partitioning. This regulation requires a 100
percent consent from landowners and doesn’t work leaving the
majority of landowners unable to use their land the way they
want. And then my final question was what is the status of the
Secretarial Commission on Trust Reform which I believe you did
answer, and that we ask to please provide further information to
our tribe as it becomes available. It is important to ensure
that decisions are made in the best interests of the tribes.

Thank you.

HILARY TOMPKINS: Okay thank you.

Those are very important questions and I’ll take a stab at some
of them. And then I know my abled colleagues can cover those
that I don’t. Just to give you some context it was important in
our negotiations of the Cobell Settlement to include this very
important issue of fractionation. And we believed it was
imperative that we address the issue and seize this opportunity
with the settlement to do so. Obviously fractionation is a
challenging issue that did affect Interior’s ability to
administer all of these accounts and interest. And so it seemed
that in order to get a solution that would have positive effects
going forward it was important that we included this
fractionation issue in the settlement. So I wanna emphasize I
think we’re at a very historic moment where we do have a very
large fund that will hopefully be able to address this issue
head-on. And at Interior we are really focused on how we can
get it right how we can be successful in seizing this moment.
And we believe our success is dependent on understanding your
needs your concerns, because as the tribal leaders here have
emphasized you know on the ground the situations that you have
and what is in your best interest for your community. So you
are critical to the success of seizing this moment in time with
this new program. It is a huge increase of funding very
significant. I think past years the appropriation had been in
about the 30,000,000 range so we need to be sure that we launch
this in a way that’s going to be effective. I’ll speak to some
of the issues that fall more on the legal side of the ledger.
In terms of no consent if individual owners do not want to
convey their interest they don’t have to. That is part of what
we have in the settlement that consent must be given. There is
an exception for whereabouts unknown. There is a process for
trying to contact whereabouts unknown and then after five years
their interest can be conveyed and the funds will go into their
IIM account. But for those individuals that we can contact and
they don’t consent they do not have to convey their interest.
We did include the scholarship fund in the settlement to
encourage folks to come forward and convey their interest.
Depending on the value of that interest a portion of additional
funding will go to the scholarship fund. But we also understand
that some folks feel that might not be enough and we’ve heard
that in other consultations. So we’ll need to explore that and
see if legally there’s some other option to create other
incentives in order to encourage folks to come forward. I think
that question also illuminates the need to confer with the
tribal leadership and the communities that are impacted by this.
It’s important that we have support from all of you to find
opportunities to focus on certain tracts focus on certain owners
that you would know better than us that they’re interested that
they would like to move forward with conveying their interest.

So I think that question really goes to the heart of the issue that we need to somehow be sure that we are in communication and know where those opportunities are. In terms of the lien issue and I know that’s been discussed at other consultations as well, the Indian Land Consolidation Act does have a provision that provides that a lien will be placed on the interest. It also however has other provisions where you can waive the lien the Department of the Interior. And there is certain criteria that you look at in order to waive the lien. So there is some discretion within the Department of the Interior to waive those liens. So we’re aware that that’s a big concern and we’re looking at that. In terms of (INAUDIBLE) of the really overarching theme that we’ve heard in these consultations is that tribal leadership, Indian Nations want to have a role in all of this and know how to administer these issues. I’m aware that many Indian Nations have Indian land consolidation plans have offices programs that are already looking at these issues actively. So we’ve heard your comments that we need to tap into those resources and knowledge empower tribal nations’ tribal leadership to take the lead in their communities to do that and be a part of that. I know 638 contracting has been referred to as well. As you all know the Indian Land Consolidation Act does
not allow for 638 contracting as written today. But there are other provisions that allow for cooperative agreements MOUs MOAs that we could enter into. So there are some tools at our disposal I believe that we can work together on to have those inter governmental agreements where we can be partners in implementing this program on the ground. So we’re looking at that as well. In terms of probate questions and I know that there’s been concern about fee lands within reservation boundaries and how do we deal with those issues. As you know from the slides this particular fund is focused on trust and restricted fee interest. I do know that in the probate provisions as well as in some other management provisions in the Indian Land Consolidation Act there are opportunities for the Indian tribe that has jurisdiction over those lands to be able to make an offer on that land before it goes into non-Indian ownership. There are some exceptions if the non-Indian fee owner is part of the family and that sort of thing. But there are some incentives in the Act today that are to address that further to address that. I guess on the Trust Reform Commission I can speak to that real quickly and then I’ll pass it onto my colleagues here to fill in anything that I’ve missed. The Trust Reform Commission I believe is again a really important step towards moving into the future in a positive way. Secretary
Salazar established the commission by secretarial order. It is to look at how the Department of the Interior as a whole can administer its trust function. And it’s to assess the current situation evaluate it provide recommendations for moving forward. We have sought nominations for individuals to serve on that commission. The criteria includes looking at individuals who have experience with trust administration issues who have experience working in Indian Country on these issues and we have received a number of very good nominations. So it hasn’t been set up yet but we are looking at constituting that commission. It also will be funded in the 15 percent that was referred to on the slides. And again I think this hopefully shows to you that we at the Interior Department are we were trying to resolve the issues of the past in this settlement, get at some of the target some of the challenges that we think might of in part gotten us to where we are today with land fractionation so we included land fractionation in the settlement. And then it was important to look forward with the Trust Reform Commission. So I just wanted to give you that additional information on the Trust Reform Commission. So hopefully that answers some of your questions and I’ll turn it to Jodi and Meghan and whomever else to.

MEGHAN CONKLIN: (INAUDIBLE).
JODI GILLETTE: Okay.

HILARY TOMPKINS: Follow up on some of the other.

JODI GILLETTE: Well I guess I did I do wanna just respond to the part where we talked about you all talked about the processes the you know the different things that we need to do to make our processes to go faster and that’s something that we’re really looking at. We know that they have to go faster and I think what’s most helpful is if you can help us to think that through. I mean I do hear from some tribal leaders and other folks, where do you where do you see where you know where can we aside from I heard the mention of more people in those positions but beyond that are there other things are there ways that we can tighten things up and make them move faster, and then the other things is you know how much how much of the money will go to consultants and you know that’s a good question. We clearly haven’t gotten to the level of detail where we can we can tell you about resource plans or anything like that. We really are here to hear what you think and if you think we should we should be sending money we should be hiring we should you know those are all things that we wanna hear about. And then the other thing that I just wanted to respond to was that the part about you know the consultation after these
initial consultations we do wanna go out for more consultation
once we have a plan in place. And we know that we’re gonna be
asking tribal leaders to be to be really paying attention to
their inboxes and understanding that if things start to move
fast for the implementation date then we’re gonna start moving
fast too because that 10 years does start, it doesn’t start when
we’re finished with consultation it starts when the judge has
resolved all the appeals. And so there’s not really any kind of
flexibility there and of course I’ve heard Deputy Secretary
Hayes and I’ve heard Secretary Salazar say time and time again
you know we really don’t wanna send any money back to Treasury.
And so we’re gonna do everything we can to make sure that we are
spending the funding and purchasing land for consolidation. So
I think that’s the status. I don’t know if we wanna talk about
the status of the secretarial commission other than we are
considering right now and we’re not ready to announce anytime
soon, but we did have the open period for we asked folks to
submit names and we’re looking at those.

HILARY TOMPKINS: Can I just follow
up real quickly on appraisals and some of the comments on that?
Under the Land Consolidation Act the secretary has the power to
set up identify fair market value for these lands based on
geographical units. So regionally and can adopt a plan in terms
of how they assess or the department assesses fair market value
and that is something we’re looking at really really closely to
see what would be the best approach for each region that we work
with. It’s not clear where we’re gonna come out on that but
your experience on the ground is very critical because there
might be differences that need to be taken into account. There
might be good experiences that you have all had in terms of
appraising land in your area given the unique conditions that
are there. And we can benefit from hearing about that and
knowing where you’ve had some really good successful
experiences. I know in past consultations that kind of
information has been shared. So we are looking at that as well
and I just wanted to emphasize. And the point about appraisals
that are stale and be sure that what we do on the left side you
know is compatible with what we’re doing on the right side. We
I that’s a really important point that we are coordinated and
that we expend funds in a way that maximizes moving towards
consolidation. So we need to be sure our appraisals are done in
a timely way that remain fresh and are in concert with the
actual transaction occurring and the title documents being
issued properly and the payment being made. So we’re aware that
there’s many different components to these transactions and they
need to be coordinated and timely. So we appreciate that point.
MEGHAN CONKLIN: So I just wanted to see if I can fill in any gaps that haven’t already been wonderfully articulated by my colleagues here. And I wanna thank you for those comments. And I just wanted to echo what Hilary said in all the consultations we’ve had by far the I’d say the most brought up comment is the desire for Indian governments Indian Country to have more direct involvement in the administration of this program. And we’ve heard that loud and clear. You know as Hilary mentioned because we’re (INAUDIBLE) the Indian Land Consolidation Act we don’t have the authority to use 638 contracting under this program. But we are gonna go back and take a look into our ability to use cooperative agreements and MOAs and MOUs in this program ‘cause we’ve definitely heard that comment loud and clear. And Elaine you had brought up the scholarship fund and I just wanted to provide a little bit more background. The settlement agreement requires that the plaintiffs recommend two non-profit organizations to administer the scholarship fund. And they have done that. They’ve recommended two entities that most of you should be familiar with. The first is the American Indian College Fund and the second is the American Indian Graduate Center. And a lot of tribes have weighed in on behalf of one organization or the other and what will happen here is the Department of the
Interior is evaluating both of these groups and eventually the secretary has the authority to make a decision on which non-profit group will administer the fund. In terms of consultation with Indian Country there will be a board that has input in how the non-profit entity administers the fund. And I believe they are required to consult with Indian Country on a few of the members on that board. So I just wanted to let you know some more about that. And then President Abrahamson the question you brought up about wanting to make sure that tribes do have the ability to comment on any draft plan and I know Jodi also addressed this, I wanna assure you we will make sure that any draft plan the department does pull together as a result of these consultations we will make available for people’s feedback. We’re still figuring out based on the court timeline whether or not we will do more face to face consultations but I think at minimum we’ll make something available in the Federal Register and have a comment period so that’s very important to us as well. So those are my quick reflections and would turn back to any of you if you have additional comments you wanted to make.

