

1 U.S. DEPARTMENT OF THE INTERIOR
2 INDIAN TRUST ASSET REFORM ACT (ITARA) IMPLEMENTATION
3 TRIBAL CONSULTATION
4
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6

7 TRANSCRIPT OF HEARING PROCEEDINGS
8 Wednesday, August 31, 2016
9

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11 PURSUANT TO PUBLIC NOTICE, this matter came
12 on for hearing on the 31st day of August, 2016, at the
13 hour of 8:30 a.m., at the Billings Hotel and Convention
14 Center, before the Office of the Special Trustee for
15 American Indians, Deputy Special Trustee Deb DuMontier
16 presiding.
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PROCEEDINGS

(Hearing proceedings commenced at
8:38 a.m., August 31, 2016.)

MS. DUMONTIER: Good morning everyone.
Welcome to the Indian Trust Asset Reform Act session.
We're going to ask Mr. Richard Sangre from Chippewa
Cree to give us a quick opening.

MR. SANGRE: Good morning. It's a pleasure
to be asked to say the opening prayer on behalf of this
meeting.

Our Father, we ask that you watch over us
today, and take things back to our people. We ask that
you watch over our veterans and those who are serving
in the armed services and protect them from harm.
Bless this in your name. Amen.

MS. DUMONTIER: And welcome. My name is Deb
DuMontier. I'm the Deputy Special Trustee with the
office of Special Trustee for American Indian, and
hopefully, you can all see the presentation okay.

Kind of looks like we're in church. Everyone
is sitting in the back.

My tribal affiliation is the Confederated
Salish and Kootenai tribes of the Flathead Nation. So
my horse is headed west after here to be able to visit
home.

1 I was legal counsel for CSKT for ten years
2 and a licensed attorney with the state of Montana.
3 I've been with OST now for 11 years, first as a
4 fiduciary trust officer at Flathead; next as a
5 litigation coordinator in D.C., where it was very
6 exciting to see that we excelled a number of the tribal
7 trust litigation cases -- if not over, nearly a hundred
8 of those cases; and then now, my current role, where
9 I'm duty-stationed in Albuquerque.

10 So on behalf of Department of Interior and
11 the staff here today, and those working throughout
12 Indian country, it's a privilege to serve you and be a
13 partner in the government-to-government relationship.
14 We certainly appreciate the attendance by our tribal
15 leadership, representatives, and the tribal members
16 today. We know that you've taken time out of your
17 precious day to attend this consultation session here
18 in Billings. And it's an honor for me and our staff
19 here with OST to be part of these consultation
20 sessions. So thank you.

21 I'd also like to thank Clint Hastings, the
22 adviser with the Assistant Secretary of Indian Affairs;
23 Mike Black, Director of Bureau of Indian Affairs;
24 Darryl LaCounte, our regional director here with Rocky
25 Mountain. Thanks for joining us. It looks like you

1 brought a few of your superintendents.

2 It's great to see everyone. Thank you.

3 And also, Eric Shepard, our associate
4 solicitor with the Division of Indian Affairs from D.C.
5 Thanks for joining us.

6 I don't know if there's any members of the
7 media here. If there are members of the media, it's an
8 open meeting. You're all welcome. We just ask that
9 you wait and hold any questions until after the
10 consultation session.

11 As you're aware, the Indian Trust Asset
12 Reform Act was signed by the President on June 22nd.
13 We're holding numerous consultation sessions across the
14 country, and the last session will be a telephonic
15 consultation. We are accepting written comments until
16 September 30th, 2016.

17 The legislation is an important step in our
18 commitment to strengthening tribal sovereignty and
19 decision-making. It also gives us an opportunity to
20 evaluate what has worked and what could be improved
21 within the systems and processes implemented as part of
22 the creation of the Office of the Special Trustee. Our
23 staff and you are a critical part of that evaluation.

24 Today's consultation focuses on Title III of
25 the Indian Trust Asset Reform Act, and you'll hear us

1 refer to it as ITARA, our new acronym. The law
2 provides that the Secretary will identify all
3 nonmonetary management functions currently being
4 conducted by the Office of the Special Trustee.
5 Therefore, we're here to present those functions and
6 consult with you on where these functions might be
7 transferred to other entities within Interior. And in
8 a few moments, I'll be presenting on Section 304.

9 The law also provides that within 18 months,
10 the Secretary must ensure that Indian trust property
11 appraisals and valuations are administered by a single
12 entity within the Department. So today, we are seeking
13 your feedback on that transition.

14 John White will present -- has a PowerPoint
15 on Section 305(a) and some suggestions on how this
16 might be accomplished. But we also look forward to any
17 ideas that you may have.

18 Clint Hastings will be providing a short
19 presentation regarding the draft minimum qualifications
20 for individuals to prepare appraisals and valuations of
21 Indian trust properties. And that's Section 305(b) of
22 the legislation.

23 When an appraiser meeting these minimum
24 qualifications prepares an appraisal of Indian property
25 and the user of the appraisal intends to forego

1 Departmental review, the Department will be able to
2 rely on that appraisal without further review. You, as
3 a trust beneficiary, can submit the appraisal to the
4 Department for use in a trust property transaction,
5 express your intent to waive the review, and no
6 Departmental approval of that appraisal will be
7 required.

8 We are developing a proposed rule that
9 establishes the minimum qualifications, and we are
10 interested in your views on them. We are also
11 interested in your views on the process by which the
12 Department would verify that an appraiser meets those
13 qualifications, among other questions that we will be
14 presenting to you later today.

15 And, finally, Mr. Hastings will also be
16 presenting on section 303 of the legislation. We are
17 interested in your views of the establishment of an
18 Undersecretary for Indian Affairs. ITARA provides that
19 the Secretary may establish an Undersecretary for
20 Indian Affairs who would report directly to the
21 Secretary. And we want to hear your thoughts on that
22 provision.

23 We're anxious to hear your comments and
24 suggestions. We have four short presentations. And,
25 in general, we want to leave time to hear from you.

1 So next, starting with my presentation.
2 Title III, Section 304, the Indian Trust Asset Reform
3 Act: Improving Efficiency and Streamlining Processes.
4 First, in addition to John White, who will be
5 presenting after me, I'd like to acknowledge our other
6 OST leadership here: Mr. Doug Lordes, our Deputy
7 Special Trustee acting for Field Ops; Mr. Rob Winter,
8 our Director of Trust Services and Acting Deputy
9 Special Trustee for Trust Services; Iris Crisman, our
10 Deputy Director of Land Buyback Program Appraisals;
11 Jeremy Rogers, our Project Manager.
12 And then we have a number of our fiduciary
13 trust officers here too: Lynette Verlanic, Carrie
14 Hugs, Maureen Zamora, and we have some appraisers here.
15 So questions that you may have, we have the subject
16 matter experts here to assist us today. So thank you
17 for joining us.
18 My presentation, the PowerPoint, is in Tab 5
19 of what has been handed out in the binders. Again,
20 Section 304 requires the Secretary of the Interior to
21 identify nonmonetary functions that OST performs, which
22 is an opportunity for us to reflect upon our current
23 practices and to hear your recommendations regarding
24 this section of the Act as we chart a path forward
25 together with Indian Country. It's also an opportunity

1 to reflect on the Department's progress in trust
2 reform, and the next few slides will provide a brief
3 overview and some context of the Office of the Special
4 Trustee.

