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In Re:

TRIBAL CONSULTATION

CONSULTATION POLICY/PROCEDURES DMs

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MEETING/CONFERENCE

DATE: Wednesday, December 15, 2021

TIME: 2:29 p.m.

LOCATION: Client Managed Remote - DC

ZoomGov - Washington DC

Washington DC, 20005

REPORTED BY: Sekoya Hicks, Notary Public

JOB No.: 4987594

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## A P P E A R A N C E S

Albert LeBeau, Allison Travers, Amanda Begay, Bernard Thomas, Brian Howard, Brian Parry, Byron Loosle, Candy Thomas, Chris Hammond, Christine Mellick, David Zabriskie, DJ Monette, Dorothy FireCloud, Eric Rodriguez, Joaquin Gallegos, Kathryn Ison-Clause, Kenneth Reinfeld, Kylie Morden, Melissa Ivie, Michele Fahley, Mychal Yellowman, Natalie Clark, Nicholas Laluk, Pamela Williams, Ryan Seelau, Scott Aikin, Tori Gibbons, Tracy Goodluck

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E X H I B I T S

NO.

DESCRIPTION

PAGE

(\*None marked.)

1 P R O C E E D I N G S

2 MS. GILBERT: Okay, you may go ahead  
3 and begin.

4 MR. GARRIOTT: (Speaking non-English  
5 language). Good afternoon, everyone. I greet you all  
6 with a good heart. My name is Wizipan Little Elk  
7 Garriott. I serve as the Principal Deputy Assistant  
8 Secretary for Indian Affairs here at the Department of  
9 Interior. Thank you for joining us today's  
10 consultation on the draft amendments to the  
11 departmental manual, which covers consultation.

12 Before we begin, as is our way, we want  
13 to take a moment for reflection, silence or prayer,  
14 whatever is appropriate for you in your tradition to  
15 pray or read or center yourself before we officially  
16 begin. So with that, we'll take a few moments and  
17 come back to this.

18 Thank you, everyone. Again, welcome to  
19 the Department of Interior's consultation on the draft  
20 updates to our consultation policies and procedures.  
21 Want to remind everyone that today's consultation is  
22 being recorded and to help with the audio quality, we

1 ask that everyone turn off their cameras and are on  
2 mute and that when you do speak, that's one time when  
3 you turn your camera on and to unmute and make sure  
4 that you state your name, your tribe affiliation, and  
5 who you're representing. All of that is important as  
6 we (inaudible) all of this make sure that we provide  
7 an accurate reflection of the comments made during the  
8 consultation.

9           On November 12th, we sent a "Dear  
10 Tribal Leader" out to Indian country notifying  
11 everyone that we would be having a consultation and to  
12 begin seeking input on developing a new consensus-  
13 seeking model for consultation here at the Department  
14 of Interior. And to provide a little background on  
15 that for your consideration, at the beginning of  
16 President Biden's presidency, he issued a memorandum  
17 emphasizing the importance of consultation with tribes  
18 and strengthening our nation-to-nation relationship.

19           You know, and in accordance, you know,  
20 with that memorandum, Department of Interior is  
21 seeking consultation with tribes on how it can improve  
22 its implementation of Executive Order 13175 in

1 coordination with tribal governments. The  
2 consultation culminated in the detailed plan, you  
3 know, outlining which actions interior would be taking  
4 to an implementation and one of these updates and a  
5 part of that plan was to update our consultation  
6 policies and procedures.

7 Our consultation policies and  
8 procedures are codified in our departmental manual  
9 which we refer to as the DM, and that is a compilation  
10 of Department of Interior's departmental wide  
11 policies. There are two chapters in particular that  
12 are important, Chapter 1512 DM 4, which sets out our  
13 consultation policy and then DM 5, which sets out our  
14 consultation procedures.

15 These chapters were put into place  
16 about seven years ago and, you know, also understand  
17 that it codified a freestanding 2011 tribal  
18 consultation policy that was developed by tribes and  
19 interior. Based on input from previous consultations,  
20 have, you know, put a draft consultation policy  
21 forward, which is to really update, try to help  
22 modernize the previous consultation policy.