GREG ABRAHAMSON: Greg Abrahamson the Spokane tribe. I was one thing on the commissioners there that we (INAUDIBLE) we expressed this at the Northwest or when we had
the Seattle too that we would like to make sure of that because there’s gonna be I think there’s gonna be six commissioners and I think we have 11 regions and we wanted to make sure that we in the northwest had a northwest representative on that commission there so.

MEGHAN CONKLIN: Um hum.

GREG ABRAHAMSON: And we didn’t know that and I tried to look when I looked on it to try to look at list I couldn’t find it when I went to that website (INAUDIBLE)...

MEGHAN CONKLIN: In terms of a list of who’s been nominated?

GREG ABRAHAMSON: Yes.

MEGHAN CONKLIN: We haven’t...

GREG ABRAHAMSON: Or who’s the list of nominees on there so.

MEGHAN CONKLIN: We haven’t made that available and there will be five members of the commission and I think we have (INAUDIBLE) process internally we’re gonna go do in terms of evaluating the nominations but we have heard that concern from a number of regions about wanting to make sure there’s diversity and regional representation so thanks for that...
GREG ABRAHAMSON: Okay.

MEGHAN CONKLIN: For that comment.

GREG ABRAHAMSON: Okay and then the other one was on the value as they go through the appraisals that we have a minimum (clears throat) excuse me that there would be a minimum amount there. Let’s say that I own I own a parcel of land and I have one 1,000’s of X amount of acres and you do the appraisal and realistically when it comes down to it that maybe my amount is only worth $5 or $10 realistically but we believe that there should be, and to entice tribal members to sell their portion is that there should be maybe that there’s a minimum amount and that’s what would help entice tribal members to sell their portions of their property (INAUDIBLE). That’s all I had. Thank you.

MEGHAN CONKLIN: Nothing more?

ELAINE FINK: Yeah I just wanna add to that as far as the fractionize that’s a good idea as far as having a minized(sic) a minimum amount. I’ve always been concerned about the appraisal. I know that we’ve had in our area usually go out to a real estate person to do appraisals but then you look at fractionized pieces are they really do they really have the value of a property that say is fee land in the area that’s for sale. Because actually you can’t do what you
would do with a piece of property that’s fee land if it’s allotment land or in trust it wouldn’t have that much value. So that’s a really good idea to have a minimum amount to give to the people that do have a fractionized piece. All of this is bringing up so many other questions like how is it going to be determined as far as a tribe. Who’s going to be dealt with first? Is it the ones with the larger land issues? Is it the ones with the smaller ones that could be taken care of I would think quickly? And also the tribal involvement I think that would expedite a lot of things and also would not cost as much money if you do have the tribes that are in the area more involved in what’s happening particularly with their pieces of land and stuff (INAUDIBLE) where they’re at so (INAUDIBLE).

UNIDENTIFIED FEMALE VOICE: (INAUDIBLE).

HILARY TOMPKINS: I think it does make sense to maximize those opportunities where we can really streamline and where a lot of the groundwork has already been done and where we know that there are highly fractionated tracts and appraisals have been done or there’s an interest in conveying the fractionated interests, so certainly we need to be aware of where those opportunities exist. And I just wanna emphasize I think that’s where tribal leadership and tribal
governments come in to help us chart that path, because we don’t want to follow an approach that’s just some formulaic approach that doesn’t make sense in certain in certain situations. So and we’re exploring all that we’re trying to make a decision and determination about where do we focus and how do we focus in a way that maximizes us moving forward. So we’re thinking the same way on that. And I think as we continue this dialogue the more specifics I think I’m getting a sense that we’re at the more thematic conceptual stage of this discussion but I think in time we’ll need to get down to more particulars to move forward. And I think we’re very interested in learning about those particulars.

JODI GILLETTE: Yeah and I think that just so that everybody sort of sees where we’re coming from it we know that there’s everybody knows that there’s not an infinite amount of dollars for the purchase. There’s not there also not an infinite amount of dollars for the administration process but we also know that there’s not a 100 percent of willing sellers. So the sellers have to be voluntary and so you know knowing those kinds of givens we have to make some targeted decisions. And maybe it’s a couple of scenarios maybe it’s three scenarios it doesn’t have to be all you know one way but the more that we understand how it can better work from region
to region or from state to state whatever the circumstances are
the better off we are to put those kinds of things forward in a
plan.

ELAINE FINK: Another comment too I’ve been on tribal council going on nine years that hasn’t been long. And we all know when we carry around date books when you start writing in the places that you need to be and where you’re gonna go next month and stuff I mean time is flying. I would like to see this and I think everybody else is we need to just hit the ground running once we get this 10 year start date because it’s going to fly.

UNIDENTIFIED FEMALE VOICE: Thank you.

STACIE SMITH: Are there any other comments from elected leaders maybe who aren’t sitting at the table?

JODI GILLETTE: Maybe tribal governments that have sent program folks with expertise?

STACIE SMITH: Yes. If you could just introduce yourself (INAUDIBLE).

THERESA ROSIER: Hi I’m Theresa Rosier. I’m here with Stacey Gubser we’re with the Salt River Pima-
Maricopa Indian Community. We have a pretty robust land
consolidation program but we’ve never used the federal program. So we would definitely wanna explore that. In the past it hasn’t worked didn’t think it would work well for us. Obviously our one of our biggest concerns is the federal lien so we would look at the statutory exemptions but that’s just not appealing to the tribal government to have a federal lien on land that belongs to the tribe and was reserved for the tribe. So we’ll have to explore that more but that was our hang-up in the past with doing the program. Also tribes such as Salt River and Gila River and I can’t speak for Gila River due to our location our land is much more expensive than other tribal communities. So in the past I think there’s been a reluctance by the department from what we understand that our land’s just too expensive to spend a $1 buying half a parcel where maybe in the Midwest they could spend a $1 and buy you know 30 parcels. So we I know that there is that’s something that’s gonna be have to be looked at when you divvy up how you’re gonna allot the money because we can’t control the cost of our lands. And we’re next to Scottsdale they’re always gonna be expensive and so that’s something that’s very important to us is looking at how you’re gonna divvy up the money and equity is an issue. And the land in at our community is just always gonna be more expensive just due to its location and that’s completely outside the control of
the tribal government. So and I guess that question was asked is how is the money going to be divvied up and I don’t think we got an answer on that. And if the answer is we don’t know yet that would be helpful. But I think that’s something that we definitely wanna know is it a grant funding is it application based or is it a formula? How will that money be divvied up? Another issue is we since we’re a self governance tribe we do our own appraisals. We still have to have OST review of those appraisals and we also do our own surveys and we have our own staff costs so when you talk about administrative costs those type of costs are absorbed the community. We I mean definitely it’s extremely expensive we get $300 for appraisals from we get zero money from the federal government for appraisals. So if we do participate in that we would need a significant amount of funding to actually pay for appraisals surveying costs staff costs, so I’m hoping that those are considered when discussions are made about administrative costs. And also in talking about not being able to use self governance or 638 on this program we would strongly encourage MOUs and cooperative agreements ‘cause our program can just be so much quicker. You know in our program the real holdup is OST review of the appraisals. But if we’re really gonna go buy a parcel of land the tribal process is you know front end we (INAUDIBLE) three weeks to go get an
appraisal, negotiating working with the tribal member maybe total max two months. It could be at the OST for six nine months waiting for review. So really if you wanna have a program that’s moving fast we would prefer to do it through an MOU and do it our way ‘cause it’s just so much quicker than going through a lot of red tape and internal departmental processes. Right now those are our issues so right now the only question I’m really seeking is you know how what are you looking at mechanisms for dividing up the money? What’s the formula grant based what’s kind of the plan there? And looking at equity between different tribal values how do you plan on doing that too?

JODI GILLETTE: I will just answer the question about how are we going to divvy up the money so you can probably imagine that if we did have that already figured out and we came out to consult with you then we’re gonna get criticized for not asking you how we should do it before we come out and talk to you. So if you have suggestions about what would work and knowing you know the sort of level of sophistication that a lot of tribes have already in working with different funding agreements and different mechanisms to work with MOUs or contracts or whatever that the more information that you can give us of how you think that would work the better. And that will inform the
implementation plan. So the answer is no we don’t have it figured out in terms of divvied up by reservation or by tribe or by region or anything like that. And that’s really why we’re out here.

THERESA ROSIER: All right.

LARRY RODGERS: MORNING.

MEGHAN CONKLIN: Morning (INAUDIBLE).