5 Why was OST created? The American Indian
6 Trust Fund Management Reform Act of 1994 created the
7 Office of the Special Trustee in response to strong
8 demand for accountability and transparency for the
9 Indian trust funds.

10 The primary purpose of OST was to improve
11 management of Indian funds and assets held in trust by
12 overseeing and coordinating trust reforms within the
13 Department. However, in 1996, OST's role expanded, by
14 Secretarial order, to include operational
15 responsibility for financial trust management,
16 including the accounting, investing, and disbursing to
17 individual Indians and tribal beneficiaries. OST was
18 later delegated the functions of appraisals of Indian
19 trust lands and the historical trust accounting.

20 This next slide demonstrates the complexity
21 of our work, not only in the trust funds managed but
22 also the number of accounts managed. Implementing a
23 modern, centralized, and fiduciary trust accounting
24 system, OST currently manages \$5 billion. OST receipts
25 and disburses 1.7 billion each year. with a

1 99.99 percent accuracy rate, OST processes, on average,
2 more than 40,000 financial transactions each day,
3 totaling more than 10 million transactions annually.

4 As the pie charts illustrate, the greatest
5 balance, over 80 percent, is held in 3,300 trust
6 accounts for 250 tribes, invested in individual
7 portfolios to meet cash flow objectives of the
8 respective tribes. Approximately \$845,000,000, or
9 17 percent, of the trust funds is invested in a pooled
10 account for over 400,000 IIM account holders, or
11 99 percent of the total accounts managed.

12 Since the settlement of Cobell, OST has
13 received an unmodified opinion on IIM financial
14 statements conducted by an independent major accounting
15 firm for three consecutive years. In addition, OST
16 developed a strong focus on beneficiary services to
17 ensure to our tribes and individual beneficiaries
18 receive the customer service necessary to empower them
19 with the knowledge to make informed decisions about
20 their trust assets.

21 So you'll note on the pie chart here, a great
22 amount of the funds are held in a few accounts.
23 Smaller number of the moneys are held in a number of
24 accounts for beneficiaries.

25 Congress requested identification of all

1 functions other than collection, management, and
2 investment of the Indian trust funds that OST performs,
3 specifically those functions that affect or relate to
4 management of nonmonetary trust resources, which is our
5 appraisal services program. However, for full
6 transparency, we've identified our functions based on
7 our budget justification for our OST programs, which
8 includes the management, collection, and investment, so
9 are accounting functions. In addition, we've listed
10 the Lockbox Management. Collection technically is
11 responsibility of the Bureau of Indian Affairs;
12 however, we do manage the Lockbox for receipting.

13 In addition, OST has developed a
14 comprehensive fiduciary trust model to enhance
15 beneficiary services and accurately account for
16 Indian trust funds so some of the functions are
17 interrelated with the monetary and nonmonetary
18 services. And the asterisk denotes some of those
19 functions that impact other Department of Interior
20 offices, bureaus, or tribes. And you're going to find
21 a description of each of those functions in your
22 notebook. We've defined them. And there's also an
23 accomplishments brochure that's in your packet of OST's
24 accomplishments in the past 20 years since we've been
25 operating the fiduciary trust.

1 we've had a number of conversations regarding
2 the functions. And this is where we want your
3 comments. Where should these functions reside? The
4 Deputy Secretary, Mike Conner, was at our Seattle
5 consultation Monday and pointed out how important these
6 functions are to the proper discharge of the
7 Secretary's fiduciary responsibility.

8 In addition to the improved financial systems
9 and maximized service delivery to beneficiaries
10 displayed on the slide -- I already mentioned our
11 centralized fiduciary accounting system; we refer to
12 that as PF. Also on Lockbox, which has the one-day
13 collection, so we no longer have checks going directly
14 to the agency. They are going to the Lockbox. And
15 that's been trust reform that's been implemented within
16 the past ten years. We also visited briefly about the
17 individual portfolios that we have for each tribe for
18 investing.

19 But OST has also established the Office of
20 Trust Records and the American Indian Records
21 Repository. We refer to it as the AIRR. The AIRR is
22 located in Lenexa, Kansas. It's a dedicated
23 underground storage facility for use for proper
24 safeguarding and storage of fiduciary trust records.
25 This is a major achievement. The AIRR has

1 specially-trained staff dedicated to protecting very
2 important documents for Indian Country.

3 And for the tribal leaders, if you're
4 interested in visiting the AIRR, please let us know so
5 that we can make those arrangements. And also, for any
6 of you that are visiting Albuquerque, where our
7 Headquarters west office is located where we do a
8 number of operations, please let us know. We'd love to
9 give you a tour of our facility.

10 OST has enhanced beneficiary services with
11 our fiduciary trust officers and staff available to
12 assist beneficiaries, either on tribal lands or in
13 close proximity to those lands, to partner with the
14 Bureau of Indian Affairs, with the Office of Natural
15 Resource and Revenue, the Bureau of Land Management,
16 other federal and state agencies, and with our tribes
17 in addressing Indian trust matters on a regional and
18 local level.

19 OST also operates a toll-free trust
20 beneficiary call center with expanded hours of service
21 and direct support of beneficiary calls and inquiries,
22 providing consistent, timely, and accurate information.
23 Those calls are recorded for those proper controls to
24 make sure that the information that our beneficiaries
25 are receiving are consistent, timely, and accurate.

1 And TBCC has responded to more than
2 1.8 million calls since 2004, with a first-line
3 resolution rate of 94 percent. The average standard
4 industry rate is less than 50 percent.

5 The OST field operations' dedicated and
6 direct service to beneficiaries compliments the work of
7 our federal and tribal partners so they may remain
8 focused on their mission and the important stewardship
9 of natural resources and land.

10 In addition, our field staff aggressively
11 look for account holders with unknown addresses through
12 outreaches, interagency collaboration, searches of over
13 7,000 electronic databases. And thus far, we have
14 found more than 330,000 account holders and distributed
15 more than \$386 million. The success stories are
16 awesome. The collaboration between our agencies is
17 amazing. And in some cases, these individuals who have
18 been found, it's drastically changed their lives.

19 The work has also helped the land buyback
20 program for tribal nations, which I know some of the
21 tribes here have had land buyback already. But finding
22 these and updating the addresses has assisted with
23 getting out the purchase offers to those owners of
24 those fractionated interests.

25 Our fiduciary trust officers and our regional

1 trust administrators provide financial empowerment
2 training to promote economic self-sufficiency, among a
3 number of their duties that they are responsible for.

4 And also, OST provides beneficiaries with
5 statements of their accounts, including funds activity
6 and real property assets, to help increase financial
7 awareness and inform individuals and tribes of their
8 interests. And this has been a real significant
9 change, because beneficiaries now can receive a
10 statement and see what they own, who is leasing that
11 land. It gives them a whole lot more information than
12 what we've had in the past.

13 Ongoing initiatives that OST has, to
14 streamline and automate processes are based on best
15 practices and lessons we've learned from our close work
16 with tribal leaders and community. Trust resource and
17 asset management in Indian Country must not be
18 stagnant. It's always a work in progress.

19 OST is developing a 21st century tool to
20 enhance service, such as online banking for IIM
21 accounts, or enhancing Strataweb, which is now how
22 tribes currently access account information.

23 OST continues to work on probate reform
24 initiatives and provide support for Indian estate
25 planning services to assist Indian landowners with

1 understanding American Indian Probate Reform Act. And
2 we had some of those initiatives here in Montana.
3 Lynette and I are both on an advisory board with the
4 Montana Area on Aging, so we've developed a number of
5 collaborations throughout our different areas and
6 states.

