

U.S. DEPARTMENT OF THE INTERIOR
INDIAN TRUST ASSET REFORM ACT
(ITARA) OF 2016
TRIBAL CONSULTATION

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1 MS. DUMONTIER: Good morning, everyone. We're
2 going to get started. Chairman Frost is going to give us
3 a welcome.

4 CHAIRMAN FROST: Good morning to all of you.
5 Glad to see you all made this meeting. We want to start
6 off this day asking our creator for a thank you for all
7 things.

8 (Native American Prayer.)

9 Grandfather, I ask for your blessing this morning
10 upon all those who are here today and bless their families
11 back home. Bless their travels back and forth. Watch
12 over them, Grandfather, that no harm come to them. Give
13 them the wisdom, give them the understanding, give them
14 the thoughts that will lead the people in the right way
15 and help the people. Give blessing upon this meeting,
16 Grandfather. Help us to learn from one another on our
17 concerns and all our issues. Give us that direction and
18 that wisdom to help one another. I ask for your blessings
19 upon all of our veterans, those that have fought the
20 battles that are home. Bless them and honor them. We ask
21 for your blessings and protection for all those armed
22 forces that are in battle now. Bring blessings to them
23 and protect them and bring them home safely. We ask for
24 your blessings upon our elders. Give them good hearts,
25 strong hearts to make their journey through their

1 lifetime. Help them along the way. Help those that are
2 sick, that are ill, and need your help. Bless them with
3 their travel. I ask for your blessings upon children so
4 our children can be strong and lead good lives and won't
5 have to be hampered by all the drugs. Watch over them.
6 Give them the right path, the right travel, the ability to
7 travel. Thank you for all the animals that you have put
8 upon this earth here and the pheasant and the fish and all
9 those that you have put here for a purpose. We ask for
10 your blessing upon them. Most of all, Grandfather, bless
11 -- thank you for this life that you have given to us, this
12 life that we are now taking care of and all the things
13 that you have created. I ask for all these blessings,
14 Grandfather, with this humble prayer. Amen.

15 (All say, "Amen.")

16 MS. DUMONTIER: Thank you for those powerful
17 words.

18 Welcome to the Indian Trust Asset Reform Act
19 Consultation session. My name is Deb Dumontier. I'm the
20 Deputy Special Trustee for the Office of Special Trustee
21 for American Indians. I'm honored to be part of this the
22 consultation session today in Albuquerque.

23 My tribal affiliation is the Confederated Salish
24 and Kootenai Tribes of the Flathead Nation located in
25 Northwest Montana. It is a large, land-based tribe fully

1 exercising self-governance.

2 I was legal counsel for CSKT for 10 years and I'm
3 a licensed attorney with the state of Montana. For the
4 past 11 years, I have been working with OST implementing
5 and leading trust reform. On behalf of the Department of
6 Interior, the staff here today, and those working
7 throughout Indian Country, it is a privilege to serve you,
8 to be a partner in the government-to-government
9 relationship, our relationship envisioned by our ancestors
10 who taught us to protect what has been passed on to us.

11 We appreciate the attendance by tribal
12 leadership, representatives and tribal members of this
13 consultation. We also appreciate the participation by
14 Clint Hastings, advisor with the Assistant Secretary of
15 Indian Affairs. Excuse me. Mike Black, Director of the
16 Bureau of Indian Affairs, Helen Riggs, Deputy Bureau
17 Director, Trust Services, Lauren Difilippo, Office of the
18 Solicitor, and our other federal partners.

19 There may be members of the media here today.
20 The press is welcome, as this meeting is an open meeting.
21 However, we respectfully request that you do not disturb
22 the tribal consultations, and that any questions by the
23 media be reserved until after the consultation session.
24 And you may notice that we are also webcasting this
25 session, but normally, the federal presentation is for our

1 federal staff.

2 As you're aware, the Indian Trust Asset Reform
3 Act was signed by the president on June 22nd. We are
4 holding numerous consultation sessions across the country,
5 and the last session will be a telephonic consultation.
6 We are accepting written comments until September 30th,
7 2016. This legislation is an important step in our
8 commitment to strengthening tribal sovereignty and
9 decision-making. It also gives us the opportunity to
10 evaluate what has worked and what could be improved within
11 the systems and processes implemented as part of the
12 creation of the Office of the Special Trustee. Our staff
13 and you are a critical part of that evaluation.

14 Today's consultation focuses on Title III of the
15 Indian Trust Asset Reform Act, and you will hear me refer
16 to that as ITARA. The law provides that the secretary
17 will identify all non-monetary management functions
18 currently being conducted by the Office of the Special
19 Trustee; therefore, we are here today to present functions
20 and consult with you on whether these functions might be
21 transferred to other entities within the Interior.

22 I will be presenting a brief PowerPoint on
23 Section 304 here in a few moments. The law also provides
24 that within 18 months, the secretary must ensure that
25 Indian trust property appraisals and evaluations are

1 administered by a single entity within the Department.

2 Today, we are seeking feedback on that transition.

3 Mr. John White will present an informative
4 PowerPoint on Section 305(a) and some suggestions on how
5 this might be accomplished. But we look forward to
6 hearing your ideas. We have a short presentation on Draft
7 Minimum Qualifications for individuals to prepare
8 appraisals and evaluations of Indian trust property. When
9 an appraiser meeting these minimum qualifications prepares
10 an appraisal of Indian property, and the user of the
11 appraisal intends to forego departmental review, the
12 Department will be able to rely on that appraisal without
13 further review.

14 You, as the trust beneficiary, can submit the
15 appraisal to the Department for use in a trust property
16 transaction, express your intent to waive the review, and
17 no departmental review of the appraisal will be required.

18 We are developing a proposed rule that
19 establishes the minimum qualifications, and we are
20 interested on your views on them. We are also interested
21 on your views on the process by which the Department would
22 verify that no -- or that an appraiser meets those
23 qualifications. And those, among other questions, we will
24 be presenting to you later today.

25 Finally, we are interested in your views on the

1 establishment of an Under Secretary for Indian affairs.
2 ITARA provides that the secretary may establish an Under
3 Secretary for Indian affairs who would report directly to
4 the secretary. We want to hear your thoughts on that
5 provision.

6 We're anxious to hear your comments and
7 suggestions. We have four short presentations and, in
8 general, we want to hear from you.

9 Next, is my presentation on Title III, Section
10 304 of the Indian Trust Asset Reform Act, improving
11 efficiency and streamlining processes. First, I'd like to
12 acknowledge our OST leadership here today: Doug Lords,
13 Rob Winter, Elred Lesansee, and Lee Frazier.

14 And also, a big shout-out to our OST and BIA
15 staff for setting this consultation up. Thank you for all
16 your hard work.

17 Again, Section 304 requires the secretary of the
18 interior to identify non-monetary functions that OST
19 performs, which is an opportunity for us to reflect upon
20 our current practices and to hear your recommendations
21 regarding this section of the Act, as we chart a path
22 forward together with Indian Country.

23 It's also an opportunity to reflect on the
24 Department's progress on trust reform, and the next few
25 slides will provide you a brief overview and some context

1 of the Office of the Special Trustee.

2 Why was OST created? The American Indian Trust
3 Fund Management Reform Act of 1994 created OST in response
4 to strong demands for accountability and transparency for
5 the Indian Trust Funds. The primary purpose of OST was to
6 improve management of the Indian funds and the assets held
7 in trust by overseeing and coordinating trust reforms
8 within the Department.

