

TRIBAL CONSULTATION MEETING ON REVISING
TRIBAL SHARES FORMULAS
FOR THE REAL ESTATE APPRAISAL PROGRAM

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS
ALBUQUERQUE, NEW MEXICO

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ORIGINAL

July 29, 2009

9:00 a.m.

DoubleTree Hotel
1000 Multnomah Street
Portland, OR

PRESENTERS:

Mr. Eldred Lesensee, Deputy Chief Appraiser, OAS

Mr. Frank Perniciaro, Management Analyst, OST/OEA

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1 MR. PERNICIARO: Well, hello, everyone. I'm
2 Frank Perniciaro with the Office of Special Trustee. I'm
3 a management analyst with the Office of External Affairs.
4 I want to thank you for attending our consultation session
5 on tribal shares, revising tribal shares potentially. We
6 do appreciate you coming out for this.

7 We have two sessions. We have this session at
8 9:00 and then a repeat at 1:30. If you haven't had
9 enough, you can come back at 1:30 and hear us out.

10 We're going to present to you some ideas today.
11 Oh, I think there's about five ideas of how a tribal share
12 might be revised, for your edification, for you to think
13 about and let us know what you think about the ideas.

14 I do have a few introductions. First I want to
15 introduce Eldred Lesensee, who is the deputy chief
16 appraiser, and the person who is responsible for thinking
17 through the process of how we might develop future tribal
18 shares.

19 MR. LESANSEE: Good morning.

20 MR. PERNICIARO: We have Rena Sanford here, who
21 is the regional supervisory appraiser for the Northwest
22 region. Would you like to, Rena, introduce your staff?

23 MS. SANFORD: Sure. That would be great.
24 Appraisal support specialists Phyllis Raymore, Laura
25 Marion and Dawn Cordts-Buendia; Tom McCorquodale, Ernie

1 Flechsig, and Roger Jennings. Where's Phil? Phil Graf's
2 up there. And Steve Kramer is not here, and Richard
3 Sobcek (ph) is not here. They're both out in the field
4 right now. So, thank you, Frank.

5 MR. PERNICIARO: I'd like to introduce Anson
6 Baker. Anson Baker is the review appraiser for this
7 office, for the Office of Appraisal Services, and is
8 located here in the Northwest region.

9 And we have, of course, a litany of
10 announcements, as these things go. First of all, the
11 restrooms are way down the hall through the double doors,
12 this end. We're going to have a break at about 10:15
13 today so we can get some coffee or some water.

14 I have the parking passes, which I have, of
15 course, misplaced. Here they are. And if you've parked
16 out here in the parking terrace, you get a discount. It
17 looks like it's \$3 per day. So be sure to grab some of
18 these if you've parked out here.

19 We have a sign-in sheet that is passed around.
20 Bob Becenti of the Office of External Affairs has that
21 list. So if you wouldn't mind signing in, that would be
22 great.

23 Bob, can you raise your hand one more time.
24 There's Bob. He's got the list.

25 MR. BECENTI: Yes, the list-getter.

1 MR. PERNICIARO: We have a court reporter here,
2 Robin, a court reporter to make a record of our
3 proceedings. What we'd like you to do is when we have our
4 Q-and-A panel, if you wouldn't mind announcing your name
5 and who you represent, if you're comfortable with doing
6 that. That would help in completing the record. So that
7 would be helpful.

8 And our thought here today is that Eldred and I
9 are going to share a slide presentation, to show you some
10 of the ideas that we've thought about. And if you're okay
11 with this, we'd like you to hold your questions until we
12 move through the slides, and then we'll have this panel
13 discussion with Eldred and myself, and you can go ahead
14 and ask questions for any clarifications that you might
15 want.

16 All right. And then, lastly, what we'd like to
17 do is take some photographs of the proceedings, if
18 everyone is comfortable with that. We're thinking of
19 producing an article for Trust Matters, which is OST's
20 newsletter. And Bob Becenti here has the camera, and he
21 thought he'd take some pictures of our proceedings here.
22 If anyone is uncomfortable about that, please let me know,
23 and we'll do something different. If you see a flash
24 going on or something like that, I wanted to let you know
25 what was up. So, please let me know.

1 I'm sorry?

2 UNIDENTIFIED SPEAKER: (Inaudible.)

3 MR. PERNICIARO: So noted. Okay. No pictures
4 of Gene. All right.

5 Well, you know, I think we've pretty much
6 covered the logistics here. Have I left anything out?

7 MR. LESANSEE: Yes. One thing I'd like to do,
8 if you don't mind, the FTOs and the trust administrators
9 for the Northwest region or the region -- is it two or
10 three?

11 UNIDENTIFIED SPEAKER: Six.

12 MR. LESANSEE: Six. I'm way off. If you guys
13 can introduce yourselves, I'd appreciated it.

14 MR. REYNOLDS: Sure. I'm Tom Reynolds, the
15 regional trust administrator for Region 6, Alaska.

16 MS. DuMONTIER: I'm Deb DuMontier, the fiduciary
17 trust officer for Flathead tribes.

18 MR. ORAZI: I'm Gino Orazi, the FTO for
19 Portland.

20 MR. KUPKA: I'm Mike Kupka, FTO of the Olympic
21 Peninsula, Taholah and Makah.

22 MR. KERADT: I'm Gus Keradt. I'm the trust
23 officer from the Fort Hall reservation in Fort Hall,
24 Idaho, and it's the Shoshone band tribe that resides
25 there.

1 MS. HUTCHINSON: And I'm Margie Hutchinson, FTO
2 for Colville tribe in Spokane and Kalispell.

3 MR. SHAW: I'm Dave Shaw for the Yakama in
4 Toppenish.

5 MS. MILLER: Good morning. I'm Glenda Miller.
6 I'm the FTO for Alaska.

7 MR. GAY: Good morning. I'm Rick Gay, the FTO
8 for the Umatilla agency, for the Confederated Tribes of
9 the Umatilla Reservation.

10 MR. LESANSEE: Thank you, and welcome.

11 MR. PERNICIARO: Well, let's go right into the
12 background. Eldred, if you would, the next slide.

13 MR. LESANSEE: Well, I was going to do the
14 presentation first.

15 MR. PERNICIARO: Very good.

16 MR. LESANSEE: Okay. Well, first of all, I'd
17 like to welcome you to the session three of the tribal
18 shares consultation. We are very grateful that you guys
19 were able to take some time out of your busy schedules and
20 so forth to come in and listen to what we have. Hopefully
21 you'll walk away with some thoughts, that you can help us
22 with formulating a new tribal shares formula or formulas.

23 Over the past seven years, the Office of
24 Appraisal Services were transferred from the BIA to the
25 OST back in 2002, June of 2002. And we've listened to the

1 concerns of many tribes regarding their issues related to
2 public law 93638, contracts and compacts, and two common
3 concerns that commonly come up or repeatedly come up is
4 the appraisal tribal shares that were calculated in 1995
5 have not changed. That's the first. Tribal shares for
6 the appraisals have not been recalculated in step with
7 increased regional appraisal budgets.

8 As a result of these concerns and issues that
9 are brought to our attention, OST's working on a project
10 to revise how funding shares are calculated to tribes who
11 contract and compact their appraisal-preparation function
12 pursuant to public law 93638, or the Indian
13 Self-Determination and Education Assistance Act of 1975 as
14 amended.

15 A series of six tribal consultations were
16 scheduled to begin a dialogue with tribes, with the first
17 session that started in Oklahoma City on June 30th. We
18 just completed a second session in Rapid City on July
19 14th. In addition to the tribal consultation sessions
20 today -- or session today, three additional sessions are
21 scheduled: Billings, Montana, on August 4th; Anchorage,
22 Alaska, on August 13th; and Albuquerque, New Mexico, on
23 August 18th.

24 The purpose of these tribal consultation
25 sessions are mainly to discuss ideas developing new tribal

1 shares allocation formulas and/or evaluate the existing
2 tribal shares allocation formulas, which we will present
3 today. These tribal shares allocation formulas are used
4 to apportion funds to tribes performing or who may be
5 interested in performing the appraisal-preparation
6 function. We are hopeful that these tribal shares
7 allocation funds will ensure uniformity and transparency
8 in developing tribal shares and funding residual for the
9 inherent federal functions.

10 To give you a little bit of background, I
11 think -- and our slides will present that too as well, is
12 the original tribal shares formulas were developed by the
13 Bureau of Indian Affairs regions in 1995. As a result, 12
14 different tribal shares allocation formulas were
15 developed. Some of these tribal shares allocation
16 formulas were very simple. Like, for instance, in the
17 Midwest region office, the available regional budget for
18 appraisals is simply divided by the number of tribes in
19 the region.

20 On the other hand, other regions developed their
21 tribal shares allocation formulas by incorporating
22 different variables in the formula, such as trust and
23 restricted fee land base, population, historical appraisal
24 workload and so on. Those regions that developed the
25 multi-variable trust tribal shares allocation formulas,

1 involved quite complex formulas that could include five or
2 more weighted components, and we'll be discussing that
3 today. That is probably the most difficult, and we'll
4 discuss why it's most complex to put together and
5 understand as well.

6 This morning OST wants to begin dialogue with
7 tribes to discuss ideas in developing a new tribal shares
8 allocation formula, and we look forward to the Q and A at
9 the end of the session. Frank Perniciaro will begin the
10 presentation.

11 MR. PERNICIARO: Well, thank you. Eldred, if
12 you could give the next slide, I'd appreciate that.

13 Eldred's shared with you the background, and
14 some of you may be aware of this. In 1995 BIA developed
15 the formula, and as it stands today, there are about ten
16 formulas for the ten regions, possibly, and these formulas
17 remain today, at least today with regard to the tribal
18 shares, and we want to relook at that. We want to revise,
19 potentially, these formulas and get your feedback.

20 And this slide briefly talks about that history;
21 that, indeed, in 2002 the appraisal function was
22 transferred to OST. All right, Eldred, I think you're
23 ready for the next one, talking about the existing
24 formulas.

25 MR. LESANSEE: I think the main thing on this

1 slide, too, is that BIA officials and OST agreed to
2 continue the region-by-region formulas to maintain
3 continuity. That's key because what was developed in 1995
4 continues forward to this day.

5 Like we mentioned, the existing tribal share
6 formulas, in the 12 regions we have equal divisions:
7 Land-based division, population-based division, and
8 workload-based division, and then the hybrid division.
9 That's the multi-variable and using weighted components.

10 We talked about the equal division. It's easy
11 to calculate, but not likely in compliance with the
12 statute. The land-based division is not strong. There's
13 no strong correlation with the appraisal needs. Same way
14 with the population-based division, no strong correlation
15 with the appraisal needs.

16 The workload-based division is probably most, I
17 guess -- it has high correlation. It's most consistent as
18 far as the changing -- as far as the workload changes
19 along the way. And that's probably -- we found the
20 information is easy to gather, too, as well because a lot
21 of our -- a lot of the information comes from in-house,
22 and so that's probably the most easy to apply and probably
23 is more correlated to the appraisal needs.

24 The hybrid division uses weighted components, as
25 I mentioned, and the difficulty with that is gathering the

1 information for the various variables or components.

2 The reasons for revising. Tribal shares
3 calculated in 1995 have not changed, as I mentioned
4 before. Tribal shares have not been recalculated in step
5 with increased regional appraisal budgets. There may be
6 inequities between tribes that have contracted or
7 compacted at different times.

8 The benefits for revising. Revised formulas
9 will ensure uniformity and transparency in determining
10 tribal shares and the funding residual for the inherent
11 federal functions.

12 MR. PERNICIARO: This slide addresses the money
13 that the tribes receive for the program. I think what is
14 key here is the middle of the paragraph, "the funds shall
15 not be less than the appropriate secretary would have
16 otherwise provided for operation of the program." So
17 that's key for the regulations and relationship to the
18 monies. There's more information about this in 25 CFR
19 1000.106, talks about this. And again, footnote here, OST
20 interprets this to mean: "What the secretary otherwise
21 would have expended."

22 So this is key when we move through our various
23 ideas of what the level of funding needs to be, is what
24 the secretary would have otherwise expended.

25 UNIDENTIFIED SPEAKER: Frank, are you going to

1 wait until the end of the presentation for questions?

2 MR. PERNICIARO: Well, that would be our
3 preference, but we don't want to hold up an idea that you
4 have. So, please, go ahead.

5 UNIDENTIFIED SPEAKER: Question: Are you
6 talking about the 638 contracts?

7 MR. PERNICIARO: The 638 contracts and under
8 Title IV compacts as well. So anything that this covers,
9 both Title I 638 contracts and Title IV.