7 we are reducing our carbon footprint and
8 promoting cost-effective efficiencies with automating
9 trust processes and digitizing trust records.

10 OST will continue to support the Cobell
11 settlement and land buyback program with our expertise
12 and innovation with appraisal evaluations, outreach,
13 and account services.

14 And of interest for tribes that are
15 compacting the trust programs, OST has developed, with
16 the assistance of nine pilot tribes and consortiums, an
17 online evaluation tool to streamline the evaluation
18 process that's less burdensome on tribes than the
19 current evaluation process. And if you came in a
20 little earlier, there was a video that was playing for
21 the Tribal Methodology Project. That's what we refer
22 to that project under John White's leadership.

23 And when you look at Title II of ITARA, even
24 though we're not consulting on the demonstration
25 projects, there is a provision in there for

1 evaluations. And it would be interesting to see if
2 this project can meet that requirement.

3 Benefits to the separation of duties. We
4 know that OST's value comes not from its position
5 within a particular office of the Department, but
6 rather from its singular focus and discreet duties
7 related to the fiduciary trust responsibility.

8 Moreover, these duties must continue, no matter in
9 which office the functions are located, to maintain the
10 level of service Indian Country deserves.

11 The core trust accounting functions providing
12 direct beneficiary service and maintaining internal
13 controls were created and established separately with
14 the intention of operating independently of the general
15 trust operations. This structure was created to avoid
16 conflicts of interest, commingling of resources,
17 redirection or reprioritizing of other interests to
18 ensure accountability and delivery of services.

19 Separation provides a dedicated and direct approach to
20 managing Indian financial trust assets in accordance
21 with sound fiduciary trust principals and practices.

22 So in conclusion, that's a very quick
23 overview of OST. We've identified our functions. We
24 look forward to hearing from all of you as we implement
25 the 2016 Indian Trust Reform Act and welcome an

1 opportunity to dialogue with you today on how we may
2 develop a strong plan to serve Indian Country.

3 The handouts that you have in your binder are
4 also provided on the website, so you can share those
5 with your tribal staff and leaders. We've also
6 provided links to various documents and our annual
7 report on the website as reference materials as you
8 review the legislation and your -- submitting your
9 comments.

10 In the meantime, the OST staff continues to
11 work hard to serve Indian Country and remain focused on
12 our mission to honor our trust responsibilities with a
13 beneficiary focus and participation while providing
14 superior stewardship of the trust assets for the proper
15 discharge of the Secretary's trust responsibility.

16 So next, I'm going to turn the microphone
17 over to Mr. White to discuss appraisals, Section
18 305(a). Single entity.

19 MR. WHITE: Thank you, Deb.

20 welcome everyone. Again, my name is John
21 white. I'm the deputy special trustee for program
22 management. I'm an enrolled member of the Sisseton
23 Wahpeton Oyate, located on the Lake Traverse Indian
24 Reservation in northeast South Dakota. And I've been
25 with the federal government for over 26 years now.

1 Before I get into my presentation, I have to
2 say this. Montana -- that the first 12 years of my
3 career was in the Bureau of Indian Affairs, six in the
4 area office and six as a superintendent of the Northern
5 Cheyenne Agency. Although my home is really South
6 Dakota -- that's where I'm from, where my family is
7 from -- I really feel like this is almost my second
8 home. My children actually Billings, Colstrip,
9 Montana, their home. So it's really great to be back.
10 It's great to see some of you. Some of you, I know.
11 Some of you I don't, obviously. But it's great to be
12 back in Montana, and I hope to be able to visit with
13 you when we're done with the consultation.

14 I have been with OST for 14 years now. I've
15 been in my current position for four years as deputy
16 special trustee for program management. And it's been
17 the last two years I've had the opportunity to work
18 with the Office of Appraisal Services and providing
19 executive leadership and working with the director,
20 Eldred Lesensee.

21 Section 305(a) requires that appraisals and
22 valuations of Indian trust property be administered by
23 a single bureau, agency, or other administrative entity
24 within the Department. Little background on appraisal
25 services. Right now -- in 2002, the appraisal services

1 program was transferred from the Bureau of Indian
2 Affairs to OST. And then from 2005 to 2009, the
3 appraisal program was managed by what was called the
4 appraisal services directorate, which is now the Office
5 of Valuation Services.

6 Then in 2010, OAS was transferred back to
7 OST. So the appraisal function, at least with regards
8 to Indian trust land, has been just transferred. It
9 hasn't always been with OST. At one time it was, with
10 the bureau. It's been in other places in between.

11 I believe it's also important that we have an
12 understanding of the current appraisal process. Now,
13 this is, in its simplest form, our five-step linear
14 diagram that explains what appraisal services -- what
15 the process is. And although it's a five-step process,
16 not all of those steps are the responsibility of the
17 Office of Appraisal Services.

18 We have two steps in the process, in the
19 beginning, which are the requestor. That can be the
20 Bureau of Indian Affairs, or be the tribe, the tribe
21 compacts, or contracts for Real Estate Services
22 program. They initiate the request that goes to the
23 Office of Appraisal Services for appraisals to do the
24 appraisal report.

25 Once we get that request, we then complete

1 the report. And then there's a technical evaluation of
2 that report. And if that's acceptable, then the report
3 goes back to the entity that requested the report for
4 them to continue to consummate the trust transaction
5 that required the appraisal report to begin with.

6 Incidentally, the Office of Valuation
7 Services, which is the entity that conducts appraisals
8 on other public lands within the Department -- this
9 process is very similar with the Fish and wildlife
10 Service or Park Service or other entities like that.
11 When they require appraisals, this is a similar process
12 they use also. So this is not unique to OAS. It's a
13 process that's used in the Department with the Office
14 of Valuation Services.

15 It's also interesting to note that in 2008,
16 the appraisal request past due numbered 3369. However,
17 in July of 2016, the appraisal request past due were
18 280.

19 So there have been improvements, and we
20 continue to make improvements with how -- for customer
21 service with regards to appraisal services.

22 Now, the Office of Appraisal Services is
23 responsible for all appraisals on Indian trust
24 property. However, there are occasions where we have
25 to reach out to the Division of Minerals Valuations if

1 there's a mineral estate. Or if there's timber
2 involved, we have to reach out to the Bureau of Indian
3 Affairs to get a timber appraisal. That information is
4 then transmitted back to the Office of Appraisal
5 Services to complete the principal report.

6 The intent of this organizational structure
7 is just to show that those locations are the
8 organizational boundaries or lines that have to be
9 navigated in order to get this permission. Does it
10 make it complex? Or is the process complex? Not
11 really, but it could be because we are crossing
12 organizational boundaries to get this information.

13 This is just some interesting information
14 regards to FY 2015 activity. Special note: I would
15 like to point out bullet three. Bullet three is really
16 what I consider the normal operations. That's the
17 non-land buyback activities that our appraisal office
18 performs. These are more of the site-specific
19 appraisals that are conducted to complete a
20 right-of-way or some other land transaction that
21 requires an appraisal. And in 2015, we completed 3,099
22 appraisal requests.

23 Bullet four shows the activity we completed
24 with the land buyback program. That was primarily --
25 you see the volume difference. That's primarily due to

1 the mass appraisal model that the Land Buyback Program
2 utilizes in order to complete those valuations so that
3 the Land Buyback Program can make their offers.