9 In 1996, OST's role expanded by secretarial order
10 to include operational responsibility for financial trust
11 management, including accounting, investing and disbursing
12 to individual Indians and tribal beneficiaries. OST was
13 later delegated the functions of appraisals of Indian
14 trust lands and historical trust accounting.

15 This next slide demonstrates the complexity of
16 our work, not only in trust funds managed, but the number
17 of accounts managed. Implementing a modern, centralized
18 fiduciary trust accounting system, OST currently manages
19 approximately \$5 billion, OST receipts and disburses 1.7
20 million each year, with a 99.99 percent accuracy rate, OST
21 processes, on average, more than 400,000 financial
22 transactions each day, totaling more than 10 million
23 transactions annually.

24 As the pie charts illustrate, the greatest
25 balance over 80 percent is held in 3,300 trust accounts

1 for 250 tribes, invested individual portfolios to meet the
2 cashflow objectives of the respective tribes.

3 Approximately, \$845 million or 17 percent of the trust
4 funds is invested in pooled account for over 400,000
5 accounts or 99 percent of the total accounts managed.

6 Since the settlement, OST has received an
7 unmodified opinion on the IIM financial statements
8 conducted by an independent major accounting firm for
9 three consecutive years. In addition, OST has developed a
10 strong focus on beneficiary services to ensure that our
11 tribes and individual beneficiaries receive the customer
12 service necessary to empower them with the knowledge to
13 make informed decisions about their trust assets.

14 Congress requested identification of all
15 functions other than collection, management and investment
16 of Indian trust funds that OST performs, specifically,
17 those functions that affect or relate to the management of
18 non-monetary trust resources, which is the appraisal
19 services. For full transparency, we've identified our
20 functions based on the budget justification for OST
21 programs.

22 In addition, OST has developed a comprehensive
23 fiduciary trust model to enhance beneficiary services and
24 accurately account for the Indian trust funds. So some of
25 the functions are interrelated with the monetary and

1 non-monetary resources. That asterisk denotes functions
2 that impact other Department of Interior offices, bureau
3 or the tribe. And you will find a function -- or you'll
4 find a description -- in this function diagram in the
5 materials that we provided to you today.

6 In addition to the improved financial system and
7 maximized service delivery to the beneficiaries displayed
8 on this slide, OST established the Office of Trust Records
9 and American Indian Records Repository, the AIRR. The
10 AIRR is located in Lenexa, Kansas. It is a dedicated
11 underground storage facility used for the proper
12 safeguarding and storage of fiduciary trust records. This
13 is a major achievement. The AIRR has specially-trained
14 staff dedicated to protecting very important documents for
15 Indian Country. And if tribal leaders are interested in
16 visiting the AIRR, please let us know so that we can make
17 that arrangement.

18 OST has enhanced beneficiary services with trust
19 officers and staff available to assist beneficiaries
20 either on tribal lands or in close proximity to those
21 lands, and to partner with the Bureau of Indian Affairs,
22 the Office of Natural Resources Revenue, the Bureau of
23 Land Management, and other federal and state agencies and
24 tribes, in addressing Indian trust matters on a regional
25 and local level.

1 And I'd like to recognize that we do have some of
2 our fiduciary trust officers here today: Virginia, Liz,
3 Jonathan. Thank you.

4 OST also operates a toll-free trust beneficiary
5 call center with expanded hours of service in direct
6 support of beneficiary calls and inquiries, providing
7 consistent, timely and accurate information.

8 The TBCC has responded to more than 1.8 million
9 calls since 2004 with a first-line resolution rate of 94
10 percent. The industry standard is less than 50 percent.

11 The OST field operations dedicated and direct
12 service to beneficiaries, complements the work of our
13 federal and tribal partners so they may remain focused on
14 their mission and important stewardship of the natural
15 resources and lands.

16 In addition, our field staff aggressively looks
17 for account holders with unknown addresses through
18 outreaches and inter-agency collaboration and searches of
19 over 7,000 electronic databases. Thus far, we have found
20 more than 330,000 account holders and distributed more
21 than \$386 million.

22 The success stories are awesome, and in some
23 cases, drastically changing lives. This work has also
24 helped the land buy-back program for tribal nations and
25 getting purchase offers out to tens of thousands of Native

1 owners of fractionated land.

2 Our fiduciary trust officers and regional trust
3 administrators provide financial empowerment training to
4 promote economic self-sufficiency. And OST also provides
5 beneficiaries with statements of their accounts, including
6 funds activity and real property assets, to help increase
7 financial awareness and to inform individuals and tribes
8 of their interests.

9 OST's ongoing initiatives to streamline and
10 automate processes are based on best practices and lessons
11 we have learned from our close work with tribal leaders
12 and communities. Trust resource and asset management in
13 Indian Country must not be a statement, and trust reform
14 should always be a work in progress.

15 OST is developing a 21st century tool to enhance
16 services such as online banking for IIM accounts. We are
17 enhancing StrataWeb, which is how tribes currently access
18 tribal account information. OST continues to work on
19 probate reform initiatives and provide support for Indian
20 estate planning services, to assist Indian land owners
21 with understanding the American Indian Probate Reform Act.

22 We are reducing our carbon footprint and
23 promoting cost-effective efficiencies with automating
24 trust processes and digitizing trust revenues.

25 OST will continue to support Cobell settlement

1 and land buy-back program for tribal nations with our
2 expertise and innovation with appraisal evaluations,
3 outreach and account services.

4 And of interest to tribes contacting trust
5 programs, OST has developed, with the assistance of nine
6 pilot tribes and consortiums, an online evaluation tool to
7 streamline the evaluation process, that is less burdensome
8 on tribes than the current evaluation process. And we
9 have a video available with further information about the
10 tribal methodology project. And what's interesting about
11 this project, it may meet some of the requirements in
12 Title 2, the administration project.

13 Benefits to separation of duties. We know that
14 OST's value hasn't a position with any particular office
15 of the Department, but rather from a singular focus and
16 discreet duties related to the fiduciary trust
17 responsibility. Moreover, these duties must continue no
18 matter which office the functions are located, to maintain
19 the level of service that Indian Country deserves.

20 The core trust accounting functions providing
21 direct beneficiary service and maintaining internal
22 controls were created separately with the intention of
23 operating independently of the general trust operations.

24 This structure was created to avoid conflicts of
25 interest, co-mingling of resources, redirection or

1 re-prioritizing other interests, to ensure accountability
2 and delivery of services. Separation provides a dedicated
3 and direct approach to managing the Indian financial trust
4 assets in accordance with sound fiduciary trust principles
5 and practice.

6 We look forward to working with all of you to
7 implement the 2016 Indian Trust Asset Reform Act, and
8 welcome the opportunity to dialogue with you, to develop a
9 strong plan to serve Indian Country.

10 The handouts provided today, are also posted on
11 the ITARA website. We have also provided links to various
12 documents and reports, such as our annual audit and other
13 background material for your reference.

14 In the meantime, the OST staff continue to work
15 hard to serve Indian Country, and remain focused on our
16 mission, to honor our trust responsibility with a
17 beneficiary focus and participation, while providing
18 superior stewardship of the trust assets for the proper
19 discharge of the secretary's trust responsibility.