1           The intent of the new draft that we're  
2 seeking input, we're seeking your input on is -- you  
3 know, kind of (inaudible) broad areas and first and  
4 foremost is how can we bolster interior's consultation  
5 policy to encourage early, robust, interactive, pre-  
6 decisional information that is informative and  
7 transparent on consultation and consultation process;  
8 establish a model for consensus, decision making; also  
9 require that Department of Interior staff undergo  
10 trainings before participating in consultations; to  
11 codify the secretary's tribal advisory committee  
12 (inaudible); to address flexibility in tribal waivers;  
13 to clarify the Department of Interior's decision  
14 makers, invite to tribal consultation; and to require  
15 a record of consultation.

16           As we move forward, you know, we've  
17 asked a number of questions for people to consider.  
18 You know, moving forward, those are posted at the chat  
19 (inaudible) through those. Before we open it up, we  
20 have a number of others from the department, tribal  
21 liaisons, many of which (inaudible) with, who work in  
22 the field and, you know, are engaged in this work on a

1 daily basis and if we could have each of them  
2 introduce themselves, but I also want to make sure --  
3 but before we get to them, maybe Joaquin if you wanted  
4 to introduce yourself real quick.

5 MR. GALLEGOS: Good afternoon. It's a  
6 pleasure to be with you all today for this important  
7 consultation. My name is Joaquin Gallegos and I serve  
8 as the Special Assistant to the Assistant Secretary of  
9 Indian Affairs. Thank you for your time and we look  
10 forward to hearing your vital perspectives.

11 MR. GARRIOTT: One of liaisons and  
12 other folks from interior make -- do a quick  
13 introduction?

14 MS. GOODLUCK: Sorry, I thought  
15 somebody was going to go before me. (Speaking non-  
16 English language). My name is Tracy Goodluck. I am  
17 with the Department of Interior. I'm wearing two hats  
18 today. I am with the White House Council on Native  
19 American Affairs and I'm also -- where I'm detailed,  
20 and when I'm not detailed there, I am the Deputy  
21 Director of the Secretary's Indian Water Right's  
22 Office. Very grateful to hear your comments today.



1 Thank you.

2 MS. FIRECLOUD: Good afternoon. This  
3 is Dorothy FireCloud. I'm the National Parks Service  
4 Native American Affairs liaison and a member of the  
5 Rosebud Sioux Tribe and it's good to have everyone  
6 here today for this consultation.

7 MR. AIKIN: (Speaking non-English  
8 language). Scott Aikin, the National Native American  
9 Programs coordinator for the U.S. Fish and Wildlife  
10 Service. I'm Prairie Band Potawatomi.

11 MR. MONETTE: DJ Monette, U.S. Fish and  
12 Wildlife Service, the associate Native American  
13 liaison. I work under Scott. Welcome to the session.  
14 Thank you.

15 MR. HAMMOND: Hi, I'm Chris Hammond,  
16 head of the Office of Tribal Relations at the U.S.  
17 Geological Survey. It's a delight to be with you  
18 today. Welcome.

19 MR. YELLOWMAN: (Speaking non-English  
20 language). My name is Mychal Yellowman. I'm with the  
21 Office of Surface Mining, Reclamation, and  
22 Enforcement. I am a Indian programs branch manager

1 and I'm also a tribal liaison officer for the Office  
2 of Surface Mining. Thank you.

3 MS. TRAVERS: My name's Allison  
4 Travers. I'm also with the Office of Surface Mining  
5 and I'm a tribal liaison officer for the mid-continent  
6 region.

7 MR. LOOSLE: (inaudible), the Bureau of  
8 Land Management acting tribal liaison officer.

9 MR. GARRIOTT: And if that is everyone,  
10 we'll go ahead and jump right in. Again, the kind of  
11 -- questions have been posted in the chat, you know,  
12 to help spur discussion and thoughts, and so with  
13 that, we would open it up to the floor for anyone who  
14 has comments or recommendations, ideas on the draft  
15 consultation policy.

16 And if there's anyone who wants to pick  
17 up, just use the raise hand function and unmute  
18 yourself. If you want to take off your video, that's  
19 fine, but again we're (inaudible) participants to make  
20 comments.

21 MS. GILBERT: We do have one hand  
22 raised. Michael, if you could please introduce

1 yourself and who you're representing? Thank you.