4 I don't know if it's a misunderstanding here,
5 but I think it's important to note that the operations
6 aspect and the Land Buyback Program passed under
7 Appraisal Services is all under the Office of Appraisal
8 Services. It's all under the leadership of Eldred
9 Lesensee. We have Iris Crisman here, who leads the
10 land buyback side. And then we have another deputy who
11 leads the operation side. But it's all under the
12 office of Appraisal Services.

13 And the success of the Land Buyback Program
14 is really directly attributable to the performance of
15 the Office of Appraisal Services because they completed
16 those appraisals in order for the buyback program to
17 make their offers.

18 What I'm going to present now is a pie
19 diagram of the 3,099 appraisal requests. That was
20 bullet three from the previous slide. Obviously, all
21 the appraisals were completed by Appraisal Services.
22 2,850 of those were completed without having to reach
23 out to the Division of Minerals Valuations or BIA
24 Forestry. Two percent of the time we had to reach out
25 to the BIA Forestry to get a timber appraisal. Six

1 percent of time of time we had to contact DME to get
2 the mineral estate appraisal.

3 when we talk about section 305(a), they talk
4 about a single entity. This is what we envision.
5 Those functions would be transferred to what we titled
6 an Indian Land Valuations Office. That doesn't
7 necessarily mean it's going to be called that. But
8 instead of just calling it "single entity," we titled
9 it an Indian Land Valuations Office. It will likely be
10 called something else, but for consultation and
11 discussion purposes, that's what we titled it.

12 We came up with seven options. And they are
13 in no priority preference. We labeled them options one
14 through seven, obviously. But that doesn't mean option
15 one is better than option three. It's just for
16 reference purposes only.

17 Now, the first option for who can administer
18 the single entity, you have the Office of the
19 Secretary. The second option is the Office of the
20 Special Trustee for American Indians. The third option
21 is the Assistant Secretary of Policy Management and
22 Budget. Fourth option is Office of Valuation Services.
23 Fifth option is Assistant Secretary of Indian Affairs.
24 The sixth option is the Bureau of Indian Affairs, where
25 the Office of Appraisal Services resided prior to 2002.

1 And then we added another, and that's for if you're
2 familiar with the departmental organizational
3 structure. If there's other entities within the
4 Department that you believe you could best administer
5 the single entity or the Indian Land Valuations Office,
6 that option and comments on that is welcome also.

7 That concludes the presentation on Section
8 305(a). I covered a brief history of the Office of
9 Appraisal Services, which right now is responsible to
10 conduct appraisals on all Indian trust land. I gave
11 you an overview of what the current process looks like
12 to give you a framework exactly what activity we're
13 talking about when we talk about Indian Land Valuations
14 Office. And I discussed the single entity from Indian
15 Lands Valuation Office, what that would look like, and
16 who could possibly administer them.

17 And that concludes my presentation.

18 I'll welcome any questions at the end of all
19 the presentations. If I can't answer them, I'm sure
20 Iris Crisman will be able to.

21 Clint.

22 MR. HASTINGS: Hi, good morning. My name is
23 Clint Hastings, and I'm an advisory to the assistant
24 secretary of Indian Affairs. And I've been asked to
25 present today on a couple provisions of the law.

1 First, Section 305(b) requires the Department
2 to establish minimum qualification for appraisers.

3 First, let's take a look at the language of
4 Section 305(b) of ITARA. Section 305(b) requires that
5 the Secretary establish and publish in the Federal
6 Register minimum qualifications for individuals to
7 prepare appraisals and valuation of Indian trust
8 property.

9 And in any case in which an Indian tribe or
10 beneficiary submits to the Secretary and appraisal or
11 valuation that satisfies the minimum qualifications,
12 that I just described, and that submission acknowledges
13 the intent of the Indian tribe or beneficiary to have
14 the appraisal or valuation considered under this
15 section, the appraisal or evaluation shall not require
16 any additional review or approval by the Secretary and
17 shall be considered final for purposes of effectuating
18 the transaction for which the appraisal or valuation is
19 required.

20 Now, having taken a look at what the law
21 requires us to do, let's take a look at the draft
22 proposed rule. The proposed rule would be at Section
23 43 CFR 100, would apply to anyone preparing or relying
24 upon an appraisal of Indian property.

25 First, what are the minimum qualifications

1 for qualified appraisers under this rule?

2 A, the appraiser must hold a current
3 Certified General Appraiser license in the state in
4 which the property appraised is located;

5 B, the appraiser must be in good standing
6 with the appraiser regulatory agency of the state in
7 which the property appraised is located;

8 And C, the appraiser must comply with the
9 Uniform Standards of Professional Appraisal Practice
10 rules and provisions applicable to appraisers.

11 Next, must you submit an appraisal to the
12 Department?

13 Yes, you must submit appraisals for
14 transactions that require Secretarial approval under
15 other parts of Title 25 and Title 43 of the CFR.

16 will the Department review and approve the
17 appraisal?

18 No if, one, the submission acknowledges the
19 intent of the Indian tribe or individual Indian to not
20 require Departmental review and approval;

21 Two, the appraisal was completed by a
22 qualified appraiser meeting the rule's requirements;

23 And three, no owner of any interest in the
24 Indian property objects to use of the appraisal without
25 Departmental review and approval.

1 Department will review and approve the
2 appraisal if any of the above criteria are not met or
3 the appraisal was submitted for purchase or probate
4 under 43 CFR 30, the Land Buyback Program for Tribal
5 Nations;

6 Or three, Legislation requiring the
7 Department to review and approve the appraisal.

8 Next, what happens if the Indian Tribe or
9 individual Indian does not agree with the submitted
10 appraisal?

11 The Indian tribe or individual may choose to,
12 one, not use the appraisal conclusions or findings;

13 And two, request the Department perform an
14 appraisal or valuation.

15 Finally, is the Department liable if it
16 approves transactions for Indian property based on an
17 appraisal submitted by a qualified appraiser?

18 The Department is not liable for any
19 deficient or inaccurate appraisal or valuation it did
20 not review or approve even if the Department approved
21 transaction for Indian property based on an appraisal
22 prepared by a qualified appraiser.

23 Now, having reviewed the draft rule, we have
24 a few questions we'd like everyone to consider. First,
25 do Indian tribes grant Certified General Appraiser

1 licenses similar to those granted by states?

2 Two, are the minimum qualifications
3 appropriate for appraisals and valuations of timber,
4 minerals, or other property separate from appraisal and
5 valuations of real property?

6 And three, is there a way to allow for the
7 Department to verify an appraiser's qualifications
8 without requiring the qualifications to be submitted
9 with each appraisal?

10 So next, under a briefly talked about section
11 303. Section 303 of the Act allows the Secretary of
12 the Interior, at his or her discretion, to create a
13 position of Undersecretary for Indian Affairs who shall
14 report directly to the Secretary of the Interior. This
15 position shall be appointed by the President by and
16 with the advice of the Senate.

17 This next session is where we'd like a little
18 input. We support the creation of the Undersecretary
19 position. There's only really three duties outlined in
20 the law for this new position. If you have any ideas,
21 in addition to these three, we'd like to hear them.