LARRY RODGERS: My name’s Larry Rodgers I work with the Eastern Navajo Land Commission in Crownpoint, New Mexico. Good morning elected leaders I with all due respect I hope you don’t mind me coming to the table with you. I do work for a commission five Navajo Nation council delegates that serve on the 24-member council, five of ‘em represent Eastern Navajo. I’d like to speak on their behalf if I may. I want to be as bold as the boldest one on the commission. First of all I Navajo Nation’s made up of five agencies if we if we’re talking bureaucracy. Each of the five agencies contain about 5,000,000 acres of land. Eastern Navajo as you might know is very well checker boarded. About 15 to 17 percent of those lands are allotment lands involving up to about 5,000 people. So it does have a the discussion has a great deal to do with Eastern Navajo. The Navajo Nations (INAUDIBLE) pursuing a Navajo land consolidation based pretty much based on the spirit of the 1983 National Consolidation Act but it’s more than just what we’re
talkin’ about. Eastern Navajo should have been made part of reservations back in the late 1800’s. Of course the Dawes Act of you know placed a tremendous burden on how those lands would be pursued in terms of ownership over the years. And Navajo Nation I don’t know if other tribes experienced this but the Eastern Navajo is considered off reservation so the allotment process was kind of a an alternative to not forming that part of the nation into a reservation. And we’ve of course ever since had complications since. In terms of recommendations I have a couple of recommendations a few comments and then just one question. I know Meghan said that you’ve heard a lot about you know tribes wantin’ to do this under contract the Navajo Nation would like pursue it in that fashion as well however a couple of points I think I’d like make. In terms of recommendation regarding distribution I think you’ve already have a sense of where people where there are needs so perhaps maybe based on that you could use that same allocation as a formula in terms of funding to different parts of the Indian tribes across the country. The other part about it is the 10 year clock as mentioned here that’s gonna go by in no time. It’s just like the fee (INAUDIBLE) trust activity with the with the BIA that is you know it hits a bottleneck everything gets you know back jammed log jammed for quite a long time. (INAUDIBLE) it’s
probably gonna happen with this as well too. So perhaps maybe that the timing of that 10 year clock probably should begin not when it’s well not when the appeal is approved but when the contract is entered into with the particular Indian Nation to run the program. I think that would be a more appropriate clock then they’re individualized. And y’all know the unique circumstances behind or with each Indian Nation. We are so different so the things that I might have to say might not hold well with other tribes. But you know we look at the Navajo Nation as a unit in which you know there are 110 chapters local sources of government and treatment of the same we might be even under different BIA agencies. But there are 110 ways Navajo Nation tends to feel like they’re on common grounds when it comes to dealing with local issues especially lands. The part about liens you know the question really is why should tribes (INAUDIBLE) Indian Nation owe anything? These were our lands to begin with. We just want ‘em back. In terms of maintaining data regarding the development of how this will implemented I think you should have a pre-Cobell set of data because you’ve already done quite a bit of purchases already, and you should have a post-Cobell data control. And talking about data the Eastern Navajo Land Commission has been requesting information on where these land where certain interests have been have been
purchased. And there is no way to get that information readily. I don’t think BIA is well equipped to map those for us because you know in terms of dealing with local leaders it’s good to show things on maps rather than in tabular you know form. So my recommendation would be to do that as well. And that’s where this pre-Cobell comes in terms of how much lands have been you know are we talking about that have been purchased and can we can we show it on a map? And of course in terms of how much money has been spent on it and how many acres are we talkin’ about per tribe or whatever? I hope that’s not a big tall order to you know to request but that would be a recommendation. The question related to this for the Navajo area is I understand the land consolidation office out at Crownpoint that’s run by the Chickasaw Nation Industries will be closed in a couple of weeks and I’d like to know how long that will remain closed? That’s the only question I have. In general I’d like to make other comments. Okay so Indian Nations should be delegated the authority to deal with tribal allotments within their jurisdiction. Again this is where I’ve said earlier that we’re all different. It really is the United States government that created this whole class of people ownership and it back to the late 1800’s back to the treaty dates from there on classes of people have been created. And it’s only been done by the
federal government. And it makes it hard at the local level to have deal in unity with local jurisdictional issues because of all this. It is time to start undoing that. And I hear well I respect the president to understand this problem with Native Americans. I really appreciate that wholeheartedly. I wish that this opportunity this window of opportunity could be a little bigger and I’m afraid that it’s coming to a close to deal with some of these matters. I’m not puttin’ the politics on the table of re-electing the president or anything I’m not saying that I’m just saying however it is whatever it was if it’s four years or eight years this opportunity is gonna you know close on us like we didn’t even know it was there. So I just wish that we can really buckle down and get some of these you know some of these things done and put in place for the benefit of the future of peoples. When these regulations or these laws have been put in place regarding control of land ownership and so forth the federal governments feelin’ it you know due for example the Cobell lawsuit you’ve been under pressure because of that. What it also has done is that in the area of allotments tribes have no regulatory authority. Tribes cannot tell allotment owners what to do. And there’s a great fault there because it breaks up the homogene- (INAUDIBLE) homo- oh well.

MEGHAN CONKLIN: We know what you mean.
LARRY RODGERS: Yeah well help me say it.

MEGHAN CONKLIN: Homogeneous (INAUDIBLE).

LARRY RODGERS: Yes homogenous.

MEGHAN CONKLIN: Yeah.

LARRY RODGERS: Of the particular tribe yeah and it does that it breaks that up. The worst thing that it does is that it puts local residents it victimizes local residents and isn’t that where the key really is is you know how people about the local level is treated? That’s where the problem is. When allotments’ allottees have ultimate control of these lands it you know the rights-of-way for public utilities water lines power lines all this it you know it doesn’t benefit everybody (INAUDIBLE) come across the table. Because of the checker board lands let’s say for example you’ve got you’ve got a checker board land right here you have tribal trusts here and then you have also tribal trusts back here and you have a utility line that goes that should cut across these three pieces of land, the allottee the allottees control everything here. These people will never get utility service as a result because they have that control. These folks this way might have services. You know in this day and age when all of America only maybe one and a half percent don’t have utilities we’re talkin’
about Navajo Nation where 25 to 30 percent of families still
don’t have electricity and running water. And in Eastern Navajo
this problem creates all that. And anyway I think I’m makin’ my
point quite clear about that. There needs to be delegated
authority to the Navajo Nation to have better control and work
with tribal allotments. I think enough said. On behalf of the
attendees I’d like to request since you have our email addresses
could you email us your presentation please?

MEGHAN CONKLIN: Yeah I think we can make
that available.

JODI GILLETTE: Sure (INAUDIBLE).

LARRY RODGERS: Okay. Thank you very
much.

MEGHAN CONKLIN: Yes thank you.

JODI GILLETTE: Thank you. As far as
the just in response to some of this some of the comments I
think the main thing that I wanna make sure that folks know and
in terms of the data we are looking at making more data
available before November 1st for tribes to have that
information by tribe. I don’t think that that data is mapped
per se but it will be in sort of a tabular type of format. The
other things is that I think we are interested in the questions
of accountability and that’s not just from the standpoint of you
know what tribes would like to know but I think that we are gonna get questions like that from all directions and so having those in the forefront while we’re looking at the plan is gonna be really key to the success. So if we’re creating the plan understanding where we’re headed with it you mentioned you know how much money has been spent and how much what is the difference between before Cobell and after Cobell those are really good questions that you know are extremely helpful right now. And then just having the understanding that I think the department deals with a lot of the issues that you speak to on rights-of-way and easements and access for lots of things that are just common place for the rest of America and I think that we’re really attuned to the ways that the fractionation impacts those things. But as far as like the I’m not sure if we have an answer on the if we can get you an answer on the Navajo Nation the Chickasaw Nation Industries office we’ll try to get you something by the end of the day. Okay.

LARRY RODGERS: Okay.

MEGHAN CONKLIN: And the other note about we’ll look into making the presentation available but just so everyone knows we are making the transcripts for these consultations available on our website. If you go to doi.gov/Cobell the transcript from the Billings consultation and
the Minneapolis consultation are so far posted and eventually we
will post the transcript for this one online so everyone will
have a chance to refer back to that.

STACIE SMITH: Any other I just wanna
see if we have any other tribal leader comments and then we can
(INAUDIBLE) people representing or empowered to speak on behalf
of their tribes? Okay so why don’t we take a 15 minute break
and then we’ll come back and we will open the floor up for
comments from all. So it is now 10:53 why don’t we come back at
10 after 11:00 so 11:10 we’ll come back together and we’ll open
up the floor. Thanks. So we’re gonna come on back together.

MEGHAN CONKLIN: All righty.

STACIE SMITH: All right if I can
invite everybody to come on back to your seats.

(Transcriptionist's note: There is
audible background noise that is unrelated to the interview that
was not transcribed.)

STACIE SMITH: So we’re gonna come back
together I wanna give tribal leaders one last opportunity to
speak before we open it up to the public as well and of course
you can keep you can still speak even after the public and the
other landowners and other interested people who are here speak.
I just wanted to highlight there were a couple of really great questions that were asked to the department officials. What’s your plan for you know allocating the resources what’s your plan for prioritizing and they said back to you we don’t have one yet we wanna hear your answers to that. So I wanna encourage you to think about some of those questions where you really want to know what the department is gonna do and let them know give them some recommendations give them your thoughts. This is your opportunity to have a voice in those decisions and to help them come up with the right answers to those questions. So opening it back up here any comments additional comments? Okay so I open the floor. There’s a microphone here and a microphone here. If I can ask you to identify yourself your name and any affiliation that you have so that we can make sure that that gets included into the transcript and if you wanna just you know come on up to either mike. And if you have questions for the officials if you wanna pause and let them answer those questions you know you can feel free to do that as well.

PUBLIC SPEAKER: (Allison Binney) Hi Good morning. Allison Binney with Akin, Gump Law firm on behalf of the Gila River Indian Community. And I mostly just have questions right now. The community’s gonna be submitting comments but I think that they just sort of have questions right
The first question is on the Secretarial Commission. I know that the Department issued their notice for nominations on July 4th weekend and it gave 30 days for nominations but as the Consultations have gone on it seems like there’s more interest in the Commission and I’ve heard from several tribal leaders including from the Gila River Indian Community that maybe whether the Department could consider extending the deadline for nominations, just because the original nomination period was fairly short and there was only like I think one Consultation that had happened before the deadline. And I think as the Consultations have gone on people have a little bit better understanding of what the Department’s goal is with that Commission and there seems to be more interest in being nominated for the Commission. So I don’t know if there’s any interest in doing that but I just put it out there it sounds like you, the Department hasn’t appointed anybody yet. The other question that has come up at the community is when the comments are submitted to the Department will they be made public or are they (INAUDIBLE)? There was some question from the community about you know when they submit comments how what’s the process, will people other people be able to review their comments? Will they be able to review other people’s comments?

JODI GILLETTE: You want an answer?
PUBLIC SPEAKER: (Allison Binney) Yeah that’d be great.