10 MR. MOSES: I have a problem with that
11 statement, because -- Harvey Moses, Jr.

12 The problem is that the tribe and mature
13 contractors, you have 20 or so 638 contracts, and every
14 time we contract a program, the funding begins to
15 evaporate. A couple of times we proceeded back to the
16 BIA, and all of a sudden there's no funding again. The
17 statement is erroneous, saying --

18 MR. PERNICIARO: So in practice, this does not
19 happen?

20 MR. MOSES: No, not with the tribes.

21 MR. PERNICIARO: Did everyone hear that? For
22 the Colville tribes, this regulation, in your view is not
23 being followed?

24 MR. MOSES: Right.

25 MR. PERNICIARO: Is not getting the funding that

1 the secretary would have expended?

2 MR. MOSES: No.

3 MR. PERNICIARO: And you find this out after you
4 contracted it, and the result is you return the programs
5 back, some programs back.

6 MR. MOSES: We have. We have returned back. To
7 become fully funded, we take them back. The funding
8 starts to erode again. So that needs to be rethought and
9 rewritten if it's going to be posted as a true statement.

10 MR. PERNICIARO: Robin, were you able to get
11 that?

12 (Discussion off the record.)

13 MR. LESANSEE: We're going to address that issue
14 later on in the presentation, about the tribal shares
15 being dynamic, changing with the workload. We are going
16 to be looking at tribes' work activity or the requirements
17 for present needs.

18 MR. MOSES: I guess you can address it later if
19 you want, but the problem is, again, when the tribes
20 contract the program, the funding fades and begins to
21 deteriorate.

22 MR. PERNICIARO: So your expectation --

23 MR. MOSES: If we contracted, we'd expect 100
24 percent of the funding, just like if there was a normal
25 BIA or OST program.

1 MS. ERWIN: Let's talk about that. Harvey, I'm
2 sorry. I was running late. I was on a conference call.
3 I'm Donna Erwin.

4 And I think that's what we're trying to avoid
5 here, is we think that's probably what has happened. So
6 we want to talk about how do we, as a group, come up with
7 a way so that if we -- we have enough money to do the
8 oversight, but that if we get increases, how do we get the
9 increases to the compacting and contracting tribes, too?

10 In other words, we agree with you that we have
11 seen -- we have looked at the past budgets. It seems like
12 it was sort of static. So as you get a higher workload,
13 you don't have the funds to do that, or central office or
14 appraisals that are still within the government might get
15 an increase. How do we get a portion of that back down to
16 the tribes so that they're getting increases too?

17 And that's what we're looking for, ideas from
18 everyone, looking at what everyone is saying. What's the
19 most equitable way to do that?

20 MR. LESANSEE: One of the other things that's
21 happening, since 1995 the tribal shares has been stacked,
22 and with the -- what we're proposing is that what will
23 happen with the new tribal shares formula is going to be
24 applied to current dollars rather than back in 1995. So
25 that might result in more money.

1 We're pretty sure that it will because we
2 went -- back in 1995 our budget was \$3.4 million, and
3 we're going to be up to about 10 million this fiscal year.
4 So that should have an impact.

5 MS. ERWIN: We need to share. We're really
6 trying to say, how do we share in equity?

7 MR. PERNICIARO: Next slide, if you would.

8 The slide discusses residual, and probably many
9 of you have heard this word. This is what the United
10 States retains to do the inherent federal function. In
11 this particular case, one of the key things that happens
12 here is the review of the appraisal done by our appraisal
13 staff, which is required and is the inherent federal
14 function, and we would, therefore, hold back monies to do
15 that function.

16 And this slide talks about the regulations that
17 affect that. I think one of the key statements here is
18 that BIA residual functions are those functions that only
19 BIA could perform if all tribes were to assume
20 responsibilities for all BIA programs that the act
21 permits. And we interpret that as applying to us.

22 So again, residual functions are things that we
23 are required to do, that could not be compacted or
24 contracted to the tribe.

25 Then 1000.95 has more information about that.

1 It talks about our responsibility to you, and this is in
2 the middle part of A: Each regional office and the
3 central office will compile a single document for
4 distribution each year that contains all the residual
5 information of that respective office. So you would know
6 how the residual is being handled and what is contained in
7 that residual.

8 You're up next.

9 MR. LESANSEE: Okay. The current residual for
10 the appraisal program is at 20 percent, and this was
11 determined by the former chief appraiser for the
12 Department of Interior back in 2005 or 2004. And in the
13 future, OST will need to ensure that the residual is
14 sufficient to fund those activities which, by law, must be
15 carried out by federal officials, and that is the inherent
16 federal function, which right now, for appraisals, it's
17 identified to be review and approval functions.

18 We've talked a little bit about the appraisal
19 process. It begins with BIA line official and could be at
20 the tribal or BIA realty office, which generates the
21 appraisal request, and the appraisal report is prepared by
22 either contractor or OAS, and then the OAS -- and then the
23 report is submitted back to OAS for review and approval,
24 which it's funded by the residual, and then the product is
25 transmitted to the client, which ends the process.

1 And the one thing that needs to be pointed out,
2 where the commercial or contractible activity is at the
3 appraisal report preparation. That's the function that's
4 important to the tribe.

5 Idea one, workload-based.

6 MR. PERNICIARO: Yes, idea one. So we wanted
7 to, as I said, present you about five ideas. This is our
8 first one, and this is indeed workload-based. This is
9 based on the number of appraisals done. Let us go through
10 the formula.

11 The tribal share would be equal to the regional
12 budget minus the residual. We talked about the inherent
13 federal function, the monies we need to retain for our
14 work to review the appraisal. Then we would multiply it
15 by the average tribal workload, divided by the average
16 regional workload. And I believe that this formula is
17 currently used in the Northwest region. Is that correct?
18 Okay.

19 And this formula has, I think, some good things
20 working for it. It does address workload, and so it is
21 providing funds on the basis of how intense that workload
22 is. The years that we look back to set that average could
23 be set at three years, five years, seven years. Clearly,
24 if you go ahead and make it a shorter number of years,
25 it's more responsive to spikes in the workload. If you

1 extend it out, you know, five to seven years, it's less
2 responsive to spikes in workload. I see that this is also
3 used in eastern Oklahoma.

4 MR. LESANSEE: Yes.

5 MR. PERNICIARO: Okay. Now, the intent of this
6 slide is to discuss the math. What we have here is we can
7 use tribe A. 35 appraisals are done in 2005, 30 in 2006,
8 31 in 2007. The average is 48. We have a regional
9 budget, which is \$100,000; the residual at \$20,000. That
10 means the regional budget is 80,000, and that is
11 apportioned by an average.

12 We go ahead and have the 32, in the case of
13 tribe A, divided by 48 gives us 66.67. And we divided
14 that by the amount available money, 80,000, and we get
15 53,336.

16 I will be happy at the end of the session to go
17 through this math. We can go to the flip chart and work
18 through some calculations if you'd like to see some of
19 those done. So I'd be pleased to do that for you if that
20 would be helpful.

21 MS. HOBUCKET: I have a question.

22 MR. PERNICIARO: Yes.

23 MS. HOBUCKET: How do they arrive at regional
24 budget?

25 MR. PERNICIARO: You know, Eldred, would you

1 like to shed some light on that?

2 MR. LESANSEE: Yes. The regional budget is
3 calculated based on the allocation of the appraisal --
4 regional appraisal budget minus the residual amount. That
5 will indicate the amount of money or funding available to
6 the tribes for contracting and compacting.

7 MS. HOBUCKET: Regional amount for each area?

8 MR. LESANSEE: The particular region, each
9 region. It's a region-by-region basis. Like in the
10 Northwest, they have a separate allocation, and for right
11 now, let's look at the current situation. 20 percent,
12 like, for instance. Hypothetically, say, the Northwest
13 had \$100,000 allocated to perform appraisals or appraisal
14 function, the program itself. Then 20 percent will be
15 applied to the \$100,000, and 80,000 is available to the
16 tribe to contract in help.

17 Then the formulas, the formulas that Frank
18 mentioned, or the shares, would be applied to that to get
19 a proportional share per tribe.

20 MR. PERNICIARO: We have a question.

21 MR. GAY: Rick Gay, Umatilla tribes.

22 I believe the question, though, was: How do you
23 come up, in the national budget, with what goes to the
24 region?

25 MR. LESANSEE: I'm sorry.

1 UNIDENTIFIED SPEAKER: Thank you, Rick.

2 MR. GAY: So what kind of disparities are there?
3 Are you looking at going to a workload-based regional
4 budget, recognizing differences in certain pay grades or
5 whatever, or how do you come up with the Northwest has
6 \$100,000 and maybe eastern Oklahoma has a quarter million,
7 and we do more appraisals?

8 MR. LESANSEE: Yes. Want to answer that?

9 MS. ERWIN: That's one of the things -- that's
10 what we're trying to get to. We're not saying we're going
11 to allocate. We want to start with this conversation of
12 how do we take the big budget and allocate it?

13 Because however we allocate it to the regions
14 wouldn't be how it gets allocated to the tribes. So
15 that's part of the conversation, is how do we start with
16 the whole pie and then move down and allocate it to the
17 region?

18 MR. GAY: Because I think the gentleman from
19 Colville is saying when the tribes contract, gee, all of a
20 sudden a bunch of that money is needed for residual
21 functions.

22 MR. LESANSEE: One thing, I guess, we'll be
23 discussing later on in the process, but there are
24 different funding sources, too, and that needs to be also
25 pointed out that for the self-governance tribe, the

1 allocation or the appropriation is directly to BIA. And
2 that's to cover what indirect costs -- Frank?

3 MR. PERNICIARO: Indeed, for self-governance
4 tribes it is the money to cover the program.

5 MR. LESANSEE: In addition to that, funding
6 that's appropriated to OST for appraisal function is also
7 supplementing that amount that BIA receives.

8 MS. ERWIN: Really, everything is up for grabs.
9 We need to look at what is going to make it the most
10 equitable for all of us coming down from the top, saying,
11 no matter what the source is -- we might get some
12 arguments from the source that's already at BIA, but we
13 need to talk about what's the most equitable way for this
14 to happen, starting at ground zero, starting way up here
15 with the big volume and moving down there.

16 MR. LESANSEE: This coming here, we're also
17 requiring the regional supervisory appraisers to provide
18 budget justifications as well, based on their current
19 staffing and other requirements, contracting costs and
20 other discretionary costs that's required by the region to
21 operate, to carry out the function, not to support the
22 review function -- review and approval function, but also
23 to support those tribes that do not participate in the
24 program.

25 MS. LAWSON: Sarah Lawson, Muckleshoot tribe. I

1 can just talk.

2 MR. PERNICIARO: We're sharing the mikes.

3 MS. LAWSON: Muckleshoot's only been compacted
4 for OST/OAS appraisals for about two years. My question
5 actually goes to: What is the definition of workload? Is
6 it the number of appraisal requests that are put into OAS,
7 or is it the number of review requests that OAS does for a
8 tribe?

9 Because prior to compacting, we were doing maybe
10 half and half, where half of our appraisals we were
11 sending the request in to have the actual appraisal in
12 through OAS, and then the other half were appraisals we
13 did on our own and sent down for review.

14 MR. LESANSEE: Yes. We counted by the number of
15 appraisal requests, which will include appraisals, review,
16 and tribal consult -- I mean consultation services.
17 That's another service that we provide. There's another
18 process called real property consultation. That's a
19 little bit different than their generic consultation.

20 MS. LAWSON: Okay. So it's based on?

21 MR. LESANSEE: The total activity for the tribe
22 that we provide services for.

23 MS. LAWSON: And not just the appraisal requests
24 received?

25 MR. LESANSEE: Yes, all appraisal requests

1 received from the tribe. That includes review,
2 appraisals, whatever, any activity that requires our
3 services. Yes.

4 MR. PERNICIARO: So, Eldred, would it be a true
5 statement what is counted for workload is when that
6 appraisal report gets into the hands of the intended user,
7 that one report?

8 MR. LESANSEE: Yes, that cycle is completed
9 when -- like I mentioned before in the other slide, it
10 ends when we transmit the appraisal product, services
11 product to the client.

12 MS. LAWSON: The approved product back?

13 MR. LESANSEE: Yes. Yes. And that would
14 include all the other items that I mentioned, not just
15 review but appraisal and consultation.

16 MR. PERNICIARO: And I think you had a question.

17 MR. MOSES: Is there a difference between
18 land-based, large land-based tribes and other tribes?

19 Because in Washington state we have land-based
20 tribes in eastern Washington. We have -- in western
21 Washington there are small, small tribes, and we're way
22 behind on survey because we're trying to purchase back
23 land within the reservation to get everything into a
24 trust.