22 The first duty states the Undersecretary
23 shall coordinate with OST to ensure an orderly
24 transition of the functions of OST to one or more
25 appropriate agencies, office, or bureaus within the

1 Department;

2 Two, to the maximum extent practicable,
3 supervise and coordinate activities and policies of the
4 BIA with the activities and policies of the Bureau of
5 Reclamation, Bureau of Land Management, Office of
6 Natural Resource Revenue, National Park Service, and
7 Fish and wildlife Service;

8 And three, provide for regular consultation
9 with Indians and Indian tribes that own interests in
10 trust resources and trust fund accounts.

11 The last slide states that the Undersecretary
12 may appoint offices and employees in this office that's
13 created and that any person hired in this office shall
14 be hired under Indian programs.

15 Finally, you've got a current organizational
16 chart. And you can see all the assistant secretaries
17 down at the bottom, and they report up through the
18 deputy secretary.

19 Under this law, if the secretary chooses to
20 create an Undersecretary, there would be a new position
21 at kind of -- don't know exactly where it would show up
22 on the chart, but it would report directly to the
23 Secretary through the Deputy Secretary. So you can
24 kind of envision how that may look.

25 That concludes my remarks, and I think we're

1 going to open it up to any comments from any folks in
2 attendance. We appreciate any remarks you may have as
3 we go to implement this law. Thank you.

4 MR. SANGRE: Good morning. I'm Richard
5 Sangre. I'm chief of staff at Chippewa Cree tribe and
6 actually a former chairman of the intertribal
7 monitoring association, trust management. And over the
8 years, I've watched the OST budget rise. I've watched
9 the disappointments of some of the implementations that
10 have gone back to the drawing board but eventually got
11 it right.

12 But I think, as I watched the budget of OST
13 get bigger, I watched the budget of the BIA get
14 smaller. And I would like just to, as my comment, is
15 not to move any of OST's function to any other
16 Department other than the BIA. Put them back where
17 they were in the first place. 'Cause I feel that a lot
18 of the stuff has been fixed that created the problem.

19 And the OST, I've watched -- I've watched the
20 ODFM functions continue when there was no Office of
21 Special Trustee because of confirmation.

22 So I think we have all the people here that
23 can do the job. But still, I think all the programs
24 should stay within the BIA. We would welcome them
25 back. Just like Mike Black, we'd welcome him back to

1 Billings.

2 Thank you very much.

3 MR. HASTINGS: Thank you for those comments.

4 MR. STAFNE: Hello. I'm Grant Stafne. I'm
5 with the Fort Peck Tribal Executive Board. I'm also
6 the chairman of Land Committee. And prior to this, my
7 career was with the Bureau of Indian Affairs under -- I
8 started out in Realty. So I know a lot of my comments
9 here are not going to make very many friends with OST.
10 But when I worked for the BIA, I wasn't very friendly
11 with OST anyway.

12 So anyway, I want to submit a prepared
13 statement I have. And with your approval, I'd like to
14 read this into the record.

15 So President Obama signed the Indian Trust
16 Asset Reform Act into law on June 22nd, 2016. The
17 legislation originated with the affiliated tribes of
18 the Northwest Indians Trust Reform Committee. And many
19 of its concepts were borrowed from the 2002-2003 effort
20 of a Tribal Leaders Trust Reform task force. Many
21 tribal leaders, regional tribal organizations, and
22 national Indian organizations like NCAI supported
23 ITARA's passage.

24 The Department of Interior is consulting with
25 Indian Country on how to implement the new law. The

1 ITARA contains three titles, Title III of which
2 "Improving Efficiency and Streamlining Processes" is
3 the subject of consultation. The Department is seeking
4 input on core issues in Title III which are described
5 below.

6 No. 1, Undersecretary for Indian Affairs.
7 Section 303 of the ITARA authorizes the Secretary of
8 Interior to establish an undersecretary for Indian
9 Affairs within the Department. If established the
10 Undersecretary would report directly to the Secretary.
11 It would be a higher-level position than the Assistant
12 Secretary of Indian Affairs, and the heads of other
13 non-Indian land management agencies, such as Bureau of
14 Reclamation, Bureau of Land Management, and National
15 Park Services.

16 At this time, there is no single executive
17 within the Secretary's office that is focused on Indian
18 affairs and that possesses authority over the
19 non-Indian agencies and bureaus in the Department. The
20 Undersecretary is intended to fill this void. Among
21 other duties, the Undersecretary would supervise and
22 coordinate activities and policies of the BIA with the
23 activities and policies of non-BIA agencies and
24 bureaus. The Undersecretary is intended to serve as a
25 cross-agency advocate for Indian Country within the

1 Department and ensure that non-Indian agencies and
2 bureaus within the Department do not implement policies
3 that negatively affect tribes and beneficiaries.

4 The creation of this position would address a
5 major issue that has raised in every significant study
6 of trust management at the Department: The lack of
7 clear lines of authority and responsibility within the
8 Department to ensure accountability for trust reform
9 efforts by non-Indian agencies within the Department.
10 The lines of authority, responsibility, and
11 communication between the BIA and OST have been
12 uncertain and, at times, have come into direct
13 conflict.

14 No Undersecretary will exist unless the
15 Secretary first establishes the position, and the
16 president appoints, and the U.S. Senate confirms, a
17 nominee. Once established, the Undersecretary would
18 not displace or result in the demise of the AS-IA or
19 the Special Trustee for American Indians, which are the
20 two other Senate-confirmed Indian positions within the
21 Department.

22 Recommendation: The Secretary should
23 establish the Undersecretary position under the ITARA
24 and request funding for the position in the fiscal year
25 2018 budget request. That administration should

1 continue to consult with Indian Country on the scope of
2 the Undersecretary's duties as the transition proceeds
3 into the next Administration.

4 Two, Report to Congress on OST. Section 304
5 of the ITARA requires the Secretary to consult with
6 Indian Country and submit a report to Congress that, A,
7 describes OST's non-trust funds related activities;
8 B, provides a description of any OST
9 functions that will be transitioned to other agencies
10 or bureaus within the Department;

11 And, C, includes a transition plan for OST to
12 terminate within two years of submission or an
13 alternative date if an orderly transition cannot be
14 done within two years.

15 The report is informational only. Section
16 304(c) states that nothing in the report causes OST to
17 terminate or affects application of the existing
18 provisions in the American Indian Trust Fund Management
19 Reform Act of 1994, which created OST. It will be up
20 to a future Administration or Congress to decide
21 whether the transition plan is actually implemented.

22 when Congress created OST in 1994, it
23 intended that OST be a temporary entity that would
24 sunset after the major fiduciary accounting reforms
25 were implemented. Those major reforms were implemented

1 years ago. The report required by Section 304 is
2 intended to focus Indian Country discussion on this
3 issue and, for the first time, afford Indian Country a
4 written transition plan for OST.

5 Recommendation: The transition plan should
6 keep most of OST's core fiduciary accounting and
7 investment functions (investing, accounting,
8 receipting, disbursing, et cetera) intact but (a)
9 maintain the separation and independence of those
10 functions from the BIA and (b) have those functions
11 report to the Undersecretary. Written comments will
12 follow on a transition of the remaining OST functions.

13 Three, Administration of Appraisals. Section
14 305(a) of the ITARA requires that "not later than 18
15 months after the date of enactment of this Act, the
16 Secretary, in consultation with Indian tribes and
17 tribal organizations, shall ensure that appraisals and
18 valuations of the Indian trust property are
19 administered by a single bureau, agency, or other
20 administrative entity within the department."