20 So that concludes my presentation. I'm going to
21 turn the microphone over to John White to discuss
22 appraisals, Section 305. So thank you for your time and
23 attention.

24 MR. WHITE: Thank you, Deb.

25 Again, my name is John White. I'm the Deputy

1 Special Trustee for Program Management. I'm an enrolled
2 member of the Sisseton Wahpeton Oyate located on the Lake
3 Traverse Indian Reservation in Northeast South Dakota.

4 I've been with the federal government for 26
5 years. Twelve of those years were with the Bureau of
6 Indian Affairs where I was in the Rocky Mountain Region.
7 I worked as an accounting officer and I was a
8 superintendent for six years. For the last 14 years, I've
9 been with the Office of the Special Trustee. I've been in
10 my current position for the last four years ago as the
11 Deputy Special Trustee for Program Management where I've
12 spent the last two years where I've had the opportunity to
13 work with the Director, Office of Appraisal Services,
14 providing executive direction and supervision.

15 Section 305(a) requires that appraisals and
16 evaluations of Indian trust property be administered by a
17 single bureau, agency or other administrative entity
18 within the Department. Now, before I get into that, I
19 want to give a little history on where appraisal services
20 has been.

21 In 2002, the appraisal program came from The
22 Bureau of Indian Affairs to the Office of Special Trustee.
23 And then from 2005 to 2009, the appraisal program was
24 administered by the Appraisal Services Director, which
25 later on, turned out to be the Office of Evaluation

1 Services. And then in 2010, OAS moved back to OST.

2 I think when we start to talk about Section
3 305(a), it's also important that we discuss the current
4 appraisal process so that we have a background and
5 understanding of what it is exactly we're talking about
6 when we're talking about single entity and the function
7 transferring to the single entity.

8 First and foremost, it's important to note that
9 the Office of Appraisal Services is responsible for all
10 trust -- all appraisals and evaluations on Indian trust
11 property. And then there's locations where there's
12 mineral states involved and timber involvement on the
13 property appraised where we have to reach out to other
14 entities to get that information. But it's a part of the
15 appraisal process. It's important to note, that not all
16 of the process is under the auspice of the Office of
17 Appraisal Services.

18 Steps one and two where the requester actually
19 requests the appraisal, those generally come from the Land
20 Management Program. That could be the Bureau of Indian
21 Affairs or it could be a tribe with a contract of that
22 function. Once the request and the required information
23 with that request are provided to Appraisal Services, then
24 Appraisal Services does the report. Once the report is
25 completed, a technical review is done, and if it passes

1 the technical review, then the appraisal report is
2 provided to the requester so that the requester can
3 complete the transaction that required the appraisal
4 report to begin with.

5 It's interesting to a little fact, in 2008, the
6 appraisal requests that were past due numbered 3,369. As
7 of July of this year, the appraisals past due are 289. So
8 there was a lot of -- there was a lot of efficiencies.
9 There was a lot of -- I think that first and foremost, the
10 major one was Appraisal Services implemented what's called
11 the "Office of Appraisal Services Information Tracking
12 System," or ORR, which is a tracking system, which tracks
13 appraisal requests from requests, to report, to
14 completion, and then when it's provided back to the
15 requester.

16 Prior to -- prior to that time, there was no
17 tracking system, so we really didn't have a feel for what
18 was out there. So OASIS, an acronym for Office of
19 Appraisal Services Information System, automatically
20 tracks that information. The Bureau has access. Tribes
21 have access. Obviously, OAS has access to that
22 information.

23 I did mention that there are -- although OAS is
24 responsible for providing all appraisals or conducting all
25 appraisals on the interest property, there are occasions

1 where we have to reach out to other entities. In the case
2 of mineral estates, we have to contact the Division of
3 Minerals Evaluation, which is under the Assistant
4 Secretary Policy Management Budget and under the Office of
5 Evaluation Services to secure that information.

6 Then there are occasions also, where timber
7 appraisals are required if there are timber stands on the
8 property appraised. And then in that case, we have to
9 contact the Bureau of Indian Affairs Forestry branch,
10 generally at the agency level, to secure those timber
11 evaluations.

12 These are some interesting facts for FY 2015. I
13 think the one that I call attention to, bullet four, and
14 that's the services that the Office of Appraisal Services
15 provides to the land buy-out program for tribal nations.
16 We were able to provide -- conduct that volume of
17 appraisal -- or complete that volume of appraisal requests
18 for what's called the "Mass Appraisal Model."

19 So I think it's important to note that the land
20 buy-back program is obviously a success with the
21 Department, but that success is directly attributable to
22 the performance that Appraisal Services has provided for
23 that program. Because without those appraisals, the land
24 buy-back would not have been able to make those offers and
25 purchase those fractionated interests that has made that

1 program the success it is.

2 In FY 2015 -- and this is just a good fact -- FY
3 2015, the cumulative appraised values for all the
4 appraisals that the Office of Appraisal Services
5 completed, exceeded \$2 billion.

6 Okay. Again, Appraisal Services conducts all the
7 appraisals on Indian trust property. The intent of this
8 diagram is to show that in FY 2015, the non-land buy-back
9 appraisals, Appraisal Services completed 2,850 appraisal
10 requests without having to reach out to the Division of
11 Minerals Evaluation or VIA Forestry. Two percent of the
12 time, we had to reach out to BIA Forestry to secure a
13 timber appraisal, and six percent of the time, we had to
14 reach out to DME to secure a mineral estate appraisal.
15 But it's important to note that all the appraisals were
16 conducted or were completed by the Office of Appraisal
17 Services. It was just these locations where we had to
18 reach out to get other appraisal information to complete
19 our appraisal report.

20 When we start talking about single entity and how
21 we conceptualized it for this presentation, was the
22 authorities of DME for the mineral estate appraisal and
23 the BIA Forestry program. For the timber appraisal, we
24 envisioned that those authorities would be including --
25 the Office of Appraisal Services authorities would be

1 placed in one single entity. And instead of calling it a
2 single entity all the time, just for the purposes of this
3 presentation, we call it the "Indian Land Evaluations
4 Office." It doesn't mean it's going to be called that.
5 It's just something for presentation purposes only, to
6 demonstrate that this would be an office we envision would
7 have all the authority to conduct appraisals, including
8 mineral estate and timber appraisals on Indian trust
9 property.

10 Now, you remember Section 305(a) this single
11 entity, we have to -- should be administered -- we have to
12 identify who would administer the single entity. We came
13 up with seven options. The first option is the Office of
14 the Secretary, and we listed these options one through
15 seven. It's not in order of preference. It's just to
16 facilitate discussion. Option one isn't better than
17 option seven. Option two isn't better than option six.
18 It's just to facilitate the presentation.

19 The second option is the Office of the Special
20 Trustee. The third option is the Assistant Secretary
21 Policy Management and Budget. That's the office that
22 oversees the Office of Evaluation Services. The fourth
23 option is having this office administered by the Office of
24 Valuation Services themselves. The fifth option is the
25 Assistant Secretary of Indian Affairs. The sixth option

1 is the Bureau of Indian Affairs, and that's where the
2 appraisal program, if you remember earlier, that's where
3 it was administered prior to 2002, and then the seventh
4 option is the other. And that's one if you're familiar
5 with the Department of Interior's organization structure,
6 if there's something -- if there's an entity you believe
7 could administer it, don't feel that you're limited to
8 just options one through six.