25 But another problem here, it's required that we

1 get a survey, a national survey. So we get this money to
2 do the appraisal; appraisal's no good because the survey
3 takes five years to do. We're piling up on both sides.
4 So, you know, give us money.

5 MR. LESANSEE: Well, we were jumping to the
6 idea, three, and lands-based formula is applied in only
7 one region, which is Alaska. They don't do it necessarily
8 like we have it presented here by acres. They do it by
9 the number of the parcels for each of the committees or
10 entities they have up in Alaska.

11 And the trouble with this formula is it may not
12 have, like we mentioned before, a direct correlation to
13 the amount of appraisal needs for that particular tribe.
14 You may have -- like, for instance, if tribe A has a
15 thousand acres, tribe B has 500, and tribe C only has a
16 hundred acres. Well, their percentage of ownership is 62,
17 31, about seven -- 6 percent.

18 And if you applied those percentages to the
19 available budget or budget available to the tribes of
20 \$80,000, you can see the tribe A with the largest has the
21 biggest amount of tribal share, which is 50,000, but it
22 doesn't mean necessarily that the tribe A has a lot of
23 activity. And maybe a small tribe like tribe C, dealing
24 with a small land base, they may be located in a more,
25 like, say, urban areas, where there's a lot of activity in

1 the transitional areas, so their workload is high, but
2 their land base is low.

3 So we may have, you know -- we may not have the
4 sources available to that tribe to support all of their
5 services. The assumption is the larger the land base you
6 have, the more appraisal requirements or the higher the
7 appraisal need. So that's -- that's the big assumption on
8 land-based. Same way with population.

9 I'm jumping ahead, but same way, same scenario.
10 The premise is that the more people you have, the more
11 real estate transactions will be required, and so,
12 therefore, there'll be more appraisals needed. But there
13 may not be a high correlation between the two, and so that
14 may be part of the problem in some situations, where
15 land-based and population-based is applied, formulas are
16 applied.

17 Is there anything else?

18 MR. PERNICIARO: Could you go back to idea two?

19 MR. LESANSEE: Sure.

20 MR. PERNICIARO: I think we've not talked about
21 equal division. We need to go back, then, to this one.

22 MR. LESANSEE: I think we're here now, on the
23 dynamic.

24 MR. PERNICIARO: Right, the dynamic formula
25 approach.

1 Well, this line also builds on workload, but
2 what we wanted to show is what happens if you have a
3 three-year look-back and you go ahead and have a different
4 number of appraisals. And if you notice here, that if you
5 went with the first one, tribe A, and they have 35, 30,
6 and 31, and then we go to the next slide and we have 30,
7 31, and 31. Their tribal share doesn't change very much
8 at all. You know, they were at -- let's see here -- they
9 were at 53,336. They're now at 54,128.

10 Now let's take a look at tribe B. So they had
11 initially zero in 2005, two appraisals completed in 2006,
12 and ten in 2007. Their tribal share is 6,664. And then
13 we look at their new appraisals completed: Two in 2006,
14 ten in 2007, ten in 2008. Their tribal share doubles.

15 And the point we want to make here is that a
16 three-year look-back would be very, very sensitive to
17 spikes in the workload, both going up and going down. So
18 we just wanted to make that clear. And of course the
19 longer you stretch out that look-back -- go back five
20 years, seven years, ten years -- the less sensitive it
21 becomes. So that's a good thing and it's a bad thing.

22 MR. LESANSEE: And if you look at tribe C, you
23 see their workload going down, from 2006 to 2008, and if
24 you go to the next slide, 2006, 2007, 2008, the workload
25 is 20, ten, and six. I'm sorry. Here. I'm sorry. Is

1 this it? Okay.

2 MR. PERNICIARO: Initially it's 20,000.

3 MR. LESANSEE: 20, ten, and six. And so when
4 you go to the next, your workload dropped from ten to 20,
5 and you have six and six. Well, you see a significant
6 drop. It's in sync with the amount of activity or
7 appraisals needs. It went from 20,000 to \$12,000 per
8 year.

9 MR. PERNICIARO: So I think the point that we're
10 trying to make is the fewer appraisals that are completed,
11 the less money the tribe would get under the
12 workload-based formula.

13 All right. Idea two is equal division. This is
14 where we take the total amount of the available budget,
15 and we divide it among the number of tribes in the region.
16 And as far as we're aware of -- make sure that I've got
17 this right. It's only the Midwest region that currently
18 applies this kind of formula.

19 You might argue, this flies in the face of the
20 regulation, because if the secretary needs to provide the
21 money to the specific tribe it would have spent if it was
22 operating the program, how would this formula be in
23 compliance with it? Because all you're doing is taking
24 the total amount of the region, and irrespective of the
25 amount of workload, everybody's getting the exact same

1 amount of money. No differentiation.

2 MR. LESANSEE: Yes, and all that information, as
3 far as the amount of work, you can just disregard that
4 because these three tribes here, they get an equal share
5 of it. And so it's indicated here, 26,000, or 27,000,
6 roughly, to share. They split the pie by three because
7 there were three tribes in the region.

8 MR. PERNICIARO: So it simply ignores what an
9 individual tribe's workload is. It doesn't count it at
10 all.

11 All right. Any questions on -- I guess we're
12 moving to land-based, which we addressed just briefly.

13 Eldred, would you share about land-based, which
14 I think you've already discussed it briefly.

15 MR. LESANSEE: Yes, I think I mentioned it
16 before. I think the key thing is the land-based formula
17 may or may not have direct correlation to the appraisal
18 needs. For instance, a good comparison would be in --
19 what region? Say, similar size. Well, western region is
20 pretty -- western region that's located -- that's based
21 out of Phoenix, they do cover Nevada, Utah, Arizona, and
22 southern part of California, too, as well. That's where
23 the region covers.

24 And then the big Navajo reservation, you know,
25 it's a big, huge reservation, huge land base. As far as

1 the regional office in OAS, they're probably the third --
2 the region that has the third least amount of appraisals
3 per year, whereas the Western region office, they're
4 probably ranked up probably in the top third, probably, as
5 far as the amount of work.

6 They used to have more work activity on an
7 annual basis when they were doing agriculture appraisals,
8 rental estimates on a per-appraisal basis or site-specific
9 appraisal basis, but with the use of market studies, their
10 numbers have dropped recently. But their numbers were
11 really high several years ago, over a thousand appraisals
12 a year.

13 So that is, I guess, one comparison, I guess,
14 between -- correlation between a large body of land and
15 the amount of appraisal needs.

16 MR. PERNICIARO: Is it Alaska that also uses
17 this?

18 MR. LESANSEE: Yes. Yes, they do.

19 MR. PERNICIARO: Weighted on sites.

20 MR. LESANSEE: Right, it's on a partial basis
21 rather than acreage, and I'm not sure if any region does
22 population-based.

23 MR. PERNICIARO: I think not.

24 MR. LESANSEE: It's a component to the hybrid
25 formula that's applied in the southwest, but it's very

1 similar to the land-based formula that, you know, the
2 assumption is that the more people you have, the more
3 appraisals you need.

4 And speaking of the hybrid formula, in this case
5 you have three variables. You have land, population, and
6 workload. And within each of those variables you have the
7 weights -- 25 percent, 25 percent, and 50 percent -- given
8 to each of these variables as far as their significance in
9 the -- I guess the significance as far as what -- and it
10 is subjective as far as what weight to be put on there.

11 And it's based, I guess, an estimate on which
12 factor or variable has more of an impact on the
13 appraisal -- or the changes in each of these variables
14 have on the appraisal needs. And in this case, in this
15 scenario, workload is considered to have the most
16 significant. It's given 50 percent of the weight.

17 In tribe A, you have -- when you apply I think
18 in the slide before -- is it using this one?

19 MR. PERNICIARO: Keep going. We're going back.
20 You're talking about the population count? I'm sorry.

21 MR. LESANSEE: Yes. If you applied the 25
22 percent to the 62.5 percent, you get a weighted average of
23 .1563 for tribe A. And then .25 times 46.15, you get a
24 weighted average of .1154. Workload, 66.67 times 50
25 percent. And you notice there the previous two land and

1 population at 1.5, 1.1, and then that 50 percent weight is
2 given to workload, so it's .33.

3 So it's giving more consideration or more weight
4 to that workload and then gives you an overall total
5 weight of .6050.

6 And those weights are added together to get
7 .6050 for tribe A. Those total weights are down below
8 here, .6050, and that's, again, applied to the total
9 available budget to the tribes. And you get your equal
10 shares -- I mean your tribal shares based on those
11 weights.

12 And the trouble with the hybrid formula, as I
13 mentioned, is you're dependent on different information
14 sources, land -- in the southwest we'll get that
15 information from the land titles and records office, the
16 cartographers for the region; and population, BIA, they
17 run statistics on the total enrollment of tribal members.

18 And then one of the things that came up in the
19 funding agreements or the negotiations each year was the
20 differences in the tribes' data and the BIA's data. So
21 that had to be reconciled. That's another reason why it's
22 complex.

23 And then the workload data is gathered or
24 derived in our internal statistics, and that could also
25 be -- we're hopeful that that's consistent, but sometimes,

1 you know, tribes' logs might be a little different than
2 ours, but we do reconcile that, too, as well.

3 One of the things, in the southwest we have not
4 only land factors or variables, population, workload for
5 appraisals, but we also had workload for realty as well.
6 Then for equal share, in the southwest there's 25 tribes.
7 Then the other component was what over 25. So out of
8 that -- calculating all those variables, total weighted
9 averages for all those variables came up with a tribal
10 share for each of the tribes.

11 And one of the things, I guess, the intent of
12 this hybrid formula was to consider the small tribes, like
13 in the case of the southwest, the Pueblo Picuris, I think
14 their population was somewhere around 200. Their land
15 base is also small. And if we rely totally on the
16 workload-based formula, their activity on an annual basis
17 is probably one appraisal a year, if not some years there
18 is no activity.

19 So if we did the workload-based formula, they
20 may amount to zero, which we were hoping the hybrid
21 formula, we were hoping the formula, they have a land
22 base, the population that might account for some of that,
23 was what was the intent of the hybrid.

24 MS. HOBUCKET: What would they report on that
25 they've done? For accountability basis, what would they

1 report on they've done if they're not doing appraisals
2 with their money?

3 MR. LESANSEE: In this case for the Pueblo
4 Picuris, they weren't participating in 638 contracts for
5 compact. The OAS was performing the services for Pueblo
6 Picuris. But we accounted for the appraisal activity for
7 the Pueblo. Is that what you're referring to?

8 MS. HOBUCKET: (Nodding head.)

9 MR. LESANSEE: The Pueblo Picuris, I was using
10 them as an example. They're not participating in the
11 program, but if they chose to participate in the program,
12 and like I mentioned before, if it was solely on a
13 workload-based formula, that's one of the things the team
14 talked about, was do we have a bottom line, a baseline for
15 every tribe?

16 For those tribes that don't have a high
17 activity, at least maybe account for at least one
18 appraisal per tribe in case there is an activity in the
19 coming year that's unexpected.

20 MR. PERNICIARO: We have a question back there.

21 MR. MILES: Yes. My name is Aaron Miles from
22 the Nez Perce tribe, the natural resource manager.

23 You know, I understand all -- I guess what
24 you're talking about in the formulas and how it works, but
25 I guess it's drawn a lot of questions in my mind. The

1 first one is about how the fiduciary responsibility with
2 the Bureau of Indian Affairs and the tribe, how that
3 works.

4 And I know, you know, I guess with the
5 allocations that each region -- trying to find out how
6 that all evolved in terms of the allocations per region,
7 it would probably be pretty daunting to try to figure out
8 how it all evolved.

9 But the fact of being in sync with the Bureau of
10 Indian Affairs in terms of the appraisals and the
11 expectations of the tribe, I've never seen any of this
12 stuff. I've been with the tribe for ten years, and it
13 almost feels like, you know, the million-dollar question
14 is: What is the single-line agreement? What was the
15 single-line agreement? What did it state? And how did we
16 move to a point of not being in sync?

17 I feel like our tribe, the Nez Perce tribe, and
18 the Bureau of Indian Affairs, we've never made that --
19 crossed that road together, you know. And so I would love
20 to see some information, maybe by the end of -- if I could
21 talk with somebody, where I could find information
22 regarding the tribal shares.

23 And I know some tribes, they utilize it almost
24 like discretionary funding, not necessarily for the
25 appraisals. We need to get this straightened out. Thank

1 you.

2 MR. PERNICIARO: Very good question.

3 MR. LESANSEE: Yes, we've had some difficulty,
4 the Office of Appraisal Services and the Office of
5 External Affairs, OEA, in gathering information back to
6 1985. I think we were able to gather information for all
7 the regions except one. That's one of the concerns and
8 one of the reasons why we're here today: To move forward
9 from that point and to establish the transparency and the
10 clarity on how tribal shares are formulated, are developed
11 in the future.