21 This provision is intended to streamline the
22 appraisal process, which involves two separate
23 bureaucracies. Under current practice, the BIA accepts
24 the appraisal requests from tribes and Indian
25 beneficiaries and is responsible for transmitting them

1 to the Office of Appraisal Services (OAS), an office
2 within OST. OAS then prepares the appraisal or secures
3 a contract appraiser. If the BIA does not transmit an
4 appraisal request, however, OAS does not know that one
5 is needed, and no appraisal is generated. This often
6 leads to confusion and delay for tribes and
7 beneficiaries.

8 Section 305(a) requires that a single entity
9 administer appraisals of Indian trust property. It
10 does not require specialty components of appraisals
11 that are located in other parts of the Department to be
12 relocated. For example, BIA Forestry personnel are
13 responsible for valuing timber. And a separate entity,
14 the Division of Minerals Valuation is responsible for
15 appraising minerals. Those specialty functions can
16 remain in place provided that a single entity receives
17 the initial appraisal request and is responsible for
18 delivering the completed appraisal.

19 Recommendation: A single entity with
20 expertise appraising Indian trust property should
21 administer appraisals under section 305(a). That
22 entity should be OAS, whether or not OAS continues to
23 be a part of OST.

24 No. 4, Minimal Qualifications for Appraisers.
25 Section 305(b) requires the Secretary to "establish and

1 publish in the Federal Register minimum qualifications
2 for individuals to prepare appraisals and valuations of
3 Indian trust property." When a tribe or Indian
4 beneficiary submits an appraisal that satisfies the
5 minimum standards, no further Secretarial review or
6 approval is required. An appraisal is considered final
7 for purposes of effectuating the transaction for which
8 it is required.

9 section 305(b) was intended to provide a
10 voluntary way for tribes and Indian beneficiaries to
11 bypass a current requirement that OAS review and
12 approve appraisals that tribes and beneficiaries
13 obtain. The additional "review appraisal" step has
14 often led to delays in completing trust transactions.
15 The Department has developed a proposed rule that would
16 implement section 305(b).

17 Recommendation: More specific written
18 comments will follow on proposed rule. But the rule
19 should be expanded to include a provision that
20 authorizes tribes and beneficiaries to obtain copies of
21 appraisals and appraisal work papers.

22 I want to point out that one of the big
23 issues on this bill is it only requires a report from
24 intention on a plan to sunset but does not mandate to
25 make it happen. I feel that this needs to be mandated

1 and supported by the DOI.

2 You know, OST, as my illustrious colleague
3 here stated, has been generally top heavy. You know, I
4 would like to see a report of the administration of OST
5 as it compares to the BIA, such as number of SES-level
6 individuals given OST as it compares ratio to the BIA.

7 with that, I'll conclude and stop there. And
8 I want to thank you for allowing me this time to speak,
9 and have a good day.

10 MR. HASTINGS: Thank you for those comments.
11 I think those are probably the most substantive
12 comments that we've received thus far in our
13 consultation. And make sure to submit those, the
14 written ones, to us through e-mail or however is most
15 convenient.

16 And one thing, since you supported the
17 establishment of the Undersecretary or just to request
18 funding at FY '18, if you wanted to add any comments on
19 kind of a funding stream, how you would envision that
20 funding request looking, we'd appreciate that as well.

21 MR. STAFNE: I'll include that with my
22 written comments.

23 MR. HASTINGS: Great. Thank you.

24 MR. STAFNE: One of my individuals from Crow
25 is on his way. He said to keep you guys here; he's on

1 his way. Adrian Not Afraid.

2 MR. MADISON: I'm not Adrian. My name is
3 Clark Madison. I'm an enrolled member of Fort Peck.
4 I'm retired from the Bureau of Indian Affairs. I've
5 been retired since 2010, and I have a few comments
6 about appraisals.

7 John said that over 3,000 appraisals were
8 done last year. I think what I would like to know is
9 how many was requested. And I've got a couple of
10 comments.

11 One, the tribe sets their own rate on tribal
12 land for both right-of-ways and leases and permits.
13 There's no liability in the federal government for
14 approving for less than fair annual rental on tribal
15 land.

16 However, on allotted land, the Secretary is
17 prohibited from approving the lease or permit or
18 right-of-way for less than fair market value. So most
19 of your workload, your real workload, is going to be on
20 allotted lands.

21 On gift sales and exchanges, Congress enacted
22 a law in 2000, in which the amendment to the ILCA --
23 that said you don't need an appraisal or a gift, a
24 sale, or exchange. You only need an estimate of value.
25 And that's been upheld by the Interior Board of Indian

1 Appeals. So we don't need a full-blown appraisal, but
2 we've never defined what an estimate of value is. And
3 I think that's something you ought to consider when
4 dealing with appraisals.

5 The second thing is after buyback, we have
6 more mixed ownership tracts than we have tribal or
7 allotted. That means at least one of the interests in
8 a tract of land is owned by an individual. The
9 Secretary is prohibited from approving the lease on a
10 mixed ownership tract for less than fair market value.

11 So I think that the demand for appraisals
12 because of the buyback is going to go up. Because
13 before, we could establish fair annual rental by
14 advertising. Now we're going to need an appraisal.

15 And finally, at least one tribe has attempted
16 to purchase land at probate, which is allowed under
17 ABRA. The reason that they have been able to do
18 that -- and some of these are consensual, and some are
19 nonconsensual sales. They don't need the consent of
20 the owner. These have been held up because of the lack
21 of appraisals.

22 I think, again, there's going to be a growing
23 demand for appraisals because of the purchase at
24 probate provision. And with that, thank you.

25 MR. HASTINGS: Thank you for your comments.

1 The Department primarily focused on OST.

2 Deb or John, do you have any comments in
3 response?

4 MS. CRISMAN: Deb asked if I have anything
5 I'd like to follow up on, and I will follow up on the
6 number of requests versus number of appraisals in 2015.

7 MS. DUMONTIER: So just to repeat, based on
8 that request, Iris is going to follow up on how many
9 requests were made and then get that back to -- we'll
10 post it on our website?

11 MS. CRISMAN: Yeah.

12 MS. DUMONTIER: Okay.

13 MR. HASTINGS: All right. We've been told to
14 stick around 'cause we've got somebody on the way. So
15 we need comments while we're waiting.

16 MR. STAFNE: He just pulled into Billings
17 about five minutes ago, so he's pulling in here.

18 Maybe I could ask a question. It's still
19 unclear. And I want to thank the appraisals for coming
20 up to Billings -- or to Wolf Point, Poplar, Montana, my
21 home reservation, Fort Peck. We had questions
22 regarding appraisals. And the individual that came up
23 there is sitting in the back.

24 But I'm still unclear. And I'd like to --
25 maybe some of these directors. We purchased quite a

1 bit of land on our reservation; trust and fee, you
2 know. On some fee land, the last purchase we did
3 earlier this year was 3,400 acres. We buy quite a bit
4 of land on our reservation.

5 But when we buy trust land, we get appraisals
6 done on it. And, you know, like I stated earlier, the
7 appraisals I'm used to, when a piece of land is both
8 farm and pasture, it's split up like that. You know,
9 if you have -- I'll just throw some numbers out there.

10 If you have a 40-acre tract, and 20 acres of
11 it is farm and 20 acres of it is pasture. We used to
12 get appraisals just on the farm portion. They would
13 give you a value of that farm and give you a value of
14 the pasture.