9 And so I would just like to kind of briefly go
10 over what I just explained. Okay. So I gave you an
11 overview of the appraisal process. I gave you a
12 background of where the appraisal office was historically
13 administered by, and I gave you the options for the single
14 entity.

15 After all the presentations, if you have any
16 questions on any of the slides I presented, I will be
17 happy to answer them. If we get into real technical-type
18 questions, I'm going to turn those questions over to
19 Mr. Elred Lesensee, the Director of Appraisal Services.
20 And that concludes my presentation. I will turn it over
21 then to Mr. Clint Hastings.

22 MR. HASTINGS: Hi. Good morning, everyone. My
23 name is Clint Hastings. And I am currently serving as an
24 advisor to the Assistant Secretary of Indian Affairs. I'm
25 a citizen of the Cherokee Nation. And prior to coming to

1 the Department in January, I worked for five years within
2 the government of the Cherokee Nation. And while I was at
3 Cherokee Nation, one of the primary duties I had was to
4 always be looking for policies and ways we could empower
5 our tribal government to handle more of its
6 responsibilities itself while ensuring that the trust
7 responsibilities wasn't diminished.

8 And for that reason, I was really excited that I
9 was asked to present today on Section 305(b) of the Indian
10 Trust Asset Reform Act, because this provision in the law
11 provides tribes and individual Indians with the
12 opportunity to have appraisals and evaluations performed
13 without departmental review and approval.

14 So first, what does Section 305(b) of the law
15 actually say? It states that not later than one year
16 after the date that the Act was enacted, the secretary
17 shall establish and publish in the Federal Register
18 minimum qualifications for individuals to prepare
19 appraisals and evaluations of Indian trust property.

20 So in tab 9 of your binder, you've got the draft
21 proposed rule, and this is just a draft proposed rule.
22 We're looking for your feedback. If you can see ways, as
23 I go through this rule, that we can improve, please either
24 provide comments afterwards or submit written comments in
25 the next few months.

1 So this part applies to anyone preparing or
2 relying upon an appraisal of Indian property. First, what
3 are the minimum qualifications for qualified appraisers?
4 A) the appraiser must hold a current, certified general
5 appraiser's license in the state in which the property
6 appraised is located; b) the appraiser must be in good
7 standing with the Appraisal Regulatory Agency of the state
8 in which the property appraised is located; and c) the
9 appraiser must comply with the uniform standards of
10 professional appraisal practices, rules and provisions
11 applicable to appraisers, including, but not limited to
12 competency and ethics requirements.

13 At this point, I want to point everyone in the
14 direction of Section 100.201 through 204. If you look at
15 those sections of the draft regulations, you'll notice
16 that there are three things that an appraiser must submit
17 with an appraisal. First, a copy of the appraiser's
18 current certified general appraiser's license; second, a
19 copy of the appraiser's qualification statement; and
20 third, the appraiser's self-certification that appraiser
21 meets the requirement listed in Section 100.200.

22 And one area where, I think, we really need your
23 help is, currently the rule reads that -- these materials
24 must be submitted with every appraisal. And I think we're
25 looking for a way where we don't have to verify every time

1 all the criteria listed for an appraiser's qualifications.

2 So once an appraisal is done, must you submit an
3 appraisal to the Department? Yes. You must submit
4 appraisals for transactions that require secretarial
5 approval under other parts of Title 25 and Title 43 of the
6 CFR.

7 Next, will the Department review and approve the
8 appraisal? No. If, one, the submission acknowledges the
9 intent of the Indian tribe or individual Indian to not
10 require departmental review and approval; two, the
11 appraisal was completed by a qualified appraiser meeting
12 the rules and requirements; and three, owner of any
13 interest in the Indian property objects to use of the
14 appraisal without departmental review and approval.

15 However, the appraisal must be reviewed and
16 submitted if any of the criteria above are not met, or
17 two, the appraisal was submitted for purchase at probate
18 under 43 CFR 30, the land buy-back program for tribal
19 nations; or three, legislation requiring the Department to
20 approve an appraisal requires it.

21 Okay. Next, what happens if the Indian tribe or
22 individual Indian does not agree with the submitted
23 appraisal? If the Indian tribe or individual Indian does
24 not agree with the submitted appraisal, the Indian tribe
25 or individual Indian may choose to not use the appraisal

1 conclusions or findings; and b) request that the
2 Department perform an appraisal or valuation.

3 Next, is the Department liable if your approved
4 transaction for Indian property is based on an appraisal
5 submitted by an unqualified appraiser? No. The
6 Department is not liable for any deficient or inaccurate
7 appraisal or valuation, if it did not review or approve
8 even if the Department approved a transaction for Indian
9 property based on an appraisal prepared by a qualified
10 appraiser.

11 Okay. So after this brief overview of the rule,
12 here's a few questions that we'd like everyone to
13 consider. First, do any tribes grant certified general
14 appraiser licenses similar to those granted by the state?
15 This question, right here, was really included at the
16 demands of a person in our office that was a former
17 chairwoman of her tribe. And she said, you know, "Hey,
18 why we requiring tribes or individual Indians to receive
19 appraisals through folks that are only certified through
20 states? What about tribes, if they want to license
21 appraisers?"

22 So we're not sure if any tribes actually do that.
23 But if they do, another question we have: Are the
24 prerequisite requirements of individuals receiving this
25 license consistent with the requirements established by

1 the appraisal qualification boards for state
2 certification?

3 Another question we have is: Are the minimum
4 qualifications appropriate for appraisals and valuations
5 of timber, minerals or other properties separate from
6 appraisals and valuations of real property? If not, what
7 qualifications would be better suited to those appraisals
8 and valuations?

9 And three, is there a way to allow for the
10 Department to verify an appraiser's qualification without
11 requiring qualifications to be submitted with each
12 appraisal, while still ensuring that the appraiser is
13 qualified at the time of the appraisal -- at the time the
14 appraisal is submitted?

15 So that's the conclusion of my section on the
16 draft proposals for appraisals and valuations. Up next,
17 I'm going to briefly discuss Section 303 of ITARA.

18 Section 303 of ITARA provides the Secretary of
19 the Interior with the option to create and Under Secretary
20 for Indian Affairs that would report directly to the
21 Secretary of the Interior. If this position is created,
22 one area which we really need your feedback on are the
23 duties. If you look at the text of the law, the duties of
24 this new position are really not all that extensive.

25 First, the Under Secretary, if the position is

1 created, shall coordinate with OST to ensure orderly
2 transition of the functions of OST to one or more
3 appropriate agencies, offices or bureaus within the
4 Department.

5 Two, to the maximum extent practicable, supervise
6 and coordinate activities and policies of the BIA with
7 activities and polices of the Bureau of Reclamation, the
8 Bureau of Land Management, Office of Natural Resources
9 Revenue, National Park Service, the Fish and Wildlife
10 Service.

11 And three, provide for regular consultation with
12 Indians and Indian tribes that own interest in trust
13 resources and trust fund accounts.

14 Okay. Another kind of important question that we
15 have for everyone is: If this position is created, and
16 the Assistant Secretary of Indian Affairs still exists,
17 here are some provisions relating to the staff of the
18 Under Secretary.

19 Since the Under Secretary may appoint and fix the
20 compensation of such officers and employees as the Under
21 Secretary determines to be necessary to carry out any
22 function transferred under this section.