12 MR. PERNICIARO: You have a question?

13 MR. MAYO: Yes. My name is Paul Mayo. I'm the
14 natural resource director from Fairbanks, Alaska. I'm
15 pretty sure you can hear me.

16 And my question is: You see hypothetical
17 calculations. I'm just curious about the national numbers
18 again. We mentioned 3 million up to 10 million. Is that
19 the national budget for OST appraisals?

20 MR. LESANSEE: Yes. In the coming year, 2010,
21 it's going to jump up to 10 million, roughly.

22 MS. ERWIN: We hope. We have requested.

23 MR. LESANSEE: We hope. We have requested.

24 MS. ERWIN: Yes. The budget hasn't passed for
25 2010. The House has, but we don't have a budget yet.

1 MR. MAYO: Alaska has seen those numbers, and to
2 take into account the actual numbers of appraisal. In
3 Alaska we have challenges. I'm not here to say Alaska is
4 more expensive than other regions, be in competition with
5 other regions for funding; it's just that the actual cost
6 of an appraisal could be analyzed too.

7 MR. LESANSEE: Sure. We do each have -- each
8 regional office has an average, overall average cost
9 figures. Like in your case, in the Alaska region, I was
10 talking to Janice the other day, and she was saying it's
11 going up to roughly around 4,000 per appraisal.

12 MR. ASHENFELTER: Roy Ashenfelter, with Kawerak
13 in Nome.

14 What is the timeline for this change that you're
15 planning on doing? I think that's important for us to
16 hear, so that we could hopefully have -- when you come out
17 with the new process, that we could maybe see how that
18 would work. I have several other questions, so I'll wait
19 until we get to the question-and-answer.

20 MR. LESANSEE: Initially, our project schedule
21 we were hoping to have implemented by 2010, but looks like
22 we're looking at 2011. And that would also depend on the
23 comments, the dialogue and suggestions, recommendations
24 from the tribes as to where we go after all the sessions,
25 tribal consultations, what information, recommendations

1 and so on.

2 But, yes, we're hoping that we can get this
3 implemented as soon as possible. It just depends on the
4 feedback we get and the information we have.

5 MR. ASHENFELTER: Are we in the
6 question-and-answer portion now?

7 MR. LESANSEE: Not yet.

8 MR. ASHENFELTER: I'll wait.

9 MR. PERNICIARO: Let me add one last thing to
10 this. We've thrown a lot of numbers at you, hypothetical
11 numbers. Again, if you'd like us to actually work through
12 calculations based on the numbers, I can go to the flip
13 chart and work it through. We can see how the math plays
14 out. I'd be happy to do that. Let me add that.

15 And Title IV funding, this is for a
16 self-governance tribe. If you were a self-governance
17 tribe that compacted the appraisal program before 2003,
18 you were probably getting funding from BIA. An example of
19 a tribe in this regard would be before 2002. And what we
20 wanted to share with you is whatever formula we would
21 apply, if you were a self-governance tribe before 2002,
22 and you went ahead and took the appraisal program, your
23 tribal share would never be below BPA. BPA is unaffected.
24 OST would add money to it, but we would never take away.

25 There are some statute-based reasons for that.

1 This is what that tribe tells us. If you were one of
2 these tribes in this group, indeed your TPA would be
3 unaffected. Is there anyone from Office of
4 Self-Governance? That's all that this slide was meant to
5 share.

6 MR. LESANSEE: And then that's the end of our
7 presentation. We thank you for taking the time to come
8 out and listen to what we have to present. You know, you
9 can submit your comments to Ms. Debbie Meisner. Her URL
10 or the e-mail address is there, posted there. Her number
11 is 505-816-1258 and she can also be reached on cell phone,
12 505-350-0510.

13 And we desire comments to be submitted to us
14 maybe by Monday, August 3rd, so we can carry your comments
15 forward to the next session, which will be in Billings,
16 Montana, on the 4th of August. And per the Federal
17 Register, the deadline for any and all comments is Friday,
18 September 18th.

19 And points of contact, that's myself. My number
20 is 505-816-1602. And Mr. Lee Frazier, who's not here with
21 us today, but his number is 202-208-7587. And the list
22 down here is the team members who studied the current
23 tribal shares situation and gathered the information, so
24 on. And we're here today to present the concerns of the
25 issues and the current situation with the tribal shares

1 through appraisals.

2 MR. PERNICIARO: Question?

3 MR. MOSES: Back to the 1000.94. You said there
4 were some areas that could be contracted or whatever.

5 MR. PERNICIARO: Right, the residual. This
6 would be the monies retained.

7 MR. MOSES: Can you give us an example of that?
8 And also, do you have a handout of the slide?

9 MR. PERNICIARO: Oh, yes, we do. We have a
10 whole packet. Let me get that for you right now.

11 Yes. So the question is: Are there
12 noncontractible, compactible functions? In this program,
13 there is. That is the federal review of the appraisal.
14 So the tribe contracts or compacts to do the appraisal.
15 They have their appraiser do the appraisal. It goes to
16 Eldred's staff. In the case of Northwest region, it would
17 come to Rena Sanford, and Rena Sanford does the review,
18 and that review is not contractible or compactible to the
19 tribe. That is an inherent federal function. So that
20 would not be available to the tribe.

21 MR. MOSES: Okay. But in this region, could you
22 give an example of how the shares was calculated in '95?
23 Because there's a big disparate, about \$2,000, between us
24 and the Yakamas.

25 MR. PERNICIARO: Well, I do believe it was

1 solely land-based, and I think it was a seven-year
2 look-back.

3 Am I correct on that? No?

4 MR. MOSES: They've got maybe a thousand more
5 acres than we do.

6 MR. PERNICIARO: I'm sorry. It's
7 workload-based. And we take into account how many years?
8 Is it five or seven?

9 MR. LESANSEE: Seven, I believe. Seven years,
10 yes. And at the time, I believe in 1995, I think Yakama
11 had the highest workload, and I think at that point in
12 time I think the tribal shares indicated that they --
13 since it was weight-based on workload, I think they had
14 the bulk of the funding going to them under their
15 contract. And it's been at that level since 1995.

16 MR. PERNICIARO: So, in essence, they've been
17 frozen in time.

18 MR. MOSES: So we got \$60,000. Anyway, the
19 formula's going to change on the past three, four years'
20 activities?

21 MR. PERNICIARO: With your input, in
22 consultation with you, we are looking at revising it. But
23 we clearly need to have your input, and we need to pay
24 careful attention to what you tell us. We don't have a
25 formula. We need to learn from you what you think is fair

1 and equitable. So we greatly desire your comments.

2 Eldred, did you want to add anything?

3 MR. LESANSEE: Yes. In 1995, it was a look-back
4 five years average, five years back. And the workload
5 activities or data, statistical data, depending on which
6 formula was applied, but except for equal shares, you
7 know, that wasn't a factor because you have the 48 tribes,
8 one out of 48.

9 So, yes, the historical workload or other
10 factors, statistics doesn't apply for equal shares.

11 MR. GAY: Rick Gay, Umatilla.

12 A couple of comments. I would find it helpful
13 if I had some perspective. What is the national workload?
14 How many tribes are, in fact, contracting, compacting?
15 How is that specific to the Northwest region? Maybe some
16 comparisons.

17 I have no idea how many tribes in the Northwest,
18 let alone nationally, have assumed this. I was kind of
19 under the understanding that we were one of the first, but
20 I don't know what's happened, and that wasn't all that
21 long ago.

22 MR. PERNICIARO: We simply can share that with
23 you. Right now is about 40 tribes in the nation that
24 compact and contract with the appraisal program, and I
25 certainly can give you a list of the tribes that compact

1 and contract in the Northwest region, and I can do that
2 today, give you the names.

3 MR. LESANSEE: Historically, the average over
4 the last few years I think are -- we've been averaging
5 about 8,000 appraisals a year nationwide. The Northwest
6 region average, defer to Rena on an average basis, over
7 the last five years or so.

8 MS. SANFORD: It's right around 1100.

9 MR. LESANSEE: So 1100 per year.

10 MR. GAY: What kind of backlog? And I know that
11 you've been working very hard at that, but kind of on a
12 historical average and current, because if it's 8,000 but
13 you've got 4,000 requests sitting there --

14 MR. LESANSEE: Right. Well, in the past it
15 varied quite a bit. Recently, with the challenge written
16 from July 1st, our region, the 12 regions, worked very
17 hard to eliminate the backlog that we currently have, and
18 this last quarter I think we finished about 1,665
19 appraisals total. That includes backlog and current
20 appraisal requests.

21 And of that, by July 1st we ended up with only
22 65 in backlog status, although we also renegotiated due
23 dates for some of these requests with our regional
24 appraisers contacting the client, the BIA or the tribal
25 service providers, to renegotiate due dates, to extend --

1 give us -- renegotiate due dates for those pending
2 appraisal requests. And I think they represented about
3 300, I think, in number, as far as negotiated appraisal
4 requests.

5 MR. PERNICIARO: And Rick, here -- I'm sorry.
6 Let me answer, if I could, Rick's question.

7 Rick, what we have is Yakama contracts and the
8 following tribes are compact in the Northwest region. It
9 is Lummi, Siletz tribe, Port Gamble, Muckleshoot,
10 Confederated Salish-Kootenai, of course yourself Umatilla,
11 and that is it.

12 MR. LESANSEE: I think that what Rena and her
13 staff provided me this morning was an average for each of
14 the tribes in this Northwest region, from 2006, '7, and
15 '8, for the average of the three years, for each of the
16 tribes, as far as how much work is done per tribe in the
17 Northwest region. We could probably make this available
18 to you, if you wish, if you're interested in seeing the
19 document, full report.

20 MR. PERNICIARO: Sir, again, your question? I'm
21 sorry. Go ahead.

22 MR. GAY: I guess my understanding of this whole
23 process, you guys will finish this up, wrap this up in
24 terms of the conference, what you're doing now, and
25 hopefully by some time here shortly, then you'll have a

1 whole -- this worked out to where there's reasonable
2 expectations that the allocations that the tribes get and
3 the 20 percent that the Bureau of Indian Affairs retains
4 for the residual, for the expectations of the tribal
5 shares? Is that correct?

6 MR. LESANSEE: Yes. We're hopeful that we can
7 implement the new tribal shares formula, but some tribes
8 have expressed or requested that they have a follow-up.
9 And it just depends on, you know, the comments that we
10 receive and I guess the requests from the tribes. Like,
11 for instance, in Oklahoma, some of the representatives
12 that attended the tribal shares consultation requested
13 that they go back to their tribes and present what they
14 heard, and then come back with an official response.

15 MR. PERNICIARO: So, Eldred --

16 MR. LESANSEE: BIA?

17 MS. ERWIN: You need to explain the difference
18 between OST to BIA.

19 MR. LESANSEE: I'm sorry. I didn't catch that.
20 The Office of Appraisal Services is under the OST, and it
21 transferred in 2002.

22 MR. PERNICIARO: So the amount retained for the
23 residual, for example, is retained for OST for its
24 regional appraisers to do those appraisals.

25 MR. MOSES: How long -- how long are those

1 appraisals good for? Because, again, in the Northwest we
2 have a problem with the cadastral survey requirement.

3 MR. LESANSEE: The valuations should be tied to
4 the local market conditions. In the past, the policies,
5 in the federal government, not just OAS or BIA, used to be
6 an administrative shelf life for appraisals. New policy
7 states it must be concurrent or consistent with the market
8 conditions.

9 If your market's stable, over the, say --
10 currently, say, over the past ten years or so, and the
11 trend looks like it's going to remain stable, your shelf
12 life for the appraisal opinion value will extend out. But
13 if it's changing, if you're in a highly transitional
14 market -- in the case of Gila River south of Phoenix,
15 where the market's changing quite rapidly, your shelf life
16 would be very narrow or short, because we want to account
17 for the changes in the market, whether it's going up or
18 down.

19 MR. JOSEPH: I just want to follow up. My name
20 is Gene Joseph.

21 The other component of the real estate
22 transactions is the environmental assessments, and they're
23 only good for 180 days. We have land that we've received
24 in a settlement, and then we have land we've acquired
25 under the mitigation program from the Bonneville Power

1 Administration.

2 And Harvey referenced the cadastral survey
3 issue. It's the only one that exists in the country.
4 They were trying to solve a problem involving small
5 parcels of land, and then in trying to solve it, they
6 superimposed this requirement for surveys when there are
7 lots of lands, especially lands that are surrounded by
8 trust properties, that maybe don't need that requirement.