15 Nowadays, OST -- or I guess USUAP, the
16 regulations are different. Now they send just a value
17 to you. They don't split it between pasture and farm.

18 Can anyone at the table -- now, I don't want
19 to put you on the spot, Mr. White -- but why this
20 happened? Can anyone explain that?

21 MR. WHITE: Well, you're not putting me on
22 the spot. You're putting Iris Crisman on the spot.

23 MS. CRISMAN: You know, I'm going to be an
24 appraiser, like I always am. "It depends," is what we
25 always say.

1 I need to know a little more specifics on the
2 property that you were talking about. You would like
3 to have an appraisal; I understand one was forwarded
4 with an appraisal. And we do use different
5 methodologies and actually moving forward with our
6 appraisals.

7 with ag, more than likely, we follow a lot of
8 the requirements of the "farm boys," is what I call
9 them. And it's an organization where you do a mixed
10 use and you do separate out the values. But it ends up
11 with holes. So you may end up with pasture, dry crop.
12 But overall, it comes up with a final value.

13 I do not know the specifics on that. I more
14 or less talked to Will and Jim when I was in the
15 office. I thought they had finally came up with a
16 final process of what we'd like to do as far as moving
17 forward with Fort Peck and that particular track.

18 MR. STAFNE: I guess my question was why
19 can't I just get an actual value of that farm land and
20 an actual value of that pasture, you know, broken out
21 rather than lumped together and giving me a value that
22 way?

23 Along those same lines, we had an irrigated
24 parcel, a 40-acre tract, and there was a homesite on
25 there. And all our irrigated properties in Fort Peck,

1 we never paid over a thousand dollars an acre. And in
2 this particular instance, that whole 40 acres was
3 valued at 2,600 an acre. And it was due to the
4 homesite.

5 The way we got around that -- I said how can
6 you value a whole 40-acre tract at two-and-a-half-acre
7 homesite when there's utilities and whatnot? I
8 understand that. Why can't they just value two and a
9 half acres at \$2000 an acre, and the remaining 3750 at
10 a irrigated price of a thousand dollars an acre? But
11 it was all lumped together.

12 And, you know, like I stated earlier, I
13 worked in real estate services for 20 years. And, you
14 know, it -- it's over my head.

15 This was an Indian -- individual Indian that
16 owned this 40 acres all by herself. And that appraisal
17 was -- you know, we would have really took the heat for
18 the rest of the individuals that wanted to sell
19 their -- you paid 2,600 an acre on this irrigated
20 property; why -- you know. It's just over my head now.

21 And I -- the way we got around it is we met
22 with the individual that owned this land to break out
23 that two and a half acres and get it reappraised.
24 Hopefully, it comes down quite a bit less.

25 MS. CRISMAN: Correct. And when an appraisal

1 does go out and etch the value of land, they look at
2 what's going on in the surrounding area. And then it
3 is that individual's opinion. It is only an opinion.

4 And in this case, I'm assuming that the
5 opinion was the highest, best use was rural
6 residential. When you broke out the whatever it was,
7 2 acres, 3 acres from the other, then in that case, as
8 it being broken out, then there's a highest and best
9 use of irrigated crop and grow residential.

10 But it is very difficult for an appraiser,
11 when we do move forward and see a highest and best
12 use -- and we are going market. So if the market
13 changes, we follow market. If you find some issues
14 with the sales we use, you bring in additional sales or
15 if you have issues with our opinion of value, then you
16 work with the appraiser, and we continue. But, again,
17 the opinion is based upon market.

18 MR. STAFNE: We shouldn't have to do that
19 though.

20 MS. CRISMAN: Anyway, we can talk later if
21 you'd like do. We can go into further detail.

22 MR. HASTINGS: Why don't we take about a
23 ten-minute break or so. Thank you.

24 (Recess taken 9:45 to 10:14 a.m.,
25 August 31, 2016)

1 MS. DUMONTIER: I think we're going to get
2 started again and get the rest of the comments. Thank
3 you.

4 And, Doug, did you want to say something?
5 Rob?

6 Eric?

7 All right then. Well, we'll turn it back
8 over for the comment period to continue.

9 MR. NOT AFRAID JR.: Good morning. Welcome
10 to Crow Country. Also, like to introduce myself; Alvin
11 Not Afraid Jr. I serve as the secretary of the Crow
12 tribe under the executive branch.

13 I'm aware of the consultation process, as
14 well as the common goal and efforts for Indian Country.
15 At this time, the Crow tribe chairman was unable to
16 make it today due to conflicting schedules. So on
17 behalf of the Crow tribe, we will submit a written
18 comment prior to the September 30th closing.

19 But in regards, as secretary of the Crow
20 tribe, I do understand that OST has done a phenomenal
21 job administering appraisals and different aspects
22 within Interior. We also understand that trust
23 services requires additional funding for all these
24 settlements or any type of actions taken on behalf,
25 whether it be from litigation or new projects.

1 As a member of the Tribal Interior Budget
2 Council, we've seen and viewed where there are many
3 deficiencies, based on the national budget to Indian
4 Country. Therefore, OST, evolving, assisted in
5 requesting additional funds. Therefore, being a
6 proponent of that, to request additional funds or
7 Indian Country is -- I'm a strong advocate for.

8 But at this time, OST, if the clause is not
9 mandated, I feel -- we feel that whether it's merged
10 under Indian Affairs or not, the plan is to continue to
11 keep these programs operable for Indian Country. Yet
12 we dissolve different aspects that serve a purpose and
13 trust responsibility to the Indian folks.

14 Although we create laws in the Senate, yet
15 they are very underfunded. So just coming from a
16 revenue-based portion of it, my comments are based on
17 continuing to fund these activities for
18 Indian services.

19 So at this time, I would like to take note
20 that the Crow tribe would submit a formal comment prior
21 to the closing with more details and extensive comment.
22 So I thank you for your time and I thank you for
23 traveling down to Crow Country, as well as my brothers
24 from the Sioux and the Fort Belknap tribe also heard
25 you out.

1 I'm not sure if they are as hostile as me,
2 but they are good people. You know, we all serve for
3 our people, and we want the best -- in the best
4 interest of Indian Country. Thank you.

5 MR. HASTINGS: Thanks. We really appreciate
6 those comments and particularly appreciate your
7 perspective on funding and increased funding for these
8 programs concerning your work on TIBC. So thanks, and
9 looking forward to seeing your written comments.

10 All right. So we'd love any additional
11 comments from any tribal leaders or individuals in
12 attendance. I think tribes have a great opportunity to
13 help the Department on how it will implement this law.
14 So any comments would really be appreciated.

15 MR. LORDES: My name is Doug Lordes. I'm the
16 acting deputy special trustee for field ops in
17 Albuquerque. I'm an enrolled member of Chippewa Cree
18 Rocky Boy's Reservation. And first off, I want to
19 thank all the tribal leadership, tribal
20 representatives, for taking time out of your busy
21 schedule and coming out here and interfacing with us.

22 Because when we started this process, it was
23 how do we continue to do good work but yet focus on the
24 beneficiaries, tribal and individual? So we need that
25 input from you. And it's important so that we build a

1 constructive and comprehensive plan.

2 And with that being said, just a couple more
3 comments I want to make. You know, if there's any
4 individuals here, I am accountable. We want to hear
5 from you too because we need to have your perspective
6 on what we're doing right or doing wrong so, again, we
7 can have a comprehensive plan.