23 So one pressing question that we had from tribes
24 in the Great Plains Region, is there any new money that
25 comes along with this position, if created, and the

1 Assistant Secretary for Indian Affairs still exists? The
2 short answer to that, no. Nothing in this law creates new
3 funding for a potential Under Secretary.

4 So one thing that we really want to get feedback
5 on is, if there is no additional money, if a future
6 president does not request additional appropriations that
7 are then granted by Congress, would this position create
8 enough value to justify the additional expenses that would
9 come out of the existing Indian Affairs budget?

10 So a couple of more things to know about this
11 position is that, any officer or employee described in
12 paragraph one, shall be appointed in accordance with the
13 civil service laws, and any employees of this office will
14 be hired through Indian preference.

15 This is just the current organizational chart of
16 the Department of the Interior. As you see, you've got
17 the five assistant secretaries down at the bottom kind of
18 all at the same level. They report up to the Deputy
19 Secretary. This law would have a new Under Secretary for
20 Indian Affairs position that would report directly to the
21 Secretary of the Interior. So you can maybe imagine how
22 this organizational chart would shift if this position was
23 created.

24 So that concludes my remarks. Thank you.

25 MS. DUMONTIER: Thank you.

1 We're going to open -- the microphones will be
2 open now for tribal representative comments. And please
3 remember we have a court reporter, so you'll need to
4 clearly articulate your name so that she'll be able to
5 capture your name as well as your comments. And we are
6 scheduled until 12:30.

7 CHAIRMAN FROST: I've got a comment that I'd like
8 to make.

9 Good morning to everyone. I just want to make a
10 few comments on the presentation, and I've got some papers
11 here that I'll present to the committee for the record.
12 This is the comments I'd like to make for the record.

13 Good morning. My name is Clement J. Frost. I'm
14 the chairman of the Tribal Council of the Southern Ute
15 Indian Tribe. We appreciate the invitation to participate
16 in this consultation on the Department's plan implementing
17 the Indian Trust Asset Reform Act.

18 Although we are most interested in learning more
19 about the Act's Title II Indian Trust Asset Management
20 Demonstration Project, we understand the topics on which
21 you have requested consultations are limited to Title III
22 regarding streamlining trust asset management in the
23 Department by first, creating an Under Secretary for
24 Indian Affairs position dedicated to trust asset
25 management; second, outlining a process for transferring

1 functions from the Office of the Special Trustee for
2 American Indians; and third, making a single bureau,
3 agency or other administrative entity within the
4 Department solely responsible for conducting appraisals.

5 The following is my summary of the tribe's comments
6 regarding topics on which you have requested consultation.

7 On the first consultation, the functions of the
8 Office of Special Trustee for American Indians, whether
9 they should be transferred to other entities within the
10 Interior. The tribe's comment on this topic is financial
11 functions, such as collection and disbursement for probate
12 estates and maintaining individual Indian money accounts,
13 should stay in the OST.

14 Non-financial functions, such as records
15 management and the beneficiary call center should also
16 stay in OST. The OST's Office of Trust Records oversees
17 records management and evaluates trust records of BIA
18 agencies. Having an entity other than the BIA oversee
19 records management provides a check on the BIA and ensures
20 that the tribe's records are maintained in compliance with
21 federal law. Appraisals and valuations could be
22 transferred to the BIA. However, BIA agencies should be
23 adequately funded to perform these functions. The
24 Southern Ute Indian Tribe has little appraisal and
25 valuation activity because the tribe usually requests

1 waivers of these requirements when entering surface and
2 mineral transactions. Allottees on other Indian
3 reservations and a small number of allottees on the
4 Southern Ute Indian Reservation would benefit the most
5 from having appraisals and valuation services at the
6 Southern Ute Indian Agency.

7 In general, centralizing functions within the
8 BIA is preferable to decentralization among other
9 agencies. Centralization gives BIA leadership and greater
10 control over different functions and processes, allowing
11 the BIA to better prioritize and respond to tribal
12 interests. Decentralizing makes BIA leaders beholden to
13 other agencies giving the BIA little control over the
14 management of these functions and preventing the BIA from
15 responding quickly to shifting needs and interests of
16 tribes. The impetus for decentralizing many functions
17 away from the BIA, like the creation of the OST was the
18 apparent inability of the BIA to perform those functions.
19 However, the BIA's shortcomings were and continue to be
20 primarily due to insufficient funding.

21 Centralizing these functions in the BIA and
22 providing adequate funding to perform those functions is a
23 better long-term solution rather than decentralizing
24 functions, only to return them to their original agency,
25 like the Act seems to be doing here.

1 The Tribe's interest in this topic is minimum
2 because the Tribe rarely uses OST services. The Tribe's
3 own interest may be the records management oversight
4 provided by the Office of Trust Records. This function
5 should stay in OST or some other entity other than BIA.

6 On the topic of a transition plan and timetable
7 for how identified OST functions might move to other
8 agencies, the Tribe has no comment on this.

9 The transition of all appraisal services for
10 Indian Trust property to a single entity within the
11 Interior: Appraisal services on the Southern Ute Indian
12 Reservation are needed primarily for realty transactions
13 related to allotments. The Southern Ute Indian Tribe will
14 make its own determinations under a tribal compensation
15 policy as to the adequacy of compensation for real
16 property interests like rights-of-way, generally does not
17 request or need appraisal services; and therefore, has
18 little interest in this portion of the Act.

19 Moving appraisal services for Indian trust
20 property to the BIA would be appropriate since the BIA
21 handles other trust land functions. However, such a
22 transition would require adequate funding for the BIA to
23 perform appraisal services without burdening other BIA
24 functions. If the BIA Southern Ute Agency took over
25 appraisal services, this would primarily benefit allottees

1 from tribes other than the Southern Ute.

2 On topic number four: Draft minimum
3 qualifications for individual to prepare appraisals and
4 valuations of Indian trust property -- the Tribe's
5 comments is the Act is unclear as to whether the minimum
6 qualifications are intended for individuals employed by
7 the single entity within the Interior that will ultimately
8 provide appraisal services, or if the minimum
9 qualifications are intended for individuals who will
10 perform appraisals for tribes pursuant to an Indian trust
11 asset management plan. If the minimum qualifications
12 apply to individuals within the Interior, then the OST
13 should already have position descriptions for appraisers.

14 Our comment for number five, the establishment of
15 an Under Secretary for Indian Affairs as allowed under the
16 Act who is to report directly to the Secretary of Interior
17 and coordinate with OST to ensure orderly transition of
18 OST functions. The Tribe's comment is, the need to create
19 this position, particularly as a political appointment, is
20 questionable. Many of the functions that will be
21 performed in this position are presumably already being
22 performed by someone in the BIA or the OST.

23 Moreover, having a political appointee fill this
24 position would do very little for Interior employees "in
25 the field" who work with Indian trust assets on a daily

1 basis. Nonetheless, it is important to fill this position
2 with someone who has firsthand knowledge and experience in
3 Indian trust asset management rather than someone
4 inexperienced. Having an inexperienced person in this
5 position making policy decisions that have implications at
6 the agency level would be ineffective.

7 In conclusion, the federal government's
8 management of the Southern Ute Indian Tribe's trust assets
9 and the government's management of the trust assets of
10 allottees on the Southern Ute Reservation is important to
11 us. We hope that our comments will assist the Department
12 in implementing the Indian Trust Asset Reform Act.