JODI GILLETTE: I don’t think that we’ve made a decision on that but you know by all means we can make them publicly available for people and what we’ve done in the past on other types of consultations is anytime we get written submissions we post them online. And I don’t know if that is that something that you think people would wanna see?

PUBLIC SPEAKER: (Allison Binney) I don’t know. I think just as they formulate their comments that was a question that’s come up as (INAUDIBLE).

JODI GILLETTE: Well I think you know we could do that and you know to ensure transparency the best thing is if a tribe doesn’t want their comments posted online I don’t think that we’ve made it you know made it clear that if they do submit something they would be publicly available (INAUDIBLE) you know to (INAUDIBLE) you know everything can be publically available, but this is something that I’ve seen in a lot of other places where tribes wanna see that somebody at Interior has taken a look at their comments and the way that they can see it is if they’re reflected online somewhere. And so and you know in the past we have done that.
PUBLIC SPEAKER: (Allison Binney) Okay.

JODI GILLETTE: So if there are tribes that wouldn’t want I mean I guess we could we could put it out there...

PUBLIC SPEAKER: (Allison Binney) They could say that in the comments...

JODI GILLETTE: In the communiqué yeah.

PUBLIC SPEAKER: (Allison Binney) If they don’t want ‘em public?

JODI GILLETTE: Right.

PUBLIC SPEAKER: (Allison Binney) Okay that’s helpful. Do you have any timeframe by which you’re thinking of finishing the draft implementation plan? I know there how many how many appeals were there? I know of two I saw or were there more than two appeals filed does anyone know?

HILARY TOMPKINS: (INAUDIBLE).

PUBLIC SPEAKER: (Allison Binney) In the in the actual Cobell lawsuit?

HILARY TOMPKINS: There’s been two others filed...

PUBLIC SPEAKER: (Allison Binney) So two...

HILARY TOMPKINS: There’s three.
PUBLIC SPEAKER:  (Allison Binney) So three?

HILARY TOMPKINS:  There’s three...

PUBLIC SPEAKER:  (Allison Binney) Three pr-...

HILARY TOMPKINS:  But procedurally they’re in different postures. So only one of the appeals have been set has been set for a briefing schedule.

PUBLIC SPEAKER:  (Allison Binney) Oh okay so probably the earliest then you’re looking’s like late spring for like final resolution maybe?

HILARY TOMPKINS:  For sometime in the spring if the Court of Appeals rules on the...

PUBLIC SPEAKER:  (Allison Binney) Okay.

HILARY TOMPKINS:  On the appeal at that time.

PUBLIC SPEAKER:  (Allison Binney) Is the goal to get the draft implementation plan kind of done? I think I think everybody’s probably happy that you’re gonna do a draft and then seek additional comments on that draft. I think that’s really great. But is there is there a goal or a timeframe by which you want the draft out so you can have additional consultation? ‘Cause I assume that you once the final order
comes from the judge like the appeals are resolved like that’s
when the time the time the 10 year time frame starts so you’d
probably wanna get everything finalized by then right?

MEGHAN CONKLIN: Yeah it’s a that a good
question. We haven’t identified when we would release it but
that’s one of the things we need to go back and discuss after we
get through these consultations. But so I think...

PUBLIC SPEAKER: (Allison Binney) Okay.

MEGHAN CONKLIN: We’ll be able to update
you later on but we don’t have a timeline identified yet.

PUBLIC SPEAKER: (Allison Binney) Okay.

JODI GILLETTE: And I think that you
know we are aware that you know we have to balance both the
implementation or the 10 year clock with being thorough in our
ability to put forth a really good plan. But we you know we are
certainly I think even on the consultations and how we’ve rolled
out consultations as soon as the judge gave us the go ahead and
the signal to be able to have discussion with tribes on the land
consolidation piece you know we moved as we moved pretty quickly
on that. And so it is possible to move.

PUBLIC SPEAKER: (Allison Binney) Okay.

And then I have another question about the secretarial
commission. Have you identified how much money that you’re
gonna like you know put towards the commission or that’ll just sort of depend once the commission gets up and running and you sort it out then?

MEGHAN CONKLIN: Yeah we haven’t identified as I said earlier in my presentation the money to provide for administration that commission comes out of the 15 percent so out of that 285,000,000 but we haven’t identified yet exactly how much of the money we’ll put towards the commission.

PUBLIC SPEAKER: (Allison Binney) Okay. And I just have one last question.

UNIDENTIFIED FEMALE VOICE: (IN-AUDIBLE).

PUBLIC SPEAKER: (Allison Binney) I think is there still an order in place that limits the department’s ability to communicate with class members and tribes about the settlement and including the land fractionation?

HILARY TOMPKINS: Yes there is a communications order in place yes.

PUBLIC SPEAKER: (Allison Binney) So it still limits your ability to consult with tribes?

HILARY TOMPKINS: On the broader settlement for...
PUBLIC SPEAKER:  (Allison Binney) Okay.

HILARY TOMPKINS:     Department of Interior employees yes.

PUBLIC SPEAKER:  (Allison Binney) Okay thank you.

HILARY TOMPKINS:     Um hum.

MEGHAN CONKLIN:     And perhaps Hilary could sort of tell us more about it but we did have to get a special approval from the judge to even start holding these consultations.

HILARY TOMPKINS:     Yeah and we went to Judge Hogan seeking permission to start these tribal consultations earlier in the process to lift part of that communications band so we could talk about these issues, knowing that we didn’t wanna wait until final approval of the settlement through the judicial process to get started because we’d lose a lot of time that way. So I think we’ve been trying to use this time pending the final judicial review in a productive way and start these consultations. And similarly to the question about the draft plan we are cognizant that we wanna use this time in a valuable way and not waste any time so we’re trying to get as much done as we can during this interim period before the final order is issued.
PUBLIC SPEAKER: (Ed Azure) My name is Ed Azure. I’m from Fort Belknap, Montana but I own land at Fort Peck, Montana.

STACIE SMITH: (INAUDIBLE).

PUBLIC SPEAKER: (Ed Azure) Is that better? Okay I’m not a tribal leader I’m just talkin’ for me and my family. I just got one prelude question type thing. Are we talkin’ just surface or minerals or both you’re gonna buy with this one point nine billion? Anybody. I heard there’s lawyers.

HILARY TOMPKINS: Yes I thought I didn’t I thought Meghan was gonna answer...

PUBLIC SPEAKER: (Ed Azure) I mean you Obama sent you to talk to me.

HILARY TOMPKINS: Yes sorry yes it includes surface and mineral in the Indian Land Consolidation Act.

PUBLIC SPEAKER: (Ed Azure) So you’re gonna buy both?

HILARY TOMPKINS: It depends on what is being offered by the seller. By the owner.
PUBLIC SPEAKER:  (Ed Azure) What I offer to the tribe?

HILARY TOMPKINS:  Yes that’s correct.

PUBLIC SPEAKER:  (Ed Azure) If I offer my minerals this one point nine billion is gonna be able to buy that?

HILARY TOMPKINS:  Yes it includes both sub-surface and surface that’s correct.

PUBLIC SPEAKER:  (Ed Azure) Okay now you’re gonna give each of the appraisers an average of what $300 to appraise the surface and then another $300 for the minerals so that’d be $600 per tract?

HILARY TOMPKINS:  We have we haven’t made a decision about how to approach appraisals for...

PUBLIC SPEAKER:  (Ed Azure) So you’re just takin’ suggestions?

HILARY TOMPKINS:  Yes we’re taking suggestions.