2 MR. CHAVARRIA: (Speaking non-English  
3 language). Good afternoon. My name is Michael  
4 Chavarria. I serve as governor for Santa Clara Pueblo  
5 here in New Mexico. You hear me all right?

6 MR. GARRIOTT: Yes, we hear you.

7 MR. CHAVARRIA: Okay. Yeah, well,  
8 thank you sir for -- and Department of Interior for  
9 hosting this session today. I guess this will be the  
10 follow-up from the previous sessions that we had back  
11 in -- believe in March. Santa Clara Pueblo did submit  
12 our initial comments to Marie Ann Bledsoe at that time  
13 regarding the consultation, so I think this is very  
14 important that the -- we all understand the Chapter 4,  
15 Chapter 5, how it comes into the policies and  
16 procedures.

17 And so for Santa Clara, you know, it's  
18 very important that we engage early on in any decision  
19 making, so I appreciate the opportunity as these  
20 documents are being considered as draft, and I believe  
21 I seen (inaudible) some other comments before the end  
22 of the year, which is very important. And so for

1 Santa Clara, you know, meaningful consultation  
2 requires that dialog between the tribal partners  
3 across the interior agencies and the goal is to reach  
4 consensus.

5 Consultation must mean more merely than  
6 just ticking off a box and cataloging our objectives  
7 to tribal nations. I think it's very important that,  
8 that trust responsibility is very important, the  
9 engagement of meaningful dialog (inaudible) reach  
10 consensus.

11 Reaching consensus is very important  
12 because even for me in Santa Clara, I see Fish and  
13 Wildlife, BOR, Parks Service, BIA having their own  
14 interpretation of what consultation should mean, and  
15 so having one standard template within Interior for  
16 all other agencies to utilize, is very critical, but  
17 also having the understanding that we're all unique,  
18 we're not all the same.

19 So I think that's very important so  
20 that we can have a true collaborative partnership and  
21 collaboration for successful implementation of this  
22 DOE -- Department of Interior policies and procedures

1 moving forward. I understand it's been like seven  
2 years since these policies have been in place, so now  
3 is our time that we correct (inaudible) fulfill what  
4 the tribes have been seeking over this past seven  
5 years because that's very important.

6 We just don't want to be brought in at  
7 the tail end. It's better when tribes are bringing --  
8 are brought in up front like we're doing today, then  
9 have all these issues and concerns address. I did  
10 look at the six questions that were identified;  
11 however, unfortunately my email has been down, hasn't  
12 been hundred percent, so I missed some of the emails.  
13 So I'd like to ask that I be allowed two more weeks to  
14 provide my comments to answer each of the following  
15 six questions.

16 This is very important, but I just want  
17 to thank Assistant Secretary Newland, Secretary  
18 Haaland, but also all the representatives within that  
19 federal agency in interior for coming to the meeting  
20 today, because that's very important and that shows  
21 that commitment government to government with us as  
22 political tribal sovereign government, which is

1 critical, ultimately protecting the landscape, the  
2 traditional cultural properties, our homeland,  
3 aboriginal land.

4           So all this is very critical as we dive  
5 in to reaching consensus and preparing a final plan  
6 moving forward. So I just appreciate the time and  
7 opportunity for allowing myself to say a few word  
8 (inaudible), but I thank everybody. (Speaking non-  
9 English language) and all stay safe. Continue to pray  
10 so that we can have these sessions in person so that  
11 this unfortunate time of our lives can be washed away,  
12 blown away, but continue to protect all of our people  
13 within our respective communities and that comes to  
14 trust, love, and respecting one another. So I thank  
15 you for the opportunity, okay.

16           MR. GARRIOTT: Thank you, and thank you  
17 for representing the pueblo. And one thing I failed  
18 to mention, was that, you know, on behalf of Assistant  
19 Secretary Newland, he was planning to lead today's  
20 consultation but a personal matter came up that he had  
21 to attend to, so that's why he was -- he's not on here  
22 today and, you know, he sends his regrets to everyone.