13 Thank you for your time in listening to me. I'll
14 give you the paper of our record. Thank you.

15 MS. THOMAS: Good morning. I'm Candy Thomas.
16 I'm the director of strategic planning and self-governance
17 for the Osage Nation, and I thank you for the opportunity
18 this morning to make a few comments.

19 First and foremost, I'd like just like to say
20 that we were pretty much caught unawares of this rule even
21 though it had been discussed; we weren't aware until it
22 hit the president's desk that it was ready to be signed.
23 And we feel like there should have been some tribal
24 consultation as you're having now for tribal input of the
25 effects of this law prior to the passing of the

1 legislation. And from what I've read, even the Senate
2 hearings, there was never tribal consultations that
3 occurred. It just occurred on a legislative level, and
4 just got pushed through without consultation.

5 So I'd also like to point out that the Osage
6 Nation is one of the three tribes that has one of the
7 largest members of individual beneficiaries, which
8 represent 99 percent of your total accounts with OST. And
9 to my knowledge, I am an IIM account holder. There's been
10 no outreach to the individual beneficiaries at all about
11 this law. I'm not aware of it, at least not in Osage --
12 in the Osage Tribe. I am not -- I have never received
13 anything in writing or any kind of notification from OST
14 about this law or any of the effects that it might have on
15 IIM, individual IM accounts.

16 We're not in favor of transferring any of the OST
17 fiduciary responsibilities to any other agency within the
18 Bureau. I think OST was established just for that reason,
19 to be a single entity of financial accountability and
20 transparency that was separate from any departments that
21 have other programs and conflicts of interest that may
22 affect the management of the trust accounts. And I
23 believe that the Cobell settlement, the Osage settlement,
24 were results of those exact things.

25 So we feel like that the OST is doing a great

1 job. We feel like their good performance, especially in
2 the last three years, with clean audits and its
3 sophisticated data and financial management system and
4 their responsiveness to IM account holders has been very
5 well done and should remain with OST.

6 We're not in favor of the creation of the Under
7 Secretary position. And let me just say that I'm not
8 speaking directly for the chief. I'm speaking from my own
9 opinions, which the chief will ask for, and we will submit
10 a letter in writing about this, that we feel like the
11 Under Secretary position is just additional bureaucracy on
12 top of what's already there. And those responsibilities
13 could be handled by the assistant secretary or somebody
14 else within the Bureau or the OST.

15 As far as appraisals, that's the main area that
16 we've had complaints on, and I believe at one point in
17 time, OST was contracting in people outside the agency to
18 do the appraisals, and it should not be done.

19 Providing satisfactory results is -- some of the
20 other IM beneficiaries felt they could get from an outside
21 appraisal. So we do support the minimum qualifications
22 for appraisal services, but it's also my understanding
23 that OST is no longer contracting with outside entities
24 and they're training their own personnel to do the
25 appraisals, and there's been much more satisfactory

1 results from those appraisals.

2 So the Osage is not in favor of this law --
3 implications of this law, and we feel like it's not
4 promoting self-governance. We feel like it's taking away
5 and just giving more federal oversight to self-governance
6 activities that we could do better ourselves, and we're
7 happy with what OST's been doing.

8 So I thank you for our comments, and we will
9 submit a written letter from the chief, and he will be
10 present at the September 7th meeting in Tulsa, Oklahoma,
11 to make his own presentation. Thank you.

12 MR. HASTINGS: And it's my understanding that the
13 first listening session they had on this law, they took a
14 couple of breaks whenever there were pauses in the
15 comments.

16 We were kind of wondering if anyone would be in
17 favor of a break and then maybe coming back, having some
18 time to think of comments and then coming back with any
19 additional comments that you-all may have. We would
20 appreciate any comments from tribal leaders or interested
21 parties in this act that we can get today.

22 If we could come back in about 10 minutes, that
23 would be great. Thanks.

24 (A break was taken at 10:04 AM.)

25 MR. HASTINGS: All right. We'll open it up

1 again. If anyone has any comments that they thought of
2 over the break, I really think any comments that we
3 receive will really help us. I think tribes have a unique
4 opportunity to really influence how this law is
5 implemented. This Act is really pretty wide open as far
6 as tribal input, and any comments that we receive today
7 will really be strongly considered as we move forward with
8 implementation of the Act. So we really appreciate --
9 we're here till 12:30. We're scheduled to be here till
10 12:30, so please take your time if you have any comments.

11 MS. THOMPSON: Good morning. My name is Angela
12 Thompson. I'm the treasurer of the Pawnee Business
13 Council for the Pawnee Nation of Oklahoma. The only
14 comment -- I can't really state or give an official
15 comment in regard to any of the proposed rules until I get
16 back and take -- why I'm hear today is to gather
17 information to take back to my council, and so that we can
18 formulize a written letter and written comments on this
19 topic. So that's why I'm here today.

20 But the only comment that I do have is that in
21 the presentation in regard to: Is the Department liable
22 if it approves a transaction for Indian property based on
23 an appraisal submitted by a qualified appraiser, and the
24 answer was no.

25 My concern is I feel that the trust

1 responsibility is diminished by no liability of the
2 Department. So I would like more information on that,
3 because if we're taking over that function and approving
4 or getting our own appraisals approved by a qualified
5 appraiser, I still feel, as self-governance tribes, we
6 step into the shoes of the federal government in operating
7 that function by pulling those dollars, and us operating
8 the program. But we still feel that that trust
9 responsibility should be there to protect us whether it's
10 through federal tort claims coverage or some type of
11 investigation, to ensure that we're protected, as if we
12 were -- as if we were the federal government just
13 operating that program. So that's my comment. Thank you.

14 MR. HASTINGS: Thank you, Angela. I knew I could
15 count on a fellow Okie to step up to the mic.

16 I'll go ahead and put this out here since I
17 addressed them. If anyone has any comments on the
18 proposed minimum qualifications for appraisals, we would
19 really appreciate those. Those are still on proposed
20 draft form, so we've really got a lot of room to work and
21 consider your input as we move forward with those rules.

22 Mike, I'll put you on the spot since you
23 encouraged me to solicit more feedback; are there any
24 questions, you know, that you would like to ask, that you
25 would like to have input on as the Department, the Bureau

1 and OST, move forward with implementation of this law?

2 MR. BLACK: Sure. Thanks for that, Clint.

3 Well, I guess, you know, one of the main reasons we're
4 here is to really hear from the tribes and the individuals
5 out there on their view of not only the bill and the way
6 it was put together, but looking at OST and the appraisal
7 functions and everything that's in there as far as: How
8 do you envision it? How do you envision OST going
9 forward? If you envision OST going forward as is, that's
10 something we want to hear back from you. If you envision
11 OST looking different moving forward as the bill lays out,
12 it gives you that opportunity to put that out there now.

13 So I guess that's something that we're really
14 trying to get from everybody is, you know, looking at OST,
15 and they've done a lot of great things since the inception
16 of OST. But are there things that you would like to see
17 improve? Are there things that you would like to see
18 folded back into the Bureau of Indian Affairs? Are there
19 things that you'd like to see done differently within the
20 organization?