PUBLIC SPEAKER:  (Ed Azure) Okay now I’ll agree with John Boehner on this and I heard there’s a lawyer up here.  If the president can by the signing of a piece of paper attack Iraq he can put $600 more into the hands of a tribal landowner like me.  With Obama signing an executive order to say
the buyer and the seller agree on a set price that the exchange can happen. Let’s say I own 10 acres of land and the tribe offers me a $1,000 okay you’re gonna pay a white appraiser to come in and say it’s worth a $1,000 why not turn around and say okay Ed your land is worth a 1,000 here’s 1300. Then we get away with the appraiser. For the minerals are gonna be much much harder because they’re unquantifiable, right and that’s the basis of an appraisal you got to quantify it monetary quantification. Okay where that you know I don’t know how we’re gonna resolve that because my suggestion would be to turn around say okay Ed appraisal is historical information that (INAUDIBLE) being (INAUDIBLE) the table let’s say seven years of income that was generated to this date today your land is worth a $1,000. Okay in minerals it didn’t produce anything up to today for the past seven years your minerals have not been explored they have not been drilled a pipeline has not been run so it’s worth nothing. But if you get Fort Peck to turn around and say hey go ahead and allow that drilling allow that exploration then it’s worth something because there is oil down there. But it’s just not been handled. With an executive order or an or something by the superintendent saying okay council you guys can’t agree to go ahead and drill on Ed’s land we’ll do it for you. Take or have the BIA take back the trust responsibility. If Fort Peck
doesn’t want to allow us to have our land explored for minerals then the bureau should do it. Okay that’s how I think we should handle that. Now as far as the one point nine billion dollars me and this other lady had and my wife’s an accountant we had trouble figuring out how many zeros go behind billion. Now we’ve been attacking this problem since early 70’s maybe and today one point nine billion dollars is gonna sound like a lot to the tribal leaders but it’s really not. I don’t know how about the zeros but is it $40 an acre or $410 an acre that this one point nine billion dollars is gonna buy? I don’t know which one but it ain’t very much to me. Okay then that takes care of the 285,000,000. Okay out of that 285,000,000 there is supposed to be $60,000,000 going into education. I think enough money has been pumped into Indian education. Right now they got enough. My family doesn’t benefit from Indian education but I have my land. Okay so there’s no correlation between my land ownership and Indian education. So the Indian education portion should be taken out of this law. Right now the tribes do get money for Indian education and they should use it okay it should not be part of this law. If you’re gonna take $60,000,000 already my brother had been trained I don’t know he’s a welder he’s a carpenter he’s a draughtsman heavy equipment operator and he has no job. So if you’re gonna use $60,000,000 use
$60,000,000 not for education but for jobs. Let me see what else here. Okay and then how are part of this money 15 percent is to go to the council to buy land from me. The council is gonna get 15 million dollars and they’re gonna hire lawyers like that. Where is my lawyer? You know do I get some of that money? What’s so hard about selling for me to go over to talk to a lawyer to turn around and say I wanna sell my land? It shouldn’t cost 15 percent should just cost telephone piece of paper. I’ll sell it you know if we don’t bring in the lawyers. If we’re bringing in lawyers I ain’t gonna sell it. Okay and then that goes for the appraisal the lawyers and then you’re talkin’ about buyin’ tracts of land or whatever that I would agree with. Because right now the biggest impact that you’re gonna have for the one point nine billion is to have this land buyin’ it I mean if you buy my land fine if you don’t that’s fine too. But speakin’ for the rest of my family I know we have some good land and some bad land. Go ahead and buy the good land and we’ll sell it. But we don’t need to turn around and hire appraisers or lawyers or anything else. Come over sit down we’ll have a good cigarette we’ll have a good cup of coffee make a deal BIA Superintendent sign it and we’re done. 10 years that’s too long you know I mean the councils are gonna sit around you give ‘em 15 percent every year they’re gonna do that
and they’re gonna table it table it table it and 10 years are
gonna be gone and the landowners are gonna be left with nothing.
The (INAUDIBLE) my notes okay the out of the 15 percent the
council is going to turn around and find out who to invite to
the meeting to buy their land. On my land some of my tracts of
land we have a single paper like this and that’ll go on I think
six or eight pages of heirs to one tract. I mean I don’t even
know some of them that are on the the on the list. Out of the out
of the 15 percent the bureau and the council should turn around
and write to each one of those people. If you can’t find ‘em
you know I mean you’re not God. If you can’t find ‘em you can’t
find ‘em. But at least notify them. But I don’t want you know
it to be left up to like the council to turn around and notify
the landowners or strictly to the bureau to notify the
landowners because it takes quite a bit of calls to even get a
statement of ownership. And now I’m gettin’ ‘em regular but I
had to keep on ‘em. The lady told me that you would respond to
an email I tried that two times I give up on you. So that
doesn’t work. So write me a letter and tell me okay this is
what we think about your land ownership. If I choose to start a
fire with it fine that’s up to me. At least you notified me.
If not then I’ll go to the table with you. The getting back to
the to the appraiser appraisal the biggest concern I would have
would be the minerals. The land is nothing I mean the surface at least on Fort Peck and Fort Belknap our land is really worthless but it’s the minerals that are under there. So I think maybe a little bit maybe more thought could be put into how you’re gonna buy my minerals and what about the minerals that have yet to be explored. ‘Cause if you explore it then we could help out the United States more with natural gas or not but as it sits and the council don’t wanna explore it then we as landowners are gonna be left with nothing. We sell it to the council then they’ll gonna explore it and we get nothing. Thank you for your time. Tell (INAUDIBLE) I said hello.

MEGHAN CONKLIN: Thank you.

HILARY TOMPKINS: I’d just like to quickly make a comment and we have a gentleman who wants to make a comment so I appreciate those thoughts. I think we all are striving to minimize the administrative costs associated with these transactions so your points are well taken and thank you.

PUBLIC SPEAKER: (Gerry Emm) My name is Gerry Emm I’m a I reside in Nevada. I’m a non-member I could be a member my father and my brothers and sisters are could be members in Yerington. I own land on three different reservations. I own land at on Walker River and in Fallon and on Washoe public domain allotments. And this is a these this is
a huge issue you know (INAUDIBLE) something that we’ve been
discussing and you know since I’ve been this big. And it’s
really been interesting because my family has been involved in
land issues they’re farmers ranchers. And it’s we’re we operate
my father’s first was located on the Walker River and he’s a
non-member he’s a member in Yerington. And so these issues that
are coming up are pretty close to home and in the in the over
the course of time the few years I’ve bought land and it’s been
really interesting ‘cause I’ve been participating you know in
with the Indian Land Working Group and in some of these hearings
and things for a while and I wanted to kind of open with a
little bit of a story is. I purchased a public domain allotment
at up in Carson Valley and bought it at an auction. It was land
that had been allotted back in 1930 and by a lady named Katie
Martinez(sp?) who was distant relative. And over the course of
time I tried to purchase this land. Well the it went to
fracturing ownership I think there was four owners on it and so
when it went to supervised sale I bought it. And so I had I
didn’t have enough money right then so I had a non-Indian
partner that came in with me it’s a 40 acre parcel and so we
purchased it and then and we were gonna get a right-of-way. The
land had been it was an isolated tract that the had the right-of-way extinguished back in and this was in late 1980’s the
right-of-way to it was extinguished back in the early 1960’s and
had gone through the process of going to and it ultimately got
appealed to the 9th Circuit Court. And the 9th Circuit Court
ruled that the statute of limitations had run out since the
property had been used. The original owner had died in 1952 and
the heirs had other homes that were close by and so they hadn’t
accessed that ground. So then consequently they lost the you
know they went the landowners adjacent went to the through the
court and through the process and had the right-of-way closed.
Well the heirs took that to court and they got went to the 9th
Circuit and it was ruled that the statute of limitations had run
out. So the bureau didn’t have any responsibility, and the
heirs had brought the brought the case that the bureau had the
responsibility of maintaining that right-of-way to this
allotment. And so the bureau didn’t argue the issue they just
said statue of limitations was had run out and so the land was
landlocked. So I purchased it figuring with the idea that I
could negotiate with the adjacent landowner and get a right-of-
way and you know he’s a somebody I knew and ultimately it ended
up where that didn’t happen. And we went to state court and
tried to get a right-of-way into it and we got beat in state
court and as an individual ran out of money to go and try and
take this to a different level. And you know looking back we
probably should’ve taken a little different little different attack on how we presented our or the facts that we were going after (INAUDIBLE). So my partner and I decided we were just gonna sell the property. With him being a non-Indian we had to you know he couldn’t own land in trust so I went in and I was gonna we divided it and I went to put it in fee so that he could have his share and I could have my share. So I went to the bureau and put in application to go to go to fee and they said okay. They said (INAUDIBLE) got your application you need to get three people to vouch for you because you have to be competent in order to take this land to fee. So they handed me this document and it’s two pages. And they and they said we need three names of people that can vouch for your competency. And I told ‘em I said okay so I gave ‘em three names. I gave ‘em my attorney’s names and I gave ‘em a rancher down there and then I gave ‘em a Washoe tribal member that was a friend of mine he was ran the smoke shops over there at that time. And so it went through and they sent out the competency forms and I don’t know if you’ve every seen the competency forms? It ask the questions you know of are you able to manage your own affairs can you take your kids to school do yous take ‘em to church can you pay your bills dah dah dah. You know it’s a it’s a 1900’s document. And so anyway I got it filled out and (INAUDIBLE)
send my competency forms back in not a problem so the competency
goes forward. And it was it was kinda funny ’cause it just
kinda went through and you know it’s just something I laugh
about all the time. And so went and tried to tried to sell or
can’t get it done so ended up where you know I
got access for my part my part of the parcel which was still in
trust. Couldn’t get it done and we were lookin’ for a homesite and we
were gonna stay there and so I took it I went back in and I said
you know I need to get another application to go to for to go
’cause I’m gonna take this land to fee and sell it. And so the
realty guy he takes the application and he gives me three more
and he said I need three names for your competency. And I said
I just came in last year and filled out the other ones so I said
has something changed in the meantime. And he’s you know he
just said well I’ll have to talk to the superintendent about
this and see. So in the end I didn’t have to they said they
didn’t make me do a redo my competency again. So the question
becomes and this is the kind of the funny part of the whole deal
is when I went and got people to vouch for me being competent I
had one Indian on there. If he wasn’t competent could he vouch
for me being competent? And so it gets even better yet is who
when I turned the competency forms in who signs off on my
competency? The superintendent. Okay if he isn’t competent how
can he rule on my competency? And then it goes up and here’s Bryan who is the Western Regional Office if it goes to you and so my question and I’m not I’m not picking I’m not picking on anybody here I’m just telling you the story is if it came down and Bryan had to sign off on my competency or if something happened do you have your competency forms? And if not you know it goes up and it goes up and I think Aida Deer was in office at that time so the last question was was does Aida Deer have her competency forms in order to you know sign off on these competency forms. So the point of that discussion or that story is is this is stuff that’s been going on and the land stuff the land regulations and being able to access lands and to improve commerce and to bring economic development to the reservations which is done through the tribes is not just the matter of dollars. You know it’s a matter of updating regulations and bringing things and if we look at historically you know you look back in history and I and I think that a person has to look back in history in order to understand you know why things happened and if we look back at you know when the treaties were signed and when the reservations were formed and the Dawes Act was put in place, you know there was probably a need ‘cause there was a lot of our ancestors everyone of you that has you know we had relatives that couldn’t speak English didn’t understand you know
and that had to have guidance which is why you know the bureau was put there to help with these issues. And because of this Dawes Act and the system you know we ended up with the issues that we have now and that just kind of puts us where we’re at now. So that being the case you know how do we you know this is an opportunity to resolve some of the some of those issues. You know I look at the strategies on here and the goals and the and the goals I see are to make it easier on the bureau. You know you guys the government has the issue here with the government is administration of these IMM accounts. That’s your issue when I look at these and every goal and everything I see on here deals with that issue that you know too much money is being spent on administration of these accounts. And I agree. You know I think that there is better ways to do things and I know over the over the years you know I’ve been approached by a lot of different people that own land and they say you know I don’t want I wanna sell this land. You know and Victoria and I work you know in the same with the same in the same tribe and she’s representing tribe I’m an individual. I’m representing an individual I’m not representing the tribe at all. And but we sit down and talk about these issues and you know the and she sees that people are comin’ in wantin’ to sell and so these issues are out there all the time. So the there’s a couple of
things and you’ve probably heard this from other places is as an individual and as a farmer you know that has a that we our families run businesses and you know agriculture, and I was a I was a member of the Indian Ag Council on the original board and this is one of the issues you know that we tried to deal with for a long time, is when you look at the reservations and until gaming came along you know the a lot of the reservations were Ag. And a lot of ‘em you know a lot of ‘em still are. You know the majority of the reservations the economies on the reservations outside of tribal government or government is agriculture. And it’s a huge component and one of the things that we deal with as individual farmers or operators is the ability to try and consolidate pieces of ground that are big enough to be economic unit a viable economic unit. And so we run into the issues of leases. You know we run into the issues of permits we run into these issues and since Cobell has come about you know the ability to get a lease done in a timely matter(sic) timely manner is you know is almost non-existent. It takes a longtime. Now we look at Ag leases you have to be a year in advance to go on leased ground to run it through a bureau lease. And you know the and it’s really dangerous as a as a operator or as a farmer to go in and get a lease a verbal lease with somebody without having the bureau to have a legal
means to back that up because you see leases that are broken all the time. And this you know this has happened with us and or my family. And so one of the things as we look at doing the consolidation which is to make bigger units and if you’re involved in agriculture at all you understand scale. You know that there is there is a scale that you have to have in order to be economically viable. And in order to purchase equipment and to get financing and do those types of things anymore it takes a lot of money. You know when you’ve got a tractor that is runnin’ a used tractor that’s $50,000 or a new tractor that’s a $100,000 and you’ve got a couple two or $300,000 just in equipment out there you know it takes a lot of money to do that. But if we look at on reservations one of the things that you see is especially on at Walker River is Walker River is a very good reservation where a lot of people own their own equipment. And a lot of and you know and if we really looked at the ability to make this a real paying business it doesn’t work. But if we but that’s just the nature of how agriculture and business on a reservation works. It’s a lot of small pieces that you’re trying to put together to make an economic unit. And so one of the things that would that really I would like to see is to allow individuals to participate in this Land Consolidation Program. And the question comes now is on a reservation and Jodi
you talked about being enrolled at Standing Rock and growing up in Pine Ridge you know and I don’t know your family background or anything but do you own land on both reservations?