1 He wanted -- he had planned to do it, but something  
2 came up at the last minute.

3 So, and of course, all the work that we  
4 do is on behalf of (inaudible) Haaland and, you know,  
5 so these issues are of utmost importance to her and  
6 the administration and, you know, really appreciate  
7 the comments and we're striving to make sure that the  
8 process that we're utilizing for the drafting of the  
9 consultation process embodies to the best extent  
10 possible what that will hopefully look like in the  
11 future and, you know, the process happens early and up  
12 front, that there's a dialog that's meaningful, the  
13 decision makers are part of the process as we seek  
14 consensus and that, you know, also what I'm hearing is  
15 that we want to make sure there's some kind of  
16 baseline standards across all of interior, but at the  
17 same time to make sure that those baseline standards  
18 are not so strict that, you know, makes it difficult  
19 for tribes and tribes on the tribal side, because each  
20 tribe is unique and is different and, you know, the  
21 way in which one tribe does something is sometimes  
22 different than another tribe and so that also needs to

1 be accounted for as well.

2 MR. CHAVARRIA: Yes, sir. I think  
3 that's very important because too often, as I  
4 mentioned, federal agencies try to impose a shot clock  
5 timeframe and a shot clock timeframe doesn't work for  
6 everyone. As tribal nations, we have traditional  
7 cultural calendars and that's why I mentioned, we're  
8 not all the same, so it makes it challenging for us to  
9 be part of these discussions and federal agencies need  
10 to realize NHPA Section 106 process takes time in  
11 order ensure they are done correctly and coordinated  
12 properly, NHPA environment justice concerns may help  
13 to inform those mitigation requirements and require a  
14 tribally led ethnographic study or work, may help to  
15 inform the NHPA alternative, because oftentimes a  
16 literature review is simply insufficient and  
17 improperly elevates the importance of western views of  
18 archeological resources over our native views, which  
19 are much more complete and understanding of that  
20 cultural resource and site.

21 Again, often only archeological  
22 resources are noted in literature while cultural



1 resources can only be made known through conducting  
2 field surveys with qualified pueblo culture  
3 representatives advising about whether an area  
4 contains traditional cultural properties or resources  
5 which are place based or non-renewable resource for  
6 proper investigation by qualified experts by Santa  
7 Clara Pueblo and other pueblos is key.

8           And so that's why I just want to  
9 mention, we can't just shorten or have a shot clock  
10 type of timeframe. So I think this is very important  
11 of how we identify that and where does that fit into  
12 the Chapter 4 or Chapter 5. And so that's what I'll  
13 address with our Chippewa officer, but also our legal  
14 counsel and representatives, to figure out how do we  
15 support the interior now that you are reaching out to  
16 us so that we come to a consensus and agreement to  
17 have a good, solid foundation and framework as we move  
18 forward. So I really appreciate the opportunity,  
19 okay. Thank you.

20           MR. GARRIOTT: Thank you. Are there  
21 others who would like to comment? Like to comment,  
22 just use the raise hand function and if you're

1 participating by phone, I believe there -- what's the  
2 raise function if you're participating by phone? I  
3 don't recall.

4 MS. GILBERT: Yes. So for those  
5 joining by phone, hit \*9 to raise your virtual hand  
6 and \*6 to unmute yourself. And for those  
7 participating online, if you want to make a verbal  
8 comment, please raise your virtual hand by going to  
9 reactions and select raise hand and then we will call  
10 on you. You may also provide your comment in the chat  
11 box.

12 MR. GARRIOTT: Folks, contemplate  
13 making a comment. Continue the questions and, you  
14 know, I think that we've received a number of  
15 questions around what are substantial impacts and, you  
16 know, we invite feedback on what from a tribal  
17 perspective, what a tribe views as a substantial  
18 impact, you know, kind of dictating when should we  
19 consult, what is -- what does that mean from a tribal  
20 perspective.

21 And then also, you know, we received  
22 questions on consensus and so we invite those comments

1 around what constitutes consensus, what should that  
2 process be as we move forward with this.

3 Any other comments? Keep the floor  
4 open for a little bit longer. We want to make sure  
5 that -- opportunity to make a comment.

6 MS. GILBERT: This is Regina. So if  
7 you would like to make a verbal comment, please raise  
8 your virtual hand by going to reactions and select  
9 raise hand and then we will call on you. For those  
10 joining by phone, if you would hit \*9 to raise your  
11 virtual hand and \*6 to unmute. We would also take  
12 comments in the chat box.

13 Looks like we've got a hand raised by  
14 Jack. Jack, if you could introduce yourself, your  
15 title, and who you're representing? Thank you.