21 And so this is -- this is really your opportunity
22 to do that. The appraisal functions right now, you know,
23 they laid it out in the initial opening or the initial
24 presentations; it's really broken up into three
25 components. You've got the timber appraisals -- I won't

1 use that finger -- you've got the timber appraisals,
2 you've got the mineral appraisals, and then you've got the
3 surface and real property appraisals. And right now,
4 those are all three handled from different operations.

5 The bill calls for all appraisal functions to be
6 put under one office. So how would that happen? How
7 would you envision that happening? Where would you like
8 to see that? Would you like to see that all maintained
9 under -- within OST? Would you like to see those
10 functions brought back within the Bureau of Indian Affairs
11 and handled there?

12 And there are some questions as regarding
13 conflict of interest. That was one of the main reasons
14 that the appraisal functions were removed out of the
15 Bureau of Indian Affairs, was a perception of conflict of
16 interest? Are there ways -- are there opinions or ideas
17 coming from the tribes as to how we can ensure that that
18 doesn't happen, that there isn't a conflict of interest
19 between our realty programs who are instigating or signing
20 the leases, implementing the leases, that would be a
21 conflict of interest with the appraisals for those
22 functions?

23 So those are all things that I'm really looking
24 forward to hearing from the tribes on how we can better
25 serve Indian Country out there. So this is really -- I'm

1 really kind of surprised we've got such a quiet crowd here
2 today, but this is really an opportunity for everybody.
3 It's wide open. As Clint said, we've got no preconceived
4 notions here on how this is going to be implemented or
5 what it's going to look like. That's why we're here
6 today. That's why we'll be going around the country to do
7 these, is to really hear from Indian Country, how you want
8 us to better serve you.

9 I should have introduced myself. I'm Mike Black,
10 director for the Bureau of Indian Affairs out of D.C.

11 MS. DUMONTIER: So I'd also like to point out
12 that we have our regional trust administrators here: Rob
13 Craff and Margaret Williams. I think she's still here.
14 Our fiduciary trust officers are still here as well. If
15 there are beneficiaries or tribes that have specific
16 questions, please feel free to reach out and ask them.
17 They are here to provide direct beneficiary services. And
18 that is one aspect that OST added. When we started the
19 operations in 1996, it was the accounting and the
20 investing portion of it. And in 2003, with the
21 comprehensive trust management plan that evolved into the
22 fiduciary trust model is when we added the trust officers
23 locally out in the field, and then the RTAs here at the
24 regional office here in Albuquerque for purposes of
25 providing beneficiary services, that direct service, that

1 primary point of contact.

2 So if you have any comments regarding that, how
3 we can improve that service, that's certainly something
4 that we would appreciate hearing from you. Again, you can
5 provide comments online till September 30th, or you can
6 let us know here now. They're being recorded by the court
7 reporter. But really, that aspect of operating the
8 fiduciary trust is something that we have found beneficial
9 in working individually with our beneficiaries.

10 And as I said before, we have 400,000 account
11 holders. 250 tribes that we invest for. So we don't
12 invest for all the tribes. But we are a smaller part of
13 that trust that we found, that that separation or that
14 segregation of responsibilities has been successful for
15 us.

16 MR. DAN: Can you hear me? Good. My name is Roy
17 Dan. I'm with the Navajo Nation. My tribal government is
18 probably on their way, I hope.

19 Anyway, my comment is more on a general statement
20 not necessarily particularly addressing this act, because
21 I didn't know about this act, and I didn't know about the
22 tribal consultation, just like this lady said from, I
23 think, it was Osage, that they just heard about it.

24 This is a pattern that I have seen in the past,
25 that when there's tribal consultation, the tribes never

1 get notified. They get some letter that you hardly ever
2 see. And so tribal consultation is not really tribal
3 consultation. What you call tribal consultation is a
4 letter going out. That's common. I just want you to know
5 that, that I've been through many Bureau tribal
6 consultations before in the past.

7 The other thing is that I'm an allottee. I sold
8 most of my allottees to the federal government, and the
9 tribes are going to take it over, and they're probably
10 happy with the land; I still have a whole bunch of little
11 pieces yet that I'm going to try to decide what to do with
12 it, but I still hold an allotment.

13 The other comment I wanted to make was about the
14 little presentation I saw about how are you going to
15 separate the OST into another category under the Interior.
16 It's just the danger of separating all tribal functions
17 into different areas, different categories, different -- I
18 noticed that it happened with the titles, land titles.
19 Where do I go? You know, an individual will ask the
20 Bureau of Indian Affairs out in the field, "Where do I go
21 about this land?"

22 "Well, you have to go to Albuquerque."

23 I don't want to go to Albuquerque. I don't have
24 no transportation to go to Albuquerque for this land-title
25 thing. It was separated out. Facility management

1 separated it out. Education, separated out. If there's a
2 question out there on the reservation, and you want an
3 answer, well, you have to go to Albuquerque. You have to
4 go to Washington D.C., or you have to ask somebody else.
5 This is a BIA thing anymore.

6 Now, OST comes in, and now they say OST is in
7 Albuquerque, New Mexico, or first, it was in Washington
8 D.C. And then, they want us to go to Washington D.C. to
9 ask those questions.

10 Problem is like that, you're separating all these
11 functions for Native Americans. I know you call them
12 "Indians," but they're really Native Americans. But all
13 these functions, to take care of Native Americans under
14 these treaties should be sort of centralized a little bit
15 better so they can go to one office.

16 I know that some functions, like the Forestry
17 Department, they have some responsibilities to the tribes.
18 Fish and Wildlife has some responsibility to the tribes,
19 but they're separating them out.

20 So one of our chairmen used to say, "Come on,
21 federal government. Let's have a one-stop shopping center
22 for all the tribes, or at least for tribal members."

23 And at that time, the people said, "Hey, one-stop
24 shopping -- one-shop -- stop" -- well, anyway, shopping
25 center. It's a great idea. But when they got back to

1 Washington, they said, "Well, it's a stupid idea."

2 So something to think about. Separating all
3 these functions, and making tribal members, travel groups,
4 go to different departments, different, you know,
5 locations, for -- to get something done. That's not a
6 good idea. Just something to think about. Thank you very
7 much.

8 MR. HASTINGS: Thank you. Thank you for those
9 comments especially regarding the consultation. We really
10 appreciate that. That's one of the hardest things that we
11 have to do, is make sure the word gets out to every
12 interested party and tribal leader and tribal government.

13 You know, as you kind of touched on, we do send
14 out letters to tribal leaders. But getting word to tribal
15 governments before, I can tell you about firsthand
16 experiences, how long sometimes it takes mail to get
17 delivered to the right entity. We did have a notice
18 published in the Federal Register, and we tried to spread
19 the word, word of mouth, as best we can, but if there's
20 any ideas that anyone here has on how we can better
21 consult and give tribes notice with consultation, I think
22 we're all ears. We're always looking to improve in that
23 arena.

24 And also, I really appreciate your comments about
25 how hard it can be to navigate the various programs in the

1 federal government. I guess I'm going into my ninth month
2 at the Department of Interior. And I think I have a lot
3 of the same problems you have. Sometimes I'm not sure
4 exactly where to go, what program or what office. So
5 thank you for those comments. We appreciate it.