JODI GILLETTE: No.

PUBLIC SPEAKER: (Gerry Emm) Okay.

JODI GILLETTE: I wouldn’t be able to work on this if I (INAUDIBLE).

PUBLIC SPEAKER: (Gerry Emm) Okay and but the issue becomes is if we if you have land that and I’m a big advocate I’m a total advocate of no loss of trust land, you know but I think that as we look and go back I don’t know if the bureau’s ever done an analysis of how much land on per portion on percentages and acreage is owned by non-tribal members not non-Indians non-tribal members. And you can see the gentleman that spoke before you know he’s he said he was in lived Fort Belknap and they had land in Fort Peck. And so you can see and this issue and if you look across the board you know we hear of that happening all across the country and it’s a huge issue. You know and I think we’ve done estimates at Fallon when I was working over there which is the (INAUDIBLE) Reservation and it was close to 40 percent of the reservation was owned by non-tribals. And that was you know so it’s a it’s a huge issue and as we’ve you know as our families have you know we have a 100
years of inter-marriages between reservations and with boarding schools you know it used to you know that everybody’s inter-married more and more and more and so you know we have people that are enrolled on different reservations that are that are made up of different tribal bloods and this is an issue that we’re looking at. But I think it’s something that really needs to be analyzed as you go forward because this is gonna impact you know the development of the of the or the consolidation of the lands or the opportunities that people have. And with the tribes having jurisdiction you know within the exterior boundaries of the reservation you know you can deal with those tribal issues of jurisdiction that’s not an issue with on the on the trust lands but I think that there needs to be an opportunity in here for individuals to participate. One of the other things that comes about and I and I know that you’ve heard this before is that with undivided interest it talks about greater than 20 you know and if we look at and you know the highly fractionated the definition of highly fractionated and one of the easiest ways to start solving this is a piece at a time. You know you aren’t gonna be able to go in there and I’ll guarantee you in 10 years you aren’t gonna be able to solve all of these issues but you can get started. And the easiest ones to consolidate are the ones that have two owners or the ones
that have small owners. Get those bought. The land itself
under these land consolidations plans the land itself can be a
revolving fund I call a revolving fund where the land can you
can start trading out land. You know and I have a piece of
ground that’s over on a public domain allotment which is a whole
different issue about you know rather than reservations. But I
have there’s I own land on four allotments three 160’s and a
120. And I own 19 point five acres if you do the math I own 19
point five acres out of almost 400 and almost 500 acres of
ground. And so you know what I would like to do and that land
was originally allotted to my great great grandfather so you
know I do have an interest in wanting to stay there. But by the
same token you know being the under I’m one of the under-two-
percenters that are in that is you know I don’t want to give up
that legacy. You know I want I want that for my kids but it
would really be nice to have that set aside and to and
partitioned into parcels. Now with the Land Consolidation Plan
you could you could look at doing that, so that that’s one of
the things as you go forward on with this. The public domain
allotments that we’re that we’re dealing with over at Washoe I
don’t know how that’s gonna be handled because under the Washoe
Tribes Constitution they don’t have the authority to regulate
anything in there but hunting and fishing. They have asserted
some jurisdiction with environmental issues and things you know
but as far as being able to develop a program and the
jurisdiction over that I don’t know who’s gonna handle that when
they put together a consolidation program. This might be a
great opportunity to take one of those and to deal with the
public domain allotments. Because they are a they’re a
different animal they’re gonna be (INAUDIBLE) different
jurisdictions than what is dealt with on the reservation. And
then I talked about the last thing I wanted to talk about since
I see you’re gettin’ edgy here is the right-of-way issue. And
you know the right-of-way issue on allotted lands has been I’ve
never been able to really to get a straight decision about it.
Because my thought on the right-of-ways on (INAUDIBLE) it’s like
the Winters Doctrine. You know they allocated lands and they
allocated water because the Indians were gonna be made farmers.
Why would they do an allotment and not give you a right-of-way?
And I don’t know you know and there’s been (INAUDIBLE) back
’cause I know that they’ve landlocked allotments that happens or
that you don’t have you know it’s there should be an inherent
situation there that there should be a right-of-way you know
that you shouldn’t be able to block that. And you know I
haven’t you know and I don’t know if that’s something that would
be dealt here but you know that’s something that needs to on the
right-of-way so it needs to be dealt with. But in you know and you look at the reasoning on it and it should have there should be an inherent right-of-way because with the same you know idea of what of what Winters did with the water. So anyway this is there’s been you know this is a lifetime of discussions so I don’t wanna take up anymore time but this is something that you can you know I think that we really need to do and the main thing I wanted to do was to make sure that individuals you know that oughta be able to participate in this. You know not with the idea that they’re gonna be separate from the tribal jurisdictions you know that they have but they’re able to participate and because we are we’re all mixed up. You know our tribes are intermarried and we’re all mixed up so if you’re gonna close it out and go back to just having the tribes do it you know you’re going to take away the economic engine that drives agriculture on the reservations which is 95 or 98 percent of the reservations with agriculture are individually owned. You know when you look around at the tribal operations that are out there and there’s a lot there’s more failed ones than there are successful ones. And even NAPI and Gila River Farms when they first started out got a lot of money to keep them goin’, whereas you know the individuals you know we depend on the banks and on trust land and especially fractionated land we can’t get
loans. You can’t get a loan to operate it or anything on fractionated lands. So that’s just one of the things I’d like you to look at. Thank you.

STACIE SMITH: Okay thank you. So just a couple of quick things one is I think the everybody’s really interested to hear all of the public comments. I think for purposes of time if you can try and be as concise as possible with your comments so that everyone will get a chance. My other question is you know we’re approaching the lunch hour but I wanna get a sense of how many more people are interested in speaking. And if it makes sense for us to go a little bit longer if that’s gonna basically be as many people as we have who wanna speak or if we have lots of comments left to go we should take our break for lunch and come back after lunch and have as much time as we need. The department is here for as long as people wanna comment so this is not to cut anyone off or cut short any comments that people wanna make. It’s just to get a reality check so that people don’t all go to lunch and come back and then we have you know another one comment and then and then we end. So can I just get a sense of people who have comments they’d like to make? Do we have more? Sir? Sir. So we have two. Are people okay with doing comments before lunch? Taking a couple more comments before lunch and then we’ll see if
we get through everybody’s opportunity to speak and end up closing early? Okay...

JODI GILLETTE: Yeah and I think that I would I would just say that I’ll come back after lunch whether or not we get through the two comments just in case while people are eating and thinking about things...

STACIE SMITH: Okay.

JODI GILLETTE: They wanna come back...

STACIE SMITH: Okay.

JODI GILLETTE: You know but I for the interest of you know everybody else I think if we can get through those that would make sense.

STACIE SMITH: Okay terrific so sir do you wanna?

PUBLIC SPEAKER: (Michael Hughes) (INAUDIBLE) I’m happy to wait after we stop for lunch.

STACIE SMITH: Well why don’t why don’t we take a couple more comments now and see and see how we do...

JODI GILLETTE: That’s we can do it now I’m just saying that in case other people come that aren’t in here now or if folks have things they wanna add to their comments be good to do that then but if you if you could go now we could go have a long I’m sorry a extended morning.
STACIE SMITH: Yeah.