9 But the biggest problem is the EAs. We
10 understand, because of the Super Fund, that people with
11 certain requirements have to do that, but there has to be
12 a way to either get that skill level down to the agency
13 level or hire more people, because we have hundreds of
14 thousands of acres of land that we've acquired through the
15 mitigation program, and we're stuck there because they
16 haven't been surveyed to meet their requirements.

17 And of course we're going to have to do the
18 environmental assessments, and I'm told that in this
19 region there are only two or three people that are
20 qualified. Thank you.

21 MR. LESANSEE: Thank you. I think that's -- it
22 points out a good reason why, I think, requests for
23 appraisals should be concurrent with the timelines or the
24 schedule of real estate transactions.

25 I think one of the things that we're doing is

1 moving away from the 90-day backlog definition to
2 negotiate due dates, and hopefully that would keep -- or
3 bring our appraisal requests or appraisal activities
4 concurrent with the real estate transaction, time limits,
5 or due dates.

6 And we're hopeful that the real estate services
7 would consider those variables, those situations that
8 depend -- we'll get those things, the surveys, the NEPA
9 compliance documents or studies and all the other things
10 that need to be done ahead of time, done first, before
11 they request an appraisal, so we don't have situations
12 where an appraisal is done up front and all these other
13 activities haven't been done yet.

14 And it does -- depending on where the location
15 is and market activity, that appraisal could very well,
16 you know, become stale or lose its effectiveness after a
17 short period of time, and it causes more time and
18 repetitive appraisals because we're waiting on studies or
19 other things, other activities.

20 MR. ASHENFELTER: I have a couple questions. Is
21 the inherent federal function, that 20 percent, is that
22 going to vary? Is that going to be higher or lower? We
23 could answer that later.

24 On your workload base, I see it's five years. I
25 don't know if you're going to change that to a longer time

1 or a short period of time. That would be another
2 question.

3 I have something about 638 contracting, but just
4 for a contractor, you guys can work on that.

5 Oh. The other question on the dynamic formula,
6 what if all the programs increase their appraisals? That
7 would be one.

8 You know, you had, like, ten, six, one, and then
9 another one went from zero to six, and another one kind of
10 stayed the same. The other question is: What happens if
11 all of them increase? And what would -- you know, what
12 would be the shared distribution based on that?

13 And then, oh, on the backlog, is there -- I've
14 heard this before, but is there going to be a group from
15 OST to address the backlog?

16 For example, if we have a large backlog in
17 Alaska, you would send a group up there to at least do the
18 preliminary information. Even though they're not
19 experienced in appraisals there, there's some basic data
20 there that they can cover, and then the experienced
21 personnel there could then finish up on the specific data
22 for Alaska. And if there's a big backlog in East Coast
23 someplace, that that group would go over there and take
24 care of that.

25 So I've heard that type of process might be

1 considered, so I know it's not related a little bit to
2 this, but it is important that we at least hear how this
3 backlog situation is going to get finished so that this
4 funding formula, whatever changes happen, doesn't put a
5 program that has a large backlog out of place in this
6 whole process. So, anyway, thank you.

7 MR. LESANSEE: Thank you. I'll handle it back,
8 the most current question first.

9 We did complete about 180 appraisals recently in
10 May, the end of May, for the Alaska regional office, and
11 that included mostly reviews. And as of today, because of
12 renegotiating due dates, we were current at the end of
13 June 30. There has been about a hundred -- roughly 150
14 that were renegotiated. Either they're being done
15 currently by the staff, or they're going to be outsourced
16 pretty frequently through the blanket purchase agreements.

17 But we brought them up fairly -- pretty current,
18 more current than they have been in the recent past. I
19 think in 2000, Alaska had a backlog of about 400, and then
20 with the reports that we're getting, they're current right
21 now, and we're hopefully going to keep it that way.

22 What we're doing is we're doing some of the work
23 in-house, more work in-house, and that was one of the
24 things that was a concern from the regional appraiser,
25 that they weren't able to do that, that they were more

1 current when they did the valuations in-house. But now
2 we're doing a mixture of both, and see how they keep up.

3 The question --

4 MR. PERNICIARO: The other one was on the
5 dynamic workload-based formula, what would happen if all
6 the tribes had an increase, let's say, in the Alaska
7 region, and we were applying the work-based formula.

8 MR. LESANSEE: It depends, first of all, which
9 formula applies. If it's workload-based formula, then of
10 course the share would change consistently with the
11 workload. But if it's land-based, population-based, that
12 may or may not change with the changing activity or
13 appraisal needs.

14 So it depends on which formula is applied, and I
15 guess that's the difference, an example of the difference
16 between the workload-based versus the other types of
17 formulas.

18 MR. PERNICIARO: And then I think the other
19 question was: Is the 20 percent for the inherent federal
20 function static, or is that up for discussion?

21 MR. LESANSEE: Currently, as I mentioned, we are
22 applying the 20 percent residual, and the residual, as
23 Frank mentioned, represents the amount of money that the
24 government needs to carry out the federal inherent
25 function with all the tribes, contractor or compactor

1 program, or the appraisal preparation function really.
2 It's not the entire program, but it's identified
3 specifically appraisal preparation function.

4 And the other way of identifying or justifying
5 the residual is through a narrative justification, and
6 that was what was done in the previous -- in the past, in
7 my experience, in the BIA. And that's another way of
8 doing it. I think you mentioned -- you described the
9 legislation that calls for the narrative justification.

10 And the next question?

11 MR. PERNICIARO: I think those were the three.
12 Did I miss one?

13 MR. ASHENFELTER: It had to do with the
14 recommended years, three, five, seven. Is that going to
15 change?

16 MR. LESANSEE: That would be dependent on the
17 feedback we get from you, the ideas we get from you. That
18 is, what will capture, you know -- reflect the amount of
19 work for each of the tribes that will account for
20 everything?

21 Like, for instance, leasing. I think it was the
22 Cherokee Nation, they said their leases are based on a
23 five-year cycle. If we did three years, if we accounted
24 for only three years, we might not account for all the
25 appraisal needs. So those are things that we need to hear

1 from you, what would make sense.

2 MR. PERNICIARO: Was there another question? Go
3 ahead. I'm sorry.

4 UNIDENTIFIED SPEAKER: Paul?

5 MR. MAYO: Oh, it was maybe too detailed, but I
6 was commenting on the detail with the cadastral survey,
7 and I was wondering if you guys allowed for the
8 hypothetical conditions for awaiting an actual
9 confirmation of a cadastral survey boundary report?

10 MR. LESANSEE: Yes, that is possible. We could
11 do a hypothetical condition or extraordinary assumption,
12 really that the information that we're getting, the
13 description of the subject property is what is going to be
14 at the time when the survey is complete.

15 The trouble with -- or the limitation of that is
16 that the size might change or the boundaries might change.
17 In some cases -- where was it? It was Alaska, actually.
18 We appraised a property that we thought was the property,
19 and it wasn't. So we had to go back and do another
20 appraisal, which added time and so forth and cost. That's
21 the limitations.

22 But I think through the coordination, close
23 working relationship between realty and appraisals, they
24 can reach a reasonable amount of, I guess, reliability
25 that that property is what it is.

1 Yes?

2 MR. ASHENFELTER: Yes, in Alaska we had an OST
3 staffing appraisal situation where we're down to one
4 appraiser. That probably more than likely exacerbated the
5 backlog responses. Is there a plan in this to address
6 that?

7 Like, for example, an OST -- again, I pointed
8 out earlier, an OST group could maybe be available
9 nationally so that where we have a staffing shortage, that
10 that group would be there to detail whatever would be
11 necessary until you get staffing back.

12 And then the other one, I heard it mentioned,
13 but it had to do with base funding for all OST appraisal
14 programs, so that no matter what their workload is,
15 there's someone there that's going to be somewhat
16 consistent there. I think that's really helpful to
17 tribes.

18 MR. PERNICIARO: I should -- go ahead.

19 MR. ASHENFELTER: Yes, having a base funding so
20 tribes aren't left out -- if they get shorted funding,
21 then they have to release people. When they get a higher
22 number of appraisals, they have to hire back. So that's
23 going to create potential problems in terms of staffing.

24 So that needs to be addressed nationally, so
25 that tribes will feel comfortable in whether or not they

1 have a higher load or lower load, that the funding for
2 them is not going to go so that the staffing needs to also
3 be a part of the dilemma that they'll deal with.

4 MR. LESANSEE: Well, one of -- I guess two
5 different funding sources are available to the tribes in
6 direct costs, which is the direct cost of doing or
7 preparing -- or carrying out the commercial activity, the
8 preparation of appraisals, and then the indirect costs,
9 the cost of doing business, that's separate.

10 Hopefully -- I know there's been some issues in
11 the past whether that was adequate, the amounts were
12 adequate given to the tribes that participate in the
13 program. But that, I guess, the intent was -- and correct
14 me -- may try to stabilize that scenario of the ups and
15 downs, and they did the dynamic situation.

16 If we go by workload, that may be the limitation
17 that you present, that you brought forward, pulled forward
18 to the limitations on workload, because if you keep having
19 fluctuation each year and you're changing as the
20 workload's changing, I mean, staffing might be an issue, a
21 big problem, and keeping that staff at the level that you
22 have.

23 But, yes, that might be something that we need
24 to, you know, look into, but I appreciate you bringing
25 that forward.

1 MR. PERNICIARO: I just want to make sure I'm
2 repeating the question back, as I understand. The issue
3 for you is: If you went with a workload-based formula,
4 your workload goes up one year, down the other, you may
5 have to let people go, and you don't want to do that.

6 So you need to have -- your desire would be a
7 formula that sets some base, so you know every year, no
8 matter whether your number of appraisals goes up or down,
9 you're getting some base to keep the people. Am I getting
10 it right?

11 MR. ASHENFELTER: Yes. The idea is you're going
12 to have some appraisals, the volume is going to change,
13 but you need to have at least some assurance that funding
14 is going to be available for staffing.

15 MR. LESANSEE: I think that's one of the reasons
16 why I think we were using, like, the five-year average.
17 Like Frank mentioned earlier, the longer you go out in
18 time backwards, the more you smooth out all the spikes,
19 and hopefully you can account for the trend in the changes
20 in the appraisal needs. That's one way of trying to
21 capture that change in the fluctuations and so forth.

22 But as far as, you know -- as far as the, you
23 know, sudden changes and stuff like that, that could pose
24 a problem as far as we mentioned before. If you're
25 working with a workload-based formula, if it changes too

1 much, like on a three-year cycle, if you're looking at a
2 workload three-year cycle, you're going to see that
3 change, that constant change.

4 MR. ASHENFELTER: How about the OST staffing
5 situation?

6 MR. LESANSEE: Well, you're right that we did
7 have some vacancies within the last three, four years.
8 Janice Burns is the regional supervisory appraiser.
9 Marjorie Bell left us for a little bit and I think went to
10 the Army Corps of Engineers. And Gene Gingaris (ph), he
11 moved down to Rocky Mountain (inaudible). He asked for a
12 transfer. However, Margie Bell came back. She's with us
13 again. And then we hired two additional appraisers with
14 Margie, Doug Perwok and Tori Welznik (ph). So they have
15 four FTEs as far as appraisers are concerned, and they
16 have four support staff.

17 We've entertained the idea about appraiser
18 trainee, but the task of getting people out in the field,
19 we're studying that. We're considering that request from
20 Janice. But maybe the better option, which I think is
21 making a big impact right now, is having fully seasoned or
22 seasoned appraisers, hiring seasoned appraisers that could
23 make a difference readily rather than to train somebody in
24 Alaska, because the cost, as you know, of going into the
25 interior and doing the appraisals is very expensive. If

1 you have to pay for the cost of a mentor and apprentice to
2 travel, you know, to go into the field to do field
3 inspections or field work, that could be expensive.

4 MR. PERNICIARO: You know, my colleague, Bob
5 Becenti, says we're overdue for a break. Do you want to
6 continue the dialogue or take 15 minutes? All right.
7 Rick says break. Okay.

8 (Recess.)

9 MR. PERNICIARO: Hello, everyone. We're going
10 to get back to business here.

11 A few announcements. We're going to go ahead
12 and continue with our questions and answers here. Our
13 thought is that we can go to 12:00 noon, and if everyone
14 would like, come back to our 1:30 session. And although
15 we're planning it to be a repeat, we don't know whether
16 we're going to have tribes attending the 1:30 session.
17 So, if not, we could launch off into continued questions.

18 So if you'd like to come back at 1:30 to
19 continue the dialogue, that would be good. We're going to
20 try to go ahead and complete the questions and answers by
21 12:00 noon.