8 And lastly, if you have specific issues -- if
9 the FTOs would please stand up -- grab any one of these
10 individuals, and they will assist you. Maybe they
11 won't have the answer today, but they will get the
12 answer for you. So, again, I thank you for your time
13 and really appreciate your comments. Thank you.

14 MR. HASTINGS: All right. We'll wait a
15 couple more moments for any additional comments.

16 Deb, you want to say anything?

17 MS. DUMONTIER: No.

18 Again, I would just stress that we certainly
19 appreciate the time of the tribal leaders and
20 representatives here today to help us build an
21 improved-upon services to Indian Country. Really
22 welcome your comments. I know that September 30th will
23 be here before we know it, so really encourage you to
24 get those comments in.

25 The legislation itself only allows us a year

1 before we have to have a report submitted to Congress.
2 And Secretary Sally Jewell said she wants to report to
3 Congress before the end of this Administration. So we
4 are looking at a pretty tight timeline.

5 But I want to commend the staff, OST, BIA,
6 Asia [phonetic] as well. We've done a whole lot of
7 work in a short amount of time. And it wasn't exactly
8 planned for, as well as our solicitors who have really
9 stepped up to assist us to get us to where we are,
10 including the presentations that are in your packet.

11 So, please, review the information and let us
12 know your thoughts. They are all valuable. We also
13 have the video that we were playing earlier, we'll
14 start that again once the comments are concluded for
15 those of you who want to stick around and review it. I
16 believe it's going to be on our website, right, Jeremy?

17 JEREMY: Yes.

18 MS. DUMONTIER: And that's for the Tribal
19 Methodology, the online evaluation tool for tribes that
20 are operating trust programs.

21 MR. HASTINGS: All right. Well, if we have
22 no additional comments, I think we can go ahead and
23 wrap things up.

24 Go ahead.

25 MR. RATTILING THUNDER: Good morning. My name

1 is Terry Rattling Thunder, council member of Fort Peck
2 and Assiniboine Sioux tribes.

3 I know that I came down here with Grant
4 because he's with BIA, and I was -- worked with the
5 tribes in a lot of different departments and
6 everything. One of the main things was tribal credit.
7 And one of the big issues there -- I just want to bring
8 it up because you're talking about what's going on here
9 and everything. And I know that, you know, right now,
10 you know, we -- it's looking at that sunset or
11 whatever.

12 But then I know there's concerns going on in
13 the meantime here. And I just want to bring it to your
14 attention and everything that, you know, up there at
15 Fort Peck Assiniboine Sioux tribes and everything, we
16 work a lot of IM accounts and everything. And I
17 remember back before my first term -- this is my third
18 term. But I was back there in tribal credit and was
19 director and everything.

20 And Larry Echo Hawk came up, and he brought
21 his staff with him. One of the concerns we had and
22 everything was the administering of those IM accounts.
23 At that time, it was in Albuquerque and everything.
24 The process and everything, I know it's since moved
25 around, and I think it goes through Kansas or somewhere

1 now. It's kind of diverted and everything.

2 But one of the concerns I had was your
3 automated system that you guys utilized. I know at
4 that time and everything, that, you know, we had a lot
5 of problems with collections and time process and
6 everything. I know that we worked with you guys to set
7 it up. I think they collected twice a month and
8 everything.

9 And I know for my enrolled members and my
10 tribe and everything, that time span there, it makes a
11 big difference on their livelihood. Because a lot of
12 them rely on their IM accounts for making it
13 day-to-day. Because of their IM moneys and everything,
14 they don't qualify for TANF and that kind of stuff.

15 So one of the concerns I got is you guys
16 setting the up your system. I know that at that time,
17 their specialist came in and looked at our accounting
18 software and everything. And it was considered
19 compatible and everything.

20 But after they left, nothing happened.
21 Nobody came up or tried to set it up where we could
22 actually set it up where our spreadsheets would upload
23 automatically and everything. Because once we sent
24 electronically, the spreadsheets, we were hoping
25 somehow that it was uploaded into your system, which it

1 wasn't.

2 We need a way to speed that up and
3 everything. 'Cause I know previously, we've had it
4 where our OST staff up there, based on the money coming
5 in and everything, emergency situations, they were
6 sending those individually packets, you know, to you
7 guys and everything. And that was working good and
8 everything. But you went back to your automated
9 system.

10 And one of the problems that system caused
11 was that they were collecting on the principal, and it
12 was automatically kicking off their accounts as paid
13 off. which it wasn't really actually true, because
14 there's interest accrual and everything all the way to
15 the time span of the money being posted on our accounts
16 on Fort Peck there. So we were stuck with the problem
17 there where we have a lot of accounts that were
18 considered paid off. Because if they got their
19 printouts over on the OST side, it said that they were
20 paid off.

21 Actuality, you go to Tribal Credit Department
22 there, and they weren't paid off. So we had between 25
23 to 50 small accounts that just had minimal and
24 everything. And they couldn't get loans and everything
25 because of that problem.

1 So wondering if you guys could try to work
2 with Tribal Credit now. I've been on the council for a
3 while, but would appreciate if you get a system set up
4 to work with them to fix that problem and everything.
5 Because those people -- you know, we got policies
6 updated and everything. We have wage loans, IM
7 account, emergencies. We have four base loans, and
8 once they are maxed out, they can't make a loan or
9 anything for funerals or anything. But they really
10 need it.

11 And then because of all those little accounts
12 not being closed out, causing a big problem at my
13 reservation. I just want to point that out and
14 everything. That, you know, it's a big concern up
15 there, especially with those IM accounts and
16 everything.

17 So maybe you could try to send somebody to
18 work with them and find a faster process or something.
19 I just wanted to bring that up and everything.

20 MS. DUMONTIER: Just provide a quick
21 response.

22 MR. WINTER: I'm Rob Winter; I head up our
23 accounting functions. And I know liabilities process
24 differ between tribes. Last I heard, I thought we were
25 updating our system per your spreadsheets.

1 But, you know, there might be a timing
2 difference between when you're getting us the
3 information and whatever. But nonetheless, I hear what
4 you're saying, and I'd love to talk to you maybe after
5 this consultation, a little more specifics, to see what
6 we can do to address what you're talking about.

7 MR. RATTLING THUNDER: Okay. Thank you.

8 MR. HASTINGS: Any additional comments?

9 (No response.)

10 MR. HASTINGS: All right. We appreciate
11 everyone attending this morning. I want to remind you
12 that you have until September 30th to submit written
13 comments. And we'd urge everyone to do that, because
14 it's really important that we get your feedback as we
15 implement this law.

16 So I appreciate everyone's attendance. And
17 if you'd like to catch us afterwards, we'll be around
18 for a little while if you want to talk to us on the
19 side. Thank you.

20 (Proceedings concluded at 10:29 a.m.,
21 August 31, 2016.)

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REPORTER'S CERTIFICATE

I, Vonni R. Bray, a Certified Realtime Reporter, certify that the foregoing transcript, consisting of 56, is a true and correct record of the proceedings given at the time and place hereinbefore mentioned; that the proceedings were reported by me in machine shorthand and thereafter reduced to typewriting using computer-assisted transcription.

I further certify that I am not attorney for, nor employed by, nor related to any of the parties or attorneys to this action, nor financially interested in this action.

IN WITNESS WHEREOF, I have set my hand at Laurel, Montana this 12th day of September, 2016.

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