PUBLIC SPEAKER: (Michael Hughes)

(INAUDIBLE) my name is Michael Hughes and I’m not speaking on behalf of a tribe I’m an other I guess individual independent consultant on Indian Affairs. And what I wanna talk about is some of the implementation issues. And I’ve been following the Indian Land Consolidation Program now for a couple of years and as I looked into it about three or four years ago I was surprised to find that it was a very interesting program but that not a lot of people really understood it or knew about it. And I was doing some pro-bono work at the time with the Indian Land Consolidation what are they called Indian Land Working Group and they were having a conference down in Tucson and so I asked the people if we could have the Indian Land Consolidation Program staff on the agenda for the Indian Land Working Group conference in Tucson. And we actually got them to be on the agenda and the pitch was you guys have a very interesting program but nobody knows anything about it. People don’t understand what it is you do they don’t understand the legislative limitations they don’t understand you can’t purchase fee land. They don’t so let’s have you guys come down and bring your presentation and explain we got an opportunity for the Director Robin Jaeger and the Deputy Director Brenda Walhovd
to speak to several hundred people about their program and to start to get the information out. And that was a couple of years ago and the poor program has sort of been on a yoyo existence for the last couple of years. Their peak as you know was around 2006 2007 and the Office of Special Trustee at one time saw them as the answer to a lot of problems. And during the middle of the Bush administration at one point the Office of Special Trustee actually requested $50,000,000 from the Congress and Congress said well we won’t give you 50,000,000 we’ll give 25,000,000. So the Indian Land Consolidation Program ended up having for a period of several years $25,000,000 to operate and they built up a pretty good staff of a or somewhere around 60 people. And in the process of doing that you have to recruit people you have to train them you have to through a whole series of policies and procedures. How do you approach landowners, how do you identify the lands, how do you do the valuation of the lands, how to negotiate with the landowners, how do you execute the sale, how do you record the title, how do you transfer the ownership, how do you set up the repayment procedures for the liens with the tribes, how do you collect the lien payments, how do you account for them. All of (INAUDIBLE) a lot of very detailed technical work which means a lot of training and staff development. And so things were going along fairly well until
the last year of the Bush administration the federal agent domestic agencies got a planning target from OMB said you gotta cut your budgets by five or six percent. Well five or six percent turned out to be the entire budget for the Indian Land Consolidation Program. So the Special Trustee at the time Ross Swimmer said well we’re just gonna zero out we’re gonna eliminate the Indian Land Consolidation Program. And if you go back and look at the 2009 budget justification for the Office of Special Trustee it was a very disingenuous justification. It said that the program is not being effective it’s not really reducing the volume of fractionation. Well that’s like arguing we should eliminate the Indian Health Service because diabetes continues to go up. What was in fact happening was where the program was operating primarily in the Midwest Region and a little bit in the Great Plains Region they were they were making a lot of progress particularly in the Midwest and in Wisconsin where they had started as a pilot program 10 years ago. And people didn’t know that and we got them to talk about that at the Indian Land Working Group Conference. So in fact they were making progress but they didn’t have the volume of money to really spread out to other parts of the country. The other thing that was happening was well the justification said so now we can end this program in 2009. But what the justification
Office of Special Trustee budget didn’t explain is you’ve got these revenues coming in from the liens from the lands that have been purchased 2,000,000 or two and a half million dollars a year so what do you do with those lien revenues if in fact you no longer have a program, do they just sit there. And there was never any answer to that. So the budget was zeroed out for the Indian Land Consolidation Program in 2009. Some of the tribes that I work with wrote letters to Secretary Salazar and said please do not eliminate the Indian Land Consolidation Program. It’s an important valuable program. If the Office of Special Trustee doesn’t care about it they don’t want it move the budget back to the BIA where it actually began back in 1999 when they began to have some operational money. And it’s always been a BIA program but the funding was controlled by the Office of Special Trustee during the Bush administration. So Secretary Salazar allowed the control of the budget to be returned back to the BIA and the and the program was given a budget of $3,000,000 in the fiscal year 2010 budget but it wasn’t new or additional money. In fact that money $3,000,000 was taken out of the budgets of other BIA real estate programs. And so on one hand you’re build you’re reestablishing this program but on the other hand you’re taking money away from existing BIA programs. After the 2009 budget cut the Land Consolidation Program had to go
through a reduction of force and they lost probably 50 staff.

So their current status well before I get to that so in 2010 then they had $3,000,000 and they were continuing to operate and then in the 2011 budget then what they Obama administration requested was $1,000,000 with a reduction in FTEs from 12 to five FTEs. And the thinking was well the Cobell Settlement will be implemented. And I think it was a premature budget cut. And then as you all know the Congress in its final continuing resolution for fiscal year 2011 said zero for Indian land consolidation. So the current status of the Indian Land Consolidation Program is it is a little office that operates out of Ashland, Wisconsin with no existing budget, operating on carryover dollars with a skeleton staff of I don’t know according to the BIA budget justification five FTE. And what we’re talking about here is this gargantuan task of implementing this one point nine billion dollar Indian Land Consolidation Program hopefully hitting the ground running when all the appeals are exhausted in the spring of 2012. But in order to do that the Indian Land Consolidation Program is gonna have to recruit staff, they’re gonna have to get ‘em in place, they’re gonna have to train them on all of these procedures ‘cause you don’t want people just running around talking to landowners and not having procedures for doing that, and that is going to take
some time to gear up to get moving. And during the period when they did have money $20,000,000 in 2006 2007 they were operating on 66 FTE and then another 60 or so contract personnel so they had a extended staff of about 120 positions. So it’s gonna take something on that order to get geared up and to start operating this program again and that’s going to take time. So I’d like some real thought put into that. If the 15 percent is $285,000,000 and some of that money’s spent for the commission and spent for other things they end up having $200,000,000 over a 10 mear(sic) period that’s roughly $20,000,000 a year to operate which would be an adequate budget to do the administrative work. The one of the big questions on that will be the cost of appraisals. Will the Indian Land Consolidation Program be able to purchase its own appraisals or does it have to go outside? And the last time I checked the appraisal function for Indian affairs was still controlled by the Office of Special Trustee which adds another layer of bureaucracy. And in politics when BIA’s making requests for appraisals is OSG gonna respond or not? And sometimes that depends on what side of the bed they woke up on that morning. And so there either needs to be bring appraisals back to the BIA or somehow address that so that Indian Land Consolidation Office can get timely appraisals. There was a lot of questions about minerals this
morning, one of the big features of the Land Consolidation Program was that they were using some of their money to purchase mineral evaluations from the Office of Minerals Evaluation which is a Department of Interior Office located in the National Business Center and physically located out of Lakewood, Colorado I think. A very very important function and part of the politics of the end of the Bush administration of pushing tribes into oil and gas agreements while cutting funding like Johnson O’Malley and housing and social services and scholarship. There was an effort to try to do away with that office of Minerals Evaluation because that was the only source of independent technical appraisals on oil and gas values for Indians. And it’s a very a very important office and that office needs to be maintained especially if you’re looking at Great Plains, North Dakota, areas where you have significant oil and gas values. So the whole question of implementation and staffing and training and all of those are all very concrete considerations. One of the things I would recommend is that the Indian Land Consolidation Program be allowed to start recruiting and hiring and put staff into place now and not wait until January when the money is released. And there could be two possible sources of funds for that. One is right now the BIA has historically high levels of unobligated dollars available out of fiscal year 2011.
So some of that money could be used then to finance the staffing and putting offices in place. The other source of funds is the Office of Special Trustee itself. They spend $25,000,000 a year on fiduciary trust officers for which there’s no longer any need because of the Cobell Settlement. And those positions could be riffed and the money that’s used to finance the fiduciary trust officers could be used to finance the startup costs, rebuilding the Indian Land Consolidation Program. So I’ll stop with that.

Thank you.

MEGHAN CONKLIN: Thank you.

STACIE SMITH: (INAUDIBLE) had someone else who wanted to make comments? Do you wanna?
PUBLIC SPEAKER: (Jonathan Dayea) Hello my name is Jonathan Dayea with the Navajo and my sister and I we (INAUDIBLE) fairly new to this just like real new. I mean it’s just like all these guys is talking it’s things I guess it’s been goin’ on for quite a while and after my mom passed on not too long ago that’s when we really find out that we have something to do with these lands. And just a quick one when all these lands get the infractionations(sic) I guess when it gets all divided and among your siblings and everybody else now you don’t have to sell your land right? Whatever you own?

JODI GILLETTE: (INAUDIBLE) it’s voluntary.

PUBLIC SPEAKER: (Jonathan Dayea) So you know for us we were trying not to divide it up. I guess on paper it states as it’s divided. But when some of your siblings or your cousins decide to sell their land will you find out? You would know right?

MEGHAN CONKLIN: I’m not sure I’m not sure on that one. We’ll have to check on that if other allottees will be notified.

UNIDENTIFIED FEMALE VOICE: (INAUDIBLE).

STACIE SMITH: I’m not do you know?
PUBLIC SPEAKER: (Jonathan Dayea) Okay
and one other one real quick one. See I think not only me you
know it just happens to everybody else when their kids start
gettin’ out of high school they start trying apply for
scholarship funds now would you have to have sold your land to
be entitled to a scholarship for your kids?

MEGHAN CONKLIN: I don’t believe so. I
don’t...

PUBLIC SPEAKER: No. No you don’t have
to to be eligible for the scholarship you don’t have to sell
your land. The scholarship will be administered by one of two
organizations and they will set up the criteria for who would be
eligible for the scholarship.

PUBLIC SPEAKER: (Jonathan Dayea) Okay if
I can I need information from somebody how to go about it. And
that’s it. Thanks.

MEGHAN CONKLIN: Thank you.

PUBLIC SPEAKER: (Gerry Emm) Can I ask
you a follow up question off of that? That’s the one of the
other things that I wanted to and I think I’ve read somewhere
that it’s been wanting to be addressed but as a co-owner as a
fractionated owner that there should be some provisions in there
to let the co-owners participate in a partition or ultimately
what gets done. Because if it ends up in a situation like you just heard that some people want to sell their shares or whatever then there’s gonna have to be some type of partitioning process that is brought forward if you want to if the individual wants to stay on the allotment that they’re on. Which there might be some historical value you know such as mine where you know it was part of my family and even though it’s a small share but the way the partition works now is you have to have a 100 percent of the landowners have to agree, and when you look at three or four pages worth of landowners you know that’ll probably never happen. So one of the things that you might want to look at is to put into place a process either through arbitration or mediation or you know something that would be able to partition those lands for those. ’Cause you’re gonna end up especially with a lot of owners and different values associated with those not dollar values but just personal values that you might end up with a certain situation so that’s one of the things that you’re gonna have to look at doing. Which would free up half the land you know it would free up part of the land which again resolves your issue because now you’re consolidating that down to a specific parcel.