22 The other thing I wanted to share, I failed to
23 go ahead and go around the table so everybody could share
24 who they represent and their name. We only did OST
25 employees. So we can do that.

1 And then lastly, if you would, if you have a
2 question, if you could state your name and who you
3 represent. Some of you are doing it, and then I'm
4 neglecting to remind those that are not. Help us with
5 that, and our court reporter, Robin, can make the record
6 complete.

7 Oh, and the sign-in sheet. We have the sign-in
8 sheet here. If there's anyone who hasn't signed, can we
9 give it to you? Here we go.

10 Is there anyone else who hasn't signed the
11 sign-in sheet? We have a person here.

12 Thanks, Bob, for moving the sign-in sheet
13 around.

14 So how about going around the room. We can
15 start with myself. I'm Frank Perniciaro, management
16 analyst with the Office of External Affairs in OST.

17 Eldred?

18 MR. LESANSEE: My name is Eldred Lesensee. I'm
19 the deputy chief appraiser with the Office of Appraisal
20 Services, Office of Special Trustee.

21 MR. PERNICIARO: And, let's see. Okay. We're
22 going to put you on the spot. And you are?

23 MS. HOBUCKET: My name is Eugena Hobucket. I'm
24 the self-governance coordinator for the Quinalt Indian
25 Nation.

1 MR. PERNICIARO: Bob, if you would do the
2 honors. Thank you for going around the room.

3 MR. AXELSSON: My name is Hans Axelsson. I'm an
4 appraiser with Tanana Chiefs in Fairbanks, Alaska.

5 MR. MAYO: Paul Mayo, natural resource director,
6 Tanana Chiefs, Fairbanks, Alaska.

7 MS. TUFTS: My name is Cathern Tufts. I am the
8 staff attorney for the Confederated Tribes of Siletz
9 Indians.

10 MS. ERWIN: I'm Donna Erwin. I'm the principal
11 deputy special trustee and currently acting special
12 trustee, which we hope to soon have a special trustee.
13 And normally sitting between us would be Glenda Miller,
14 who is the fiduciary trust officer out of Alaska. Wave to
15 them.

16 MR. GAY: Rick Gay, grant and contracts officer
17 with the Confederated Tribes of the Umatilla Indian
18 Reservation.

19 MR. GAGNON: I'm Mark Gagnon. I'm the chief
20 financial officer for the Coquille Indian tribe.

21 MR. ASHENFELTER: I'm Roy Ashenfelter, land
22 management services director for the Kawerak in Nome,
23 Alaska.

24 MS. DUNCAN: Hello. I'm Desiree Duncan. I'm
25 the native lands manager for central council in Juneau,

1 Alaska.

2 MR. JENNINGS: I'm Roger Jennings. I'm a review
3 appraiser with the Portland office here.

4 MR. McCORQUODALE: I'm Tom McCorquodale with the
5 Office of Appraisal Services here in the Northwest
6 regional office. I'm a review appraiser.

7 MR. MILES: My name is Aaron Miles. I'm the
8 natural resource manager for the Nez Perce tribe.

9 MS. DuMONTIER: Deb DuMontier, fiduciary trust
10 officer, Flathead Agency, Confederated Salish-Kootenai
11 tribes of the Flathead Indian Reservation, northwest
12 Montana.

13 MR. BAKER: Anson Baker, review appraiser, OAS
14 central office stationed at Portland, Oregon.

15 MS. SANFORD: Rena Sanford, regional supervisory
16 appraiser, Northwest region.

17 MR. REYNOLDS: I'm Tom Reynolds, regional trust
18 administrator, OST, based in Albuquerque.

19 MS. JONES: I'm Marianne Jones. I'm the
20 fiduciary trust officer for Puget Sound Agency in the
21 Seattle office.

22 MR. KUPKA: I'm Mike Kupka, and I'm the
23 fiduciary trust officer for the Southwest Washington
24 tribes and Olympic Peninsula tribes.

25 MR. KERADT: Gus Keradt, the trust officer with

1 Fort Hall Reservation.

2 MS. HUTCHINSON: Margie Hutchinson, trust
3 officer for Colville, Spokane, and Kalispell.

4 MS. MONTAG: My name is Andrea Green Montag.
5 I'm a summer associate at Hobbs Straus Dean & Walker.

6 MR. SHAW: Dave Shaw, FTO at the Yakama Agency
7 for OST.

8 MS. WOLFE: Roberta Wolfe, realty specialist for
9 central council, Juneau, Alaska.

10 MR. JOSEPH: Gene Joseph, with the Colville
11 Business Council.

12 MR. MOSES: Harvey Moses Jr. with Colville
13 Business Council.

14 MR. GRAF: Phil Graf, review appraiser. I work
15 for Rena.

16 MS. LAWSON: Sarah Lawson, trust services
17 director for the Muckleshoot Indian tribe.

18 MR. BECENTI: And I'm Robert, or Bob, Becenti.
19 I'm relatively new to OST. I came from BIA, management
20 analyst. Work with Frank at the Albuquerque office in
21 Office of External Affairs.

22 MR. PERNICIARO: Well, we can continue with the
23 questions.

24 I'm sorry. Robin, did you have something?

25 All right, who wants to launch off? Okay.

1 MR. ASHENFELTER: You know, when you do your
2 future changes, there might be staff changes in the
3 different tribes. Is OST going to consider that, as part
4 of this long-term plan in 2010, 2011, whenever this thing
5 is going to kick out?

6 For example, some tribes may have a limited
7 number of historical appraisals and have an overstaffing
8 of appraisers, and that potentially may lead them to
9 reduce some staff or give them an opportunity to move to a
10 different place. Is this part of the plan or something to
11 be worked out later?

12 MR. LESANSEE: We're hoping that the final
13 outcome on the tribal shares or tribal shares formula
14 would account for those type of changes, and that's where
15 we need the input from you, how to account for those
16 changes. The feedback that we get from you I think will
17 be very helpful to us in considering those dynamics.

18 MR. PERNICIARO: We'll bring it to you. Hang
19 on.

20 MS. TUFTS: Thanks. My name is Cathern Tufts.
21 I'm the staff attorney for Confederated Tribes of Siletz
22 Indians, and I have some questions that pertain
23 specifically to self-governance.

24 First, am I understanding correctly that there's
25 two different ways that self-governance tribes are funded:

1 That there's one base-funded, that if you compacted before
2 '02 while it was under the bureau, that is going to stay?
3 That's a bureau appropriation and it continues to stay in
4 the bureau?

5 MR. PERNICIARO: Yes, Cathern. Indeed, funding
6 from OST, if you had compacted the appraisal before then,
7 before 2002.

8 MS. TUFTS: Okay.

9 MR. PERNICIARO: And that's what you're getting.
10 You're getting that now.

11 MS. TUFTS: Yes. And then for people who
12 compacted after '02, how is that working now?

13 MR. PERNICIARO: Right now they would be getting
14 a tribal share based on the tribal share formula in place
15 since 1995, funded entirely by OST. So, for example,
16 Umatilla would be a tribe like that.

17 MS. TUFTS: Okay. How would this change for --
18 if one of these -- perhaps a weighted system was put into
19 place. How would it change for either one -- well, for
20 both, and how would those changes be accounted for?

21 So if you go through and you do a -- if you
22 choose a weighted one and you choose a population one, and
23 it says that a tribe that was compacted before '02 should
24 be getting more funds, will that come from OST?

25 MR. PERNICIARO: Yes.

1 MS. TUFTS: Or would it just be disregarded?

2 Okay.

3 MR. PERNICIARO: No, it would come from OST.

4 MS. TUFTS: But you're also saying if you --
5 whatever you picked, if it shows that that tribe should
6 have gotten -- should be getting less, they're still not
7 going to get less, they're going to stay the same?

8 MR. PERNICIARO: If you, indeed, compacted the
9 program before 2002, like Siletz, and the formula that we
10 employ shows you should be getting less money, it's not
11 going to affect the TPA. The TPA will remain the same.
12 So the fact that there's a reduction because of the tribal
13 formula selected, your TPA money remains the same, does
14 not go down. Is that making sense?

15 MS. TUFTS: Yes. My next question is: Say, it
16 said it would be more. If one of these formulas that you
17 picked is adjusted each year or regularly, does that mean
18 that there would then be face-to-face negotiations with
19 OST and Office of Self-Governance each year or each time
20 that those funds changed?

21 MR. PERNICIARO: That's a good question. Would
22 there be face-to-face negotiations?

23 MS. TUFTS: Or even phone, I guess.

24 MR. PERNICIARO: Okay. I think the answer is,
25 if indeed there was going to be a change -- and there

1 could be. Let's say there's an increase for Siletz in
2 2011. So if you get added to the base a waiver of funding
3 from OST to cover these more appraisals, then the next
4 year, in 2012, there's a reduction. We'll be taking that
5 money back.

6 So you're not going to get what you got in 2011
7 because your workload went down, and then we're going to
8 go ahead and have a discussion about that, so you're
9 aware, so you're not operating under the belief, that, oh,
10 shoot, you know, it's the same level of funding.

11 So I think we would have to have a conversation,
12 and it would be incumbent on OST to make sure, in fact, in
13 my case if it's going to be me, to contact you to share
14 that. But again, it's formula-driven.

15 Donna?

16 MS. ERWIN: It's not just -- this is Donna
17 Erwin.

18 It's not just based on the last year. It's
19 going to be based on some determination, the five, seven,
20 whatever average.

21 MR. PERNICIARO: Right.

22 MS. ERWIN: So it might average out to be the
23 same. It's not always going to be changing.

24 MR. PERNICIARO: Excellent point.

25 MS. TUFTS: I just had one more question, and

1 that's in your choices here, you have the equal division,
2 land-based, population-based, and a hybrid formula with
3 weighted components. But none of the weighted components
4 in that reaches that question that a number of people have
5 raised, is you have to -- you have to have some kind of --
6 or the tribes have to have some kind of base, because you
7 can't hire and fire and say, well, you know, we only got
8 five this year so, you know, we don't need you.

9 I mean, we are always going to have to keep our
10 logbooks and, you know, on some tribes that's a smaller
11 workload. But, you know, some of them, they need a
12 full-time person all the time. And so that's -- I just
13 think there should be another component there.

14 MR. LESANSEE: Well, I think that's -- we've
15 considered that as a team. By the way, these ideas,
16 they're ideas that we present today, but we need your
17 feedback.

18 How do we account for that? We've talked about
19 maybe a base dollar amount for all the tribes. That's a
20 minimum amount that every tribe gets. And then on top of
21 that, the variables, account for the variables, the
22 changes and stuff in the appraisals. We talked about that
23 in our discussions when we were preparing for these tribal
24 consultations. Yes, if you've got ideas how we can
25 account for that, we'd love to hear it.

1 MR. PERNICIARO: Cathern, are there any thoughts
2 that pop into your head how this could be done fairly,
3 where a tribe has an appraisal program, they're currently
4 compacting or contracting, but there may be fluctuations
5 in their workload? How would we fairly make sure that
6 core staff -- and be fair to every other tribe? Any
7 thoughts that come to mind?

8 MS. TUFTS: Well, just like there's an inherent
9 federal function, maybe there should be an inherent tribal
10 function, that people -- there are certain things that
11 have to be done. And only if it's going to be, you know,
12 one quarter of the time of your realty person rather than
13 having an appraiser -- of course, we'd all love to have an
14 appraiser, but realistically we wouldn't keep one busy
15 ourselves, but we have to have our realty person take a
16 certain amount of their time.

17 So maybe there would be some way to figure out
18 what that would be for, you know, small, medium, large
19 tribes.

20 MR. LESANSEE: One thing at least we noted,
21 there's different presentations for the different
22 activities, the realty activities and appraisers. Thank
23 you.

24 MR. GAY: Rick Gay, Umatilla tribes.

25 Just a thought on -- specifically on this might

1 be to, in a five-year, seven-year average, look at the low
2 point for that tribe and make that the base. And so that
3 kind of becomes their base, and the workload variation is
4 what -- you'd be dealing with that variation.

5 But if you look at a tribe -- you know, like in
6 your example, if the low year was 30 and it moves between
7 30 and 50, then maybe whatever comes out of what's
8 decided, that the 30 point becomes the base, or in that
9 average, in that moving average. So when it drops to 28
10 or 25, they're still funded at that low point at the
11 average, as a thought.

12 I'm not going to be able to come back this
13 afternoon, so I wanted to make a few comments.

14 MR. PERNICIARO: Okay. Sure.

15 MR. GAY: One of the things, I agree with this
16 process that you're going through, and I think, given the
17 history of this program, it's something that's needed, and
18 I think it's needed from top to bottom.