6 MS. MASON: Hello. My name is Terry Mason Moore.
7 I'm general counsel to Chief Standing Bear at the Osage
8 Nation. Candy Thomas from one of our departments of Osage
9 Nation has already made a comment, but Chief Standing Bear
10 wanted me to emphasize that our position is the necessity
11 to keep our financial transactions separate from the BIA.
12 We have no interest or desire to have anything transferred
13 back to the BIA. We want to keep most existing functions
14 with OST, and I think a lot of you are aware that we have
15 a history of BIA mismanagement of our funds, as
16 exemplified by the Cobell -- which everyone took part in.

17 We had our own separate Osage trust case, which
18 was also settled. And so we have no interest in having
19 any of our financial transactions transferred back to BIA.
20 Thank you.

21 MR. HASTINGS: Thank you.

22 All right. Do we have any other questions or
23 comments or remarks? We're scheduled to be here for a
24 couple of more hours, so we'd appreciate any more feedback
25 that the audience may have.

1 MR. GRAHAM: Good morning. My name is Steve
2 Graham. I'm with the Pueblo of Laguna. As far as the
3 evaluation system, I would like to see that all the
4 evaluations be moved under one office, preferably OST.

5 I was previously a BIA employee for 26 years, and
6 I know trying to get an evaluation from the different
7 offices is sometimes very difficult for timing. I know
8 OST already has a program in place that tracks
9 evaluations, and I think if you move them to a different
10 office, then they would also have to establish a system
11 that would have to try to track those evaluations. And
12 moving them all to one office where that could supplement
13 to what they already have in place be able to track not
14 only the surface appraisals that they're doing, but also
15 the mineral and timber appraisals, I think would be
16 beneficial to the beneficiaries, and also to the people
17 who are trying to get those timely appraisals. That's all
18 I have. Thank you.

19 MR. HASTINGS: Thank you. I think those are
20 exactly the type of comments that are helpful as we move
21 forward with implementation of this act. So we really
22 appreciate that. And if anyone else has similar comments,
23 thanks, or comments along those lines, we'd love to hear
24 them.

25 MS. LORETTO: Good morning, everybody. I'm Jeri

1 Loretto. I'm the contracts administrator for the Pueblo
2 of Jemez. Thus far, I don't think our tribe has had a lot
3 of interaction with OST. And so this is really the first
4 time, as Osage and other tribes have said, that we're, you
5 know, learning about this particular act primarily,
6 because I think we've not had a lot of interaction with
7 OST.

8 The Pueblo of Jemez became a Title IV
9 self-governance tribe in October 2013, and so we're still
10 kind of new to this whole self-governance programming.
11 And since that time, I came on board, and I've been asking
12 about, you know, the evaluation and the audits that are
13 done of self-governance tribe with regard to our trust
14 responsibility.

15 I e-mailed several staff at OST so that we can
16 get a little more information about what that trust
17 responsibility is so that the Pueblo of Jemez can be ready
18 with regard to the programming and the projects that need
19 to be audited. And thus far, I have never heard back from
20 OST.

21 So I think a lack of communication with tribal
22 governments, or at least with the Pueblo of Jemez, is
23 lacking, and I would like to ask for more responsiveness
24 from OST when tribes are asking for information with
25 regard to the audits.

1 I understand that there was a workshop held in
2 June, I think in Phoenix, with regard to the new
3 methodology, that OST is moving towards. We never heard
4 about it, and so we never sent anybody.

5 And I know that the next meeting on the
6 methodology is, like, in South Dakota. And, you know,
7 Jemez being a very small tribe, you know, there's no way
8 that we're going to be able to have the funds to send me
9 or anybody else to talk to, to these other remaining
10 workshops with regard to the changing methodology.

11 We heard about it when we attended the
12 self-governance with regard to the methodology that is
13 changing, but we didn't hear about it. We contacted the
14 Office of Self-Governance, and they didn't know about it
15 either.

16 so, you know, one of the things we would push for
17 is more improved communication with tribes with regard to
18 the things that affect self-governance tribes like the
19 Pueblo of Jemez.

20 The other thing I'd also like to talk with regard
21 to the BIA is that being that we're self-governance now,
22 we still need -- talk with BIA about technical assistance.
23 And it's frustrating because they're always pushing you
24 back, "Well, you're Title IV now; therefore, you do things
25 on your own; and therefore, we don't help" or "We don't

1 provide technical assistance."

2 So with regard -- the only comment I have with
3 regard to this law listed up there, is that the functions
4 be put back in the Bureau of Affairs. And I, personally,
5 would not support it because we continually go back and
6 forth. The Pueblo of Jemez continually goes back and
7 forth with the Bureau of Indian Affairs here on 12th
8 Street in Albuquerque.

9 And the comment always is: "Well, your -- you
10 guys became Title IV; so therefore, you need to do this on
11 your own." You know, so on and so forth, and it becomes
12 an issue.

13 And so when you talk about putting it back into
14 the Bureau of Indian Affairs, then I think we've got some
15 concern with regard to the ability for them to help tribes
16 like the Pueblo of Jemez that have become self-governance.

17 MR. WHITE: Ma'am, when we have a -- before we
18 break here today, I would like to speak with you, because
19 I'm the one responsible for that new tribal methodology
20 that we're developing. So I would just like to have an
21 opportunity to visit with you for about five minutes and
22 talk some more.

23 MR. HASTINGS: All right. Thank you for those
24 comments. Even though it's not directly related to the
25 topic of this consultation, I really appreciate your

1 comments on Title IV and self-governance tribes. Before I
2 came to the Department, working at the self-governance
3 office at Cherokee Nation, and I think I can speak for
4 myself, and I think Director Black would agree, that the
5 Department or the Bureau still has responsibilities to
6 provide technical assistance to self-governance tribes.
7 And that's something that's very personally meaningful to
8 me, supporting self-governance tribes.

9 When I interviewed for this position, all I
10 talked about was how I thought self-governance could be
11 improved, implementation of self-governance could be
12 improved at the Department. So if there's any way we can
13 help, Mike or I, I am sure that your pueblo receives the
14 appropriate technical assistance from the regional office,
15 we'd be happy to support you in that. Thank you.

16 If we don't have any additional comments, we can
17 close out here.

18 Does anyone else want to make comments for the
19 record?

20 Well, we can -- if we have no more comments,
21 we'll be taking written submissions via e-mail or regular
22 U.S. Mail throughout the duration and after for several
23 weeks after these consultations conclude.

24 We'll stick around as well for a little while. I
25 know Deb and John are stationed here in Albuquerque, and

1 my flight's not until 3:00. So I'll be around, one way or
2 the other, so if anyone else shows up or anyone else wants
3 to catch us afterwards, we'd be happy to sit down and talk
4 with you if you're more comfortable in giving comments in
5 that fashion.

6 So we really appreciate everyone that showed up
7 today. Thanks for everyone's comments. I think they'll
8 be very helpful as we move forward with implementation of
9 this act. Thank you.

10 (The consultation concluded at 10:30 AM.)

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C E R T I F I C A T E

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

I, MICHELE NELSON, New Mexico Provisional
Reporter, working under the direction and direct
supervision of Yvonne Gonzales, New Mexico CCR License
Number 62, hereby certify that I reported the attached
proceedings; that pages 1-56, inclusive, are a true and
correct transcript of my stenographic notes.

Dated at Albuquerque, New Mexico, this 3rd day of
September, 2016.

Michele Nelson

Yvonne Gonzales

YVONNE GONZALES
Certified Court Reporter #62
License Expires: 12/31/16

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