16 MR. LORRIGAN: Good morning. My name  
17 is Jack Lorrigan. I'm the tribal liaison officer for  
18 the Bureau of Safety and Environment Enforcement,  
19 BSEE, currently in Palmer, Alaska. Could -- go back  
20 to Page 3? Something I've been promoting for a long  
21 time is Item E, "Any DOI staff who represent the  
22 Department or bureau must first complete training to

1 promote positive relations with tribes." What kind of  
2 training and who's the staff? Is that just blanket,  
3 the GS level or are we talking about SES-ers, too?

4 MR. GARRIOTT: Think that's part of,  
5 you know, why we're hosting the consultation is, what  
6 do tribes want to see? What do the tribes recommend  
7 for something like this?

8 MR. LORRIGAN: So I'm also a tribal  
9 citizen of the -- here in Alaska. I worked for my  
10 tribe for about ten years and something as a federal  
11 employee I've been promoting is that folks at the very  
12 high level, SES-ers, you know, that we make it a -- we  
13 call it the EPAP and the individual development plan  
14 for them to, that they at least complete one training  
15 somewhere in their career. You know, once they have  
16 it, they know it, they should know it. But that's  
17 something I've been promoting at my own level for  
18 folks above me that eventually make a decision for a  
19 tribe. And I was just wondering how inclusive that  
20 would be. And that's my comment.

21 MR. GARRIOTT: One of the comments that  
22 we often hear is that consultation, in order to be

1 meaningful, must include decision-makers, which often  
2 time includes, you know, more senior leaders within  
3 the administration people, and which, you know, often  
4 times are at the SES level. And kind of what I'm  
5 hearing is that we should definitely consider tribal  
6 consultation training for multiple, you know, kind of  
7 levels, that really includes senior leadership as  
8 well.

9 MR. LORRIGAN: Thank you.

10 MS. GILBERT: Again, if you would like  
11 to make a verbal comment, please raise your virtual  
12 hand by going to reactions, and select "raise hand,"  
13 and we will call upon you. We would also welcome  
14 comments in the chat box. For those who are joining  
15 by phone, if you could hit \*9 to raise your virtual  
16 hand, and \*6 to unmute yourself. We have a hand  
17 raised. Caller, if you could identify yourself by  
18 name, title and who you're representing.

19 MAN 1: Yes, can you hear me first?

20 MS. GILBERT: Yes, we can hear you.

21 MAN 1: Hi, I'm Chairperson

22 (inaudible), representing the (inaudible) tribe of

1 Chippewa Indians. I'm the elected tribal chairperson.  
2 Can I get you to just -- I called in just a little bit  
3 late, 'cause I was on the mapping consultation. And I  
4 just got off of that. And I'm on my way to another  
5 meeting. But, so, I didn't hear the question that was  
6 posed. Is it a just a macro or met analyst or input  
7 that you need on, overall, on consultation?

8 MR. GARIOTT: Thank you, Chairman. We  
9 found the same treaty-raised database call together.  
10 So, great that you're on here. Again, to kind of  
11 provide some background, the department has put  
12 forward a draft revision to our existing tribal  
13 consultation policy. And so, the (inaudible), based  
14 on previous tribal consultation that happened very  
15 early on in the administration is, you know, these  
16 goals. And I'm going to read through these goals  
17 really quickly, to hopefully be able to -- and would  
18 love to hear your thoughts and ideas, recommendations.  
19 The intent of the draft is we want to encourage input  
20 on whether the draft language reflects these. First,  
21 as it bolsters interiors consultation policy to  
22 encourage early, robust, interactive pre-decisional,

1 informative and transparent consultation.

2 Two, does it establish a model for  
3 seeking tribal consensus. Three, the draft requires  
4 that DOI staff undergo training before participating  
5 in consultation. This also would codify the tribal  
6 advisory committee, also known as STACK, which is a  
7 committee that will work directly with the Secretary  
8 of Interior, a tribal committee. And there will be  
9 one represented from each reason. (inaudible) is the  
10 consultation, you know, address flexibility for tribal  
11 waivers.