19 You're talking about inequities maybe between
20 tribes, but I think that part of what needs to be looked
21 at: Are there inequities between regions within the OST
22 itself and that how regional amounts were decided upon,
23 regional staffing levels versus workloads, residual
24 amount?

25 You know, I would suggest that OST go back to

1 square one and essentially do a cost-based budget on your
2 residual functions. And I'm not sure if OST basically
3 feels that they are bound by the implementing regulations
4 issued by Indian Affairs. The reg that you've cited here,
5 the 25 CFR 1000, of course, is a Title IV implementing
6 reg. It was issued -- you know, the reg was issued by
7 DOI, so of course I would argue that it does apply to OST
8 and not just IA.

9 MR. PERNICIARO: I would concur.

10 MR. GAY: So that essentially you might wind up
11 negotiating with tribes on the issuance of this report
12 about, is that really a residual function or not, or is it
13 just part of regional appraisal process?

14 You know, obviously the reviewers are needed,
15 but how many reviewers are needed in each region for the
16 workload? Because under the law, tribes can't issue an
17 appraisal, and as of now, only OST can officially. So
18 it's your signature that makes it an allowable appraisal.

19 So, like I said, I think the entire process,
20 procedure, funding level, staffing levels, et cetera,
21 needs to be looked at. And then start looking at, how do
22 tribes fit into this process? What workload are the
23 tribes picking up within each region of the total
24 workload?

25 I guess the other thing is, is 10 million enough

1 to pay for the total workload or not? If you kind of -- I
2 believe Donna said in '95, or whatever it was, at 3
3 million. If the rule of sevens apply -- three, six, 12 --
4 well, maybe you're funded at a lower level than you were
5 in '95.

6 MS. HOBUCKET: Don't say that.

7 MS. ERWIN: No, I think that's -- this is Donna
8 Erwin, but I think it's important, because I think that's
9 true. We need to get to the point where we're supporting
10 what we need and what the tribes need. I think if we're
11 not doing that -- so what do we need, all of us together,
12 to run this program?

13 And if we don't, then that's what we need to
14 make sure that we move forward to OMB and to the
15 department and to Congress, this is what's really needed
16 to run this and run this right, and I think that's true
17 for most every program. Right now it's appraisals we're
18 trying to start with. I think that's true.

19 MR. LESANSEE: And I think the
20 appraisal-requirements issue comes from -- has to be
21 addressed in different avenues or different ways, because
22 part of it is to identify existing regulations and how --
23 are they still current? Is it necessary to have
24 appraisals for every real estate transaction? Should the
25 policies be changed or regulations be changed that we

1 could provide something other than site-specific
2 valuations, or is an appraisal necessary?

3 Or another thing we're finding out, too, are the
4 land administrators actually executing the existing
5 regulations they have in place? Like, for instance, gift
6 deeds. The statutes allow for an appraisal to be waived
7 by the landowner if certain conditions as far as family
8 relationships are met.

9 MR. GAY: And that's all, I think, part of the
10 bigger process, you know, do you need to do an appraisal
11 when a tribe is granting itself a right-of-way across
12 tribally owned land?

13 MR. LESANSEE: Yes.

14 MR. GAY: There's a lot of things.

15 Moving on, I would support, you know, a
16 work-based -- yes, the load-based or work-based option.
17 Again, I tend to agree with kind of a floor, especially if
18 you have some wild swings. And I would encourage using a
19 longer term to really spread that out, like the
20 seven-year -- minimum five, but even seven, because a
21 number of appraisals, like rangeland, you know, are on a
22 longer term. And so to pick up those variations and
23 minimize the fluctuations.

24 I think one of the things you also need to look
25 at when you're looking at this, and whether or not there's

1 the resources, even a workload-based formula you may have
2 different factors because of all of the different types of
3 appraisals that are done and the different costs of those
4 different types of appraisals. Are you -- you know, so
5 you may want to be looking at possibly by region at least
6 what's the average cost, or you may need to bring that
7 down to the tribal level.

8 If one tribe is -- if 90 percent of their
9 workload is right-of-ways and another tribe it's land
10 transactions and another tribe it's ag and range leases,
11 you could have some wide variations in what is the actual
12 need for resources at any given tribe, and those could
13 vary greatly within a region.

14 I know the east side of Washington and Oregon
15 are a heck of a lot different than the west side, and your
16 30 tribes in the Seattle area versus Yakama, Colville,
17 Umatilla, Nez Perce.

18 Another issue I would like you -- like to see
19 you work with IA is to resolve the issue of timber values
20 and who's responsible. You know, is that part of the IA
21 forestries?

22 MR. LESANSEE: Yes.

23 MR. GAY: Well, I know that's the OST answer. I
24 know the IA answer, at least generally at the --
25 especially at the local level, is no, it's not.

1 MS. ERWIN: Have you heard that before?

2 MR. LESANSEE: There have been some discussions
3 in the past. At one point I think there was a policy
4 directive from NBC that in the past the northwest regional
5 office had provided some timber valuations, and it was
6 determined or decided by Washington or the previous chief
7 appraiser that the OAS did not possess the competency to
8 provide timber valuations.

9 And I think -- and I think maybe Rena can maybe
10 elaborate on that situation. I think it went a full
11 circle, and it went to outsourcing, and we found that the
12 contractors were actually getting the information, timber
13 cruise data, from the tribes and BIA. So it was expensive
14 and it wasn't efficient. I mean, the experts are in the
15 BIA. They have the data, the inventories and so forth.

16 MS. ERWIN: But we need to work that out.

17 MR. GAY: Yes. And they will tell you, yes, we
18 can give you cruise information, but we know nothing about
19 the lumber business; therefore, we have no idea of what
20 the value of that cruise information is. I know that goes
21 to a lot of different things.

22 I'm sure I've got a lot more comments, but I'll
23 stop hogging the mic, and as I think of them, I'll pass
24 them on.

25 MR. MOSES: I'd like to start. Following the

1 Umatilla, my concerns are numerous. I'm anti-government,
2 I think, beginning to think that, for a number of reasons.
3 The residual we're talking about is -- how is that
4 formulated? If it wasn't for the Indians, the government
5 wouldn't be needed, but it works in the opposite
6 direction: That we get the dollar and then everyone gets
7 the \$100. So that money needs to filter down to where
8 it's needed as opposed to the present situation.

9 This NBC thing, must be apparently a new -- a
10 new thing. I was gone for a couple of years and come back
11 and indirect cost process, and we used to go to
12 Sacramento, argue with a guy down there, and we'd get our
13 indirect cost rate. Now it's a thing called NBC, who
14 knows nothing about -- it's kind of like the BLM people.
15 They know nothing about Indians, never dealt with the
16 Indians, but they're the ones that supply the surveyors
17 and whatnot.

18 So I have a real problem that. They're good at
19 creating all these things, all these entities that are
20 overseeing Indian Affairs. I told our trust officer time
21 and again when she was on the other side -- she went to
22 the dark side. She's now an OST staffer, and we were on
23 the same page here a couple years ago, that why do we need
24 government to monitor government entities? One government
25 entity over another government entity over another

1 government entity that deals with Indian Affairs? I
2 didn't know we were so complicated.

3 You know, if I had my druthers -- we are no --
4 we shouldn't be treated any different than any state is.
5 You know, the state -- the state, in my mind, is less than
6 an Indian tribe and a sovereign nation like us Umatillas
7 or anybody else, any other Indian tribe. But they have
8 far more authority from the powers-that-be to do things.
9 They don't have the controls put over them like we do, and
10 it seems like every year something else crops up.

11 People -- you probably hear this all the time,
12 but people always say, you guys don't pay taxes, you don't
13 do this, you don't have to do this. We're the most
14 controlled population in the country, federal, state, and
15 tribal. Nobody has that, those regulations.

16 So back to the residuals. How is that
17 calculated? Is it calculated per area, or is it
18 calculated per -- does it start, like the central office,
19 we get our 20 percent and then the next level gets 20
20 percent?

21 By the time it gets down to the tribes, there is
22 no 20 percent. Maybe five, five and a half percent. And
23 that's where the money is needed the most.

24 MR. LESANSEE: I guess, first of all, residual
25 is the amount of money that the government holds back to

1 carry out that inherent federal functions. And before
2 2004-5, it was determined -- I mean, it was based on
3 justification that each regional office, as to how much is
4 needed as far -- to carry out the inherent federal
5 function, if all the tribes contracted or compacted, and
6 it was negotiated.

7 I mean, tribes were given the information, the
8 justifications, and it was all a negotiated item. I mean,
9 the tribes that aren't participating in the -- there's
10 different interests, in other words. There's tribes that
11 determined in the Indian Self-Determination Act, and those
12 that weren't or chose not to, they had an interest, too.
13 So a negotiation would be a discussion or fight over the
14 dollars really and based on the justification that the
15 government provided.

16 Recently, as we mentioned, 20 percent was
17 identified for a residual, leaving the tribes 80 percent
18 to take to -- I guess -- and I'm not sure what the
19 reasoning for that was. Maybe -- I'm not sure, but, yes.

20 MS. ERWIN: Let's talk about NBC. Rick told me
21 he was nice enough not to talk about it. I said, yes,
22 but, see, Harvey wasn't.

23 Let's discuss that, because it's like the
24 elephant in the room, I think, is that back in 2003 -- is
25 that when it started? When did we go to NBC? '4?

1 MR. LESANSEE: Yes, fiscal year 2004.

2 MS. ERWIN: What happened was the department
3 decided they were going to consolidate all the appraisal
4 functions, whether it was Park Service, whoever it was,
5 whoever was doing appraisals within the Department of
6 Interior, they were going to put them within the National
7 Business Center.

8 And the National Business Center is a -- it's
9 sort of a reimbursable group that does services for
10 different people within Interior. And we went out and
11 did -- OST went out and said, you know, we want to do a
12 consultation with the tribes. The tribes said, no, we
13 don't really want to do that.

14 This mic keeps cutting out.

15 We don't really want to do that. So as a
16 result, what they said is that let's -- they said we want
17 to keep Indian preference, we want to keep the people
18 where they are. There were several reasons.

19 So, as a result, the former special trustee
20 worked with the department, and they came to an agreement
21 that NBC -- we wouldn't move the staff to NBC, but
22 basically NBC would be managing the appraisals program,
23 and it was costly.

24 Now, in January -- after we did it in '4, '5,
25 '6, '7, and 8, in '9 we said the former Special Trustee --

1 sent a letter to the Special Trustee -- to NBC and said we
2 want to sever this contract. We're not seeing value
3 added. And when they did, they came back and said, well,
4 gee, don't you want us to do a compliance? How about
5 this? So I think that's where that 20 percent came from.

6 So we're here, and we do want to sever that
7 contract, except that there are lots of levels for us too.
8 When we talk about even a government program, we talk
9 about the three-prong approach. It's a risk-management
10 review by the managers, an internal audit, an external
11 audit.

12 So I know all those are going on, but the
13 compliance to come in and test to see are we doing
14 correct -- are the appraisals what they should be, that is
15 an audit function that probably we will have to pay NBC
16 for.

17 But other than that, we would like to terminate
18 that and say we can use that money better to get it back
19 out to the field. So the 20 percent is something they
20 started, and we don't agree with that. It makes us
21 nervous, too. We want to do exactly what you guys said.
22 Let's start with what money we have, and let's say what do
23 we need as residual, and then work down.

24 So I think that's what we're sort of here for,
25 is, say, guys, you guys are much better at helping us,

1 saying -- feeling like when you get the dollar, you're
2 getting most of the dollar there to actually do the work.
3 So that's what we really are here for, is to say let's
4 start with the whole pie and move down and say, here's
5 what we need to take care of compliance, the residual,
6 overseeing the program, the administrative sides, sort of
7 like your indirect costs, and then say, now what does it
8 take for each tribe?

9 I think we have some great ideas. Not all
10 appraisals are the same, but I don't think we have to
11 start with any preconceived notion that that 20 percent is
12 set in concrete.

13 Harvey, are you through? Do you want me to
14 bring that back to you? Indian to Indian here. Do you
15 have other questions?

16 MR. MOSES: Not right now.

17 MS. HOBUCKET: My name is Eugena Hobucket.

18 To go along with the conversation is, my first
19 thought on the whole thing was the historical part of when
20 we went back -- when we went down to Las Vegas. You know,
21 I didn't understand that the NBC was going to be getting
22 that account down there, and that's kind of -- that was
23 kind of a surprise to hear that.

24 But one of the things that -- you questioned
25 whether or not, I believe, the \$10 million budget and the

1 20 percent will go up, you know, or does that -- will that
2 fluctuate and, you know, does that money go back to
3 Congress if we don't spend it? Do you have a method of
4 distributing at the end of the year for excess funds that
5 you might be able to have to tribes?