JODI GILLETTE: And I think I just wanted to make sure as we talk about purchasing the land the
government purchases the land then it goes to the tribe. So it’s not like it’s going to an outside entity or something. I don’t know if that would that’s helpful.

STACIE SMITH: Okay do we have any final comments before we break for lunch and then there will be Jodi an opportunity after lunch (INAUDIBLE).

JODI GILLETTE: Yeah if folks wanna come back I’m willing to just and I don’t know if there’s others that may show up and they may not know that we...

STACIE SMITH: We’re breaking (INAUDIBLE).

JODI GILLETTE: Yeah we broke for the day so.

STACIE SMITH: Okay.

JODI GILLETTE: It’s not like we have to really have a whole session but if there are people that wanted to clarify or have an additional comment.

STACIE SMITH: Okay great.

JODI GILLETTE: And I don’t I don’t know that we would we’d all need to come back but.

STACIE SMITH: Right. So are there any other anyone who wants to make one more comment before lunch?

Yes ma’am.
PUBLIC SPEAKER: (Eileen Sanders) My name’s Eileen Sanders and I’m Navajo and a private landowner which we inherited from both of our parents. And my main question is I thought the government was broke. I thought the country was broke. Where is all this money coming from? So even if we were to sell our land we sign our name and stuff the government’s broke country’s broke our signature’s there, are we denied our receiving our payments now? Coming back and telling us oh the country’s broke we don’t have the money. We don’t have what we said we were gonna do which has always been the case I think with our forefathers you know our relatives. Long time ago history tells us how our people were I wanna just be blunt and say cheated out by the government. Okay? So as long as my name’s on the dotted line you come back and tell me well you already signed it so but the country is broke you’re not gonna get your money but then later down the line I’m gonna be out of land out of money so to speak. So my trust is not really in you guys to say okay I’m guaranteed I’m gonna have this. So number two I think there was a lot of lack of communication because I didn’t hear about these meetings. It just so happened that one of my sisters went online and read the information about these meetings taking place. I mean look around this place should be packed you know with Natives landowners private
landowners. So I think there was a lack of communication there that one I don’t know how you communicated with some of these people that are here the tribes. I’m sittin’ here wondering where’s my tribal representative? Where are the people that represent me in from Window Rock? You know these people that I elected into office. I mean you see all those empty chairs so I think too there is really a lack of communication that happened. And like I said we should have a packed house a standing ovation or whatever lines outside asking for a bigger place. So it just overwhelms me how this place is empty. And if you did communicate with my tribe then right there the communications stop. And as you hear from a lot of these natives we don’t really have that one on one communication with our representatives in our tribal headquarters. And yes we do have a lot of chapters that it you know dwindles down to. And even when you go there for assistance and stuff nobody knows anything. So those are my two biggest questions.

JODI GILLETTE: Well I guess I just wanna say that you know I do understand that there’s a question of trust and not trust in terms of trust land but a trust in the government saying something and doing something about it. But to the comment you made about the you thought the government was broke I just wanna I just wanna say that the we had talked about
this earlier that the money’s already at the Treasury and so there’s not by law there’s you know there’s all kinds of things in place and controls in place where that funding isn’t gonna go anywhere, and I think that you know having a an understanding that we you know we’re not talking about having to go to Congress and ask for more money and I think you know there is a lot of concern about that around the country right now. And then the other thing is with the communication we did work with regional and agency offices and we do put out press releases for the various papers and we’ve you know we’ve tried to our best and can we do better yes we probably can always do better. But we did reach out to the tribal governments and to the media outlets to make sure that people knew that and like I think Solicitor Tompkins talked about earlier that we know there’s a lot of competing priorities that we’re just not sure about timing-wise why you know why there are some people that come. Some of the consultations if you go across the country some of ‘em are packed some of ‘em are full and others are not and that’s just how it’s been. And you know that’s about the extent of what I can say about communication. We do it both electronically fax you know have the regional directors reach out directly and our third party facilitator Stacie’s group also do outreach to try to get folks interested. And you know we’ll
always be competing with a lot of other consultations and we hear that from tribes and other engagements that tribal leaders will have and so you know we can’t always control all of those variables.

Victoria Guzman Walker River Paiute tribe. You say the money’s sitting at the Treasury and I’m sure it’s gaining interest what do you plan to use the interest for?

Victoria Guzman: I have a question

Victoria Guzman Walker River Paiute tribe. You say the money’s sitting at the Treasury and I’m sure it’s gaining interest what do you plan to use the interest for?

Unidentified female voice: No interest...

MEGHAN CONKLIN: (INAUDIBLE) non-interest bearing account.

JODI GILLETTE: No it’s not an interest bearing account.

Victoria Guzman: It’s not interest bearing?

JODI GILLETTE: No and it’s going to be in the Treasury once the appeals are final assuming it gets the settlement is ultimately approved.

Victoria Guzman: And the other thing I’d like to touch base on was the communication from you to tribal leaders to bureau staff. You know we came here with a lot more questions today rather than recommendations and
comments. And we felt that we needed to get more information from this consultation meeting before we can turn around and effectively educate our tribal members and individual owners. So that’s what we’re waiting for so that we can do the outreach and we feel that we’re the best ones to do the outreach for our reservations and our community members and tribal members.

UNIDENTIFIED FEMALE VOICE: Thank you.

JODI GILLETTE: And certainly any suggestions that folks will have to make sure that we can improve on how we communicate is always welcome.

MEGHAN CONKLIN: So one thought is that unless we have other comments today and I don’t wanna cut anyone off if there are additional comments, one thought is we could conclude the formal part of this consultation if there aren’t additional comments but as Jodi mentioned we’ll be willing to come back if people wanna have an informal discussion does that oh I see that there is actually more (INAUDIBLE).
PUBLIC SPEAKER: (Unidentified Female Voice) I expected a large turnout too but I just thought people are workin’ and I also just happened to look on the internet and seen that it was today. But I think people workin’ is a big problem about this.

MEGHAN CONKLIN: Thank you.

JODI GILLETTE: Thanks.

VICTORIA GUZMAN: (INAUDIBLE)

Victoria Walker River Paiute Tribe I would just like to add that we’re we were happy that we were able to be here today to participate in this hearing and I wish there was a lot more tribal leaders because you know the people sitting around us this table is bare so you know how important is it to each of our tribes and our leadership on behalf of our members. And to us the scholarship component it would be important. We don’t get a lot of education dollars we really hurt for education dollars. We’re like 80 percent poverty level no jobs and so our kids and children need to be educated in order to go out and get those jobs to run our tribe to run our economic development and so that is very important to us. Thank you.

MEGHAN CONKLIN: Do any of the other tribal leaders have any concluding remarks you wanna make?

GREG ABRAHAMSON: Yeah Greg

Abrahamson Spokane Tribe. I appreciate the opportunity and to
and like I said we’ve been at the other one with the Seattle in
our region and (INAUDIBLE) and that’s what we’re trying to do is
get enough knowledge here to have the meeting with our
membership yet too. We’ve yet to have the meetings with them
we’re startin’ to get ready and be prepared for this. So that
as we go to our membership and talk to our people there of
(INAUDIBLE) and they’ll have probably have some ideas there too
as a lot of landowners here are expressing their concerns also.
We appreciate the opportunity to be here and thank you guys for
being here to take care of us. Thank you.

ELAINE FINK: Elaine Fink North Fork

Rancheria I’d just like to comment too. We appreciate the
consultation. As I understand it it is government to government
consultation with the Department of Interior. We were notified
we had good communication and as an elected leader it’s our job
it’s my job to go out and talk to our general council about what
the issues are, what we are contemplating, what we are concerned
about, and then input from those our tribal people is what we
bring to the table. I do thank you for this day and I thank you
for us being able to speak and on our people’s behalf. Thank
you.
MEGHAN CONKLIN: Thank you. I wanted to turn now to Solicitor Tompkins and see if you have any concluding remarks.

HILARY TOMPKINS: Thank you Meghan. It’s been a real pleasure to be here today and I really appreciated all the comments and I know in my role as Solicitor it’s very very important to me that I hear from tribal leadership and understand the issues on the ground that you face on a daily basis. That’s critical to my assessment of issues and decision making so thank you for the opportunity to be here and I look forward to continued discussions on this important issue. Thank you.

MEGHAN CONKLIN: Jodi did you have any?

JODI GILLETTE: Well I just wanna thank everyone for the time and the thought that they’ve put into and I know may of you’ve traveled a long ways to from California and various other places. It is always an honor and a privilege to visit with you especially about important issues such as the land. Thank you.

MEGHAN CONKLIN: I also wanna thank everyone for being here today and say that I think after these remarks that we’re gonna conclude the formal part of today’s consultation but at 2:00 if people wanna come back and have an
informal discussion with any of us we’re happy to do that ‘cause
we do wanna make sure everyone had the opportunity to comment.
But again I just wanna say that it’s been wonderful to receive
all these comments and Jodi and I and Hilary and others have
been traveling around the country meeting with tribal leaders
and just wanna make sure you understand that we’re very
committed to incorporating the comments you’ve offered today
into any plan that the department does develop for
implementation of this program. And just thank you again for
being here today. And there’s a few others that I just want to
make sure to recognize. I wanna thank Stacie and Meredith for
all the work that they did to prepare today’s consultation as
well as Annette(sp?) and Regina(sp?) who have been traveling
around with us helping get everyone checked in. So thanks again
and I hope that you enjoy the rest of your day.

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END OF PROCEEDINGS
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