12 And then six, clarify that interior  
13 decision-makers must invite tribes to engage in  
14 consultation. And then seven, requires a record of  
15 consultations. So, for example, you know, we record  
16 these and then we put out a transcript of the  
17 consultation, and would welcome and invite your  
18 thoughts, comments, ideas on all of those areas, and  
19 really anything to do with consultation.

20 MAN 1: Sure. Okay. So, I'll try to  
21 remember each of the sub-questions. And I apologize.  
22 I'm a disadvantage, 'cause I had to leave the other

1 session to come for an appointment. And I don't have  
2 the questions in front of me. But let me just say  
3 principally, so, I've been in the federal Indian  
4 policy space since I did my master's in 1991. I,  
5 particularly, studied the impact of federal Indian  
6 policy.

7 And so, let me say first my  
8 appreciation. Because we are further ahead than we  
9 have ever been. And, you know, I thought we were  
10 close to being where we needed to be under the  
11 Obama/Biden administration. But when the GAL report  
12 came out in 2018, and revealed that only about, up to  
13 maybe 40, 45 percent of the agencies had not done any  
14 of this at all at the direction of the president.  
15 There was work to do.

16 And so, the current presidential  
17 memorandum that extends 13175 includes very, specifics  
18 and deadlines and not letting federal agencies off the  
19 hook. So, I sat in on, a directly participated in  
20 probably over 40 consultations since January. So, you  
21 know that say be careful what you ask for? And in  
22 listening and participating in all of those, and



1 hearing what tribal leaders have had to say, first of  
2 all, we need to think of consultation as a journey and  
3 not a destination. We need to have consultation early  
4 before decisions are made, because tribes can tell  
5 when we're being talked to in a paternalistic way,  
6 when decisions have already been made.

7 And we're basically just being informed  
8 in a, somewhat of a courteous way. The example is  
9 Noah, Congressman Noah, in summer of 2020, announced a  
10 federal (inaudible) release. And they explained how  
11 it was going to be done. It was billed as the  
12 consultation, and famously, I and Darryl (inaudible)  
13 and Brian (inaudible), who was then (inaudible)  
14 President, read them the riot act.

15 Because don't call something  
16 consultation if you're going to tell us that you've  
17 already excluded us. That wasn't consistent with the  
18 legislation. It was an administrative interpretation.  
19 And no matter how profuse we were, it still was  
20 decided without us, while calling it a consultation.  
21 And so, I think that tribes need to be able to  
22 initiate. And if there's enough tribes -- even not

1 even if it's quantitative.

2           If substantively a tribe is asking for  
3 the initiation of a consultation, that should be  
4 respected. I think there's a relationship and a  
5 continuum of listening and advisory. 'Cause we also  
6 have all these advisories that provide advisory. But  
7 that should never been interpreted as consultation,  
8 because I serve on a number of advisories. But I  
9 don't confuse that that input that I give fulfills the  
10 federal government's responsibility or consultation.

11           So, there's a continuum of listening  
12 that might formulate a policy concept or funding, or a  
13 corporation's concept that then should go to  
14 consultation. I think it can be informative. But we  
15 just need to know and understand the distinction  
16 between the two. I developed the model towards the  
17 end of the -- the (inaudible) of the consultations we  
18 were participating in, to kind of lay it out, and  
19 explain it, make it simple to understand, knowing the  
20 difference between listening and consultation.

21           Also, whatever process we end up with,  
22 it should be reflexive. And I already said a journey,

1 not a destination. And so, at different checkpoints,  
2 the results of these draft consultations, the draft  
3 results should be presented for transparency purposes  
4 for tribes to take a look at it and say, "Okay.  
5 That's not really what we said," or "You missed this  
6 key element of what we said," and allow for that to be  
7 updated and corrected and changed. And so, also, with  
8 respect to training, this is a very complicated space.  
9 And for people who part of their job is focused on the  
10 treaty and trust responsibility, but not all of their  
11 job, you know, we need to have, if -- you know, I'd  
12 like to have a certification, some kind of knowledge  
13 test at the end.

14 But certainly, there should be some  
15 demonstration that there's an initial training and  
16 that there's ongoing training on understanding when  
17 it's appropriate to reach out and do consultation. If  
18 there's a question about whether or not something is,  
19 should be subjected to consultation, that decision  
20 should not be made by bureaucrats or administrator.  
21 It should be to put it out for tribes to