6 So that would have to be something that would
7 really need to be considered, because, you know, I can't
8 imagine that, you know, you'd be -- 20 percent of \$10
9 million would be a heck of a lot. That would be a
10 windfall almost for a program that merely come -- I know
11 you don't have very much money.

12 MR. LESANSEE: Actually, I think our
13 expenditures over the last, what, three years have been
14 about ten, 10 million, to carry out the appraisal
15 function.

16 MS. ERWIN: But that was with NBC contract.
17 Right.

18 MR. LESANSEE: A small portion of it.

19 MS. ERWIN: It was with the NBC. I think we
20 want you guys to tell us, give us some ideas on how do we
21 make this thing work. There's no preconceived --

22 MS. HOBUCKET: Get rid of the contract.

23 MS. ERWIN: We're getting rid of the contract.
24 We're trying hard. We're sort of easing out of it, but I
25 agree.

1 MS. HOBUCKET: I have no idea how they ever
2 became a part of the Indian organizations.

3 MS. ERWIN: We didn't either.

4 MS. HOBUCKET: They have become a pain.

5 MR. PERNICIARO: Bob went to get more batteries.
6 Do you want it back? All right. You've enticed me.

7 There we go.

8 MR. MOSES: The compliance thing, why is there a
9 special agency set up for compliance with OST? I don't
10 understand that. We have private people that come in and
11 do our audits, and in my mind that's compliance. We don't
12 have to pay them, set them up on a yearly, this is what
13 you're going to get every year to assure our compliance.
14 You know, that's ridiculous.

15 MS. ERWIN: We agree. So we're hoping -- we've
16 finally done the '09, but we're saying, Tim, we have a
17 review audit that does our audits. It's looking at the
18 review process, it's looking at the internal. We're
19 hoping to get out of the contract. We'll keep you guys
20 posted as we move out of that one or ask for your help.
21 We'd like to say, "Help. We'd like to be out of this
22 contract."

23 MR. MOSES: That's not part of the Obama
24 stimulus thing, is employing these people just for the
25 sake of employment?

1 MS. ERWIN: No. NBC has been there, but we're
2 trying to back out of that contract as much as possible
3 because we don't see the value in it. We agree. How's
4 that? We agree.

5 MR. MILES: Aaron Miles, Nez Perce tribe.

6 My concerns are with the -- you know, these
7 programs, the way they evolve over time, how they're
8 developed internally, whether it was with the Bureau of
9 Indian Affairs, now OST, you know, the flexibility with
10 in-house, the way they have evolved internally without the
11 tribes' consent for many years.

12 And I'm not talking you guys aren't doing your
13 jobs now by trying to have these meetings, but the Nez
14 Perce tribe, we're a reservation where it's checkerboarded
15 already. It's really checkerboarded big time. And
16 there's more rules and regulations coming down that give
17 the ability -- the counties the abilities to come in and
18 have a say-so on our fee-to-trust.

19 It's the whole package here we're talking about.
20 We're not just talking about appraisal or anything like
21 that; we're talking about the whole stance of the federal
22 government with tribes and the trust relationship and how
23 that's failing, you know.

24 And I was hoping -- because I voted for Obama, I
25 was hoping that would be the theme of how we move forward

1 together as really that trust relationship in a positive
2 manner, you know, and to protect our tribal sovereignty,
3 not to see it eroded and, well, you'll get your tribal
4 shares this year and, you know, you can do -- only do so
5 much with it.

6 I mean, I realize it's only part of all the
7 tribal -- tribes individually don't have the capacity to
8 keep with this workload. We just don't, you know. And to
9 me there's got to be a better solution than just, you
10 know, what we have right now and the ineffectiveness that
11 will continue to plague Indian country.

12 I'd like to see a brainstorming session where we
13 can move beyond what we presently have. I'm just kind of
14 frustrated, you know, and you guys are the ones to hear it
15 out, I guess.

16 MR. LESANSEE: Thank you. You know, we've
17 been -- in the past we've been told -- we've heard that,
18 you know, the 80 percent of the BIA budget is directed
19 toward the management of fractionated interests. I think
20 in OAS you can see that too, the consistency, the area
21 regions that have the highly fractionated interests.
22 That's where a lot of the appraisal activity is there.

23 The challenge keeps growing and growing. And
24 let me tell you, our regional appraisers, the regional
25 staff, they're challenged. How you do the job better and

1 most cost-effective, the most efficient way of doing it
2 with the limited resources that we have? It's difficult,
3 and it's growing.

4 But, hopefully, looking at it on a broader
5 basis, looking at the regulations and the policies that
6 exist on, you know, the regulations or the management,
7 land administration side will help us in that regard to
8 control that fractionation problem.

9 MR. MILES: I guess what I'm saying, with the
10 Nez Perce reservation, the function of an appraisal is
11 much different than somebody, say, owns their reservation,
12 they have fractionalized interests. Really, our goal is
13 to buy back our reservation, and it's totally different
14 than somebody who's, you know, trying to acquire some
15 allottee's interest. That's part of it. But the function
16 of the BIA, OST should expand to help us out in that
17 regard.

18 MR. LESANSEE: You know, earlier I mentioned the
19 example between western and Navajo region. I think that's
20 a good example of the situation, where the tribe owns a
21 majority of the interest. They have more discretion as
22 far as requirements for valuations, you know. Like, for
23 instance, leasing: Navajo Nation has leasing authority.
24 They can waive an appraisal requirement under their
25 special -- the legislation to manage their own leases,

1 whereas in allotted country or areas where it's highly
2 fractionated or there's a lot of -- in that situation,
3 there's different standards or requirements that require
4 valuations and I think certain other land administration
5 requirements that can become overburdening, burdensome.

6 And I think -- I think that the Navajo Nation,
7 because of their majority of their ownership, with the
8 exception of the eastern side of it, I think it
9 demonstrates when the tribe owns a large body of land, the
10 valuations requirements aren't -- there might be a
11 correlation, but I see their present needs aren't as high
12 as, say, next door in Arizona, where there's a lot --
13 there's some fractionated ownership there.

14 So the amount of appraisals and the amount of
15 money is higher there than the Navajo.

16 MR. JOSEPH: You talk about fractionated
17 interests, but the information we had from last November,
18 December, that this money, the land purchase program, was
19 zeroed out because it was deemed not successful.

20 But I'm having a problem with that, but I'm also
21 having a basic problem because all of this land, natural
22 resources issue has been changed over, seemingly, into
23 some sort of accounting program, which leads me to my --
24 not a statement, but it's a wish for some tribes that OST
25 be rolled back into the BIA, that there be a sunset to OST

1 being separate and just to maintain or retain some of
2 those functions that, by their account, by OST's account,
3 they do well, which is supposedly the accounting.

4 And that may be so, but in all the years that
5 I've seen this issue of fractionated, fractionated lands,
6 and this very issue we're talking about here, it's all a
7 barrier for the tribes themselves to acquire lands,
8 either -- they could be trust lands, in a lot of cases fee
9 lands, just for consolidation purposes, and these barriers
10 are dropped up.

11 And I think we were given a hint of this back
12 three or four years ago at a meeting in Coeur D' Alene
13 when the OST trustee was talking about what a
14 hinderance -- the trust nature of all our assets is a
15 problem to us and, you know, maybe it would be better if,
16 you know -- his thrust was that he would like to get us
17 out of the Indian business, and that's where we're going.
18 That's what I'm concerned about.

19 Thank you.

20 MS. ERWIN: I think we were at the meeting, and
21 I think the thrust was -- and I guess I want to sort of
22 talk about fractionation, and I don't think it's just an
23 accounting. I mean, I think it's very much the leasing
24 and making things productive. There's a lot of really
25 small, small interests. And I don't remember that

1 comment, but I wasn't there in all the meeting, but I
2 think more --

3 MR. JOSEPH: It was a meeting personally, didn't
4 call the tribes in a room like this.

5 MS. ERWIN: Okay. I think one of the things --
6 it's not, let's get the tribes out of the business; it's,
7 how do we get the lands back to the tribes when there's
8 small, fractionated interests and we have some 80,000
9 people that we can't locate?

10 One of the things -- yes, I think you saw the
11 zeroing-out of the ILCO project (ph), but I think what
12 continued to happen -- and we're continuing to meet with
13 Indian Affairs on a continuing basis, and they have some
14 money in '09 and '10, there's some money being put back
15 into the program.

16 They're looking for -- I think you will see some
17 similar type of a meeting coming out saying, how do we
18 approach a large, more comprehensive rebuilding of the
19 reservation and some of the really small fractionated
20 interests? How can we do that, rather than just try to
21 buy little bits using three or four million dollars a year
22 to buy? How do we do that on a more comprehensive basis
23 to get that put back together and moved back to the tribal
24 ownership?

25 So I think you'll be hearing more about that in

1 this coming year from Indian Affairs and OST. So I agree
2 that what we're trying to -- even though it went down for
3 a little while, I think we're looking for a more
4 comprehensive program to try and purchase those.

5 UNIDENTIFIED SPEAKER: Yes, the Indian Affairs
6 scraped together \$3 million to keep the basic structure of
7 the land consolidation program together and some minor
8 purchases. The program has moved back Indian Affairs, and
9 there's another 3 million in the 2010 budget that is in
10 front of Congress at the present time, and there are 5
11 million or 7 million or something, in that neighborhood,
12 that Indian Affairs is proposing that the department has
13 in it -- that the department allows them to keep that in
14 their budget on 2011.

15 And, yes, they do plan -- the study that was
16 done under OST with the Intertribal Monitoring
17 Association, they will be coming out with meetings and
18 discussions with tribes on ways to deal and ideas on
19 dealing with fractionation. So that their plan,
20 budgetarily, is to get that program refunded, and it is
21 back under Indian Affairs at this point.

22 MS. ERWIN: And the program was never -- the
23 funding came through OST, and we never quite understood
24 why, and we kept asking OND if they would move the funding
25 to Indian Affairs. The program was never under OST; it

1 was under BIA. The funding was to us, and we passed it
2 along. It was silly.

3 Anyway, all we did was pass the money along each
4 year. So we're really looking for a large program on
5 that. That's something that's really important to move.

6 I'm going to have to leave. I'll be back. I
7 have to take a call with Larry.

8 MR. LESANSEE: Any other questions?

9 It's about noon. If you have questions, you
10 might want to think about it over lunch. It's lunchtime
11 now. And if you wish to come back with additional
12 questions, we'd be happy to entertain them this afternoon.
13 We'll come back together at 1:30.

14 The workload statistics per tribe for the
15 Northwest region, Rena has the report if you're interested
16 in receiving one. Thank you very much.

17 Those of you that aren't planning on coming back
18 this afternoon, I really appreciate you coming out to
19 discuss this very important issue. Hopefully, with your
20 input, we can come up with the tribal shares formula that,
21 you know, is acceptable to all parties.

22 There's been some really good feedback here,
23 Oklahoma and Rapid City. There's some good ideas at the
24 tribal level and at the federal level. One of our biggest
25 critics -- not critic, but one of the strongest feedback

1 was also internally, too, as well, and it's helped us in I
2 think preparing us for the next meeting. Appreciate it.

3 UNIDENTIFIED SPEAKER: May I recommend when you
4 come up with proposed shares, that you come back and at
5 least share it and accept comments back and don't just run
6 around the country and have six consultations and then
7 come out and say, okay, guys, based upon what you told us,
8 here's what we're doing.

9 As you know, as Rena knows, and I know Donna
10 knows, that doesn't work in Indian country.

11 MR. LESANSEE: Yes. The one thing that was a
12 question in Oklahoma was, do we have one -- a tribal share
13 formula or shall it remain at a regional-specific level?
14 So, that's another thing that you might want to think
15 about.

16 Thank you very much. Have a great afternoon.

17 MR. BECENTI: One more thing: I would ask if
18 you haven't signed the sign-in sheet, that you do so, so
19 we have it for the record. Thank you.

20 (Applause.)

21 (Meeting adjourned.)

22 * * *

23 (NOTE: Untranscribed steno notes archived
24 ten years on computer; transcribed English
25 files archived five years on computer.)

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CERTIFICATE

I, Robin L. Nodland, an Oregon Certified Shorthand Reporter, a Registered Diplomate Reporter, and a Certified Realtime Reporter, do hereby certify that I reported in stenotype the proceedings had upon the hearing of this matter, previously captioned herein; that I transcribed my stenotype notes through computer-aided transcription; and that the foregoing transcript constitutes a full, true and accurate record of all proceedings had during the hearing of said matter, to the best of my ability, and of the whole thereof.

Witness my hand at Portland, Oregon, this 18th day of August, 2009.



Oregon CSR No. 90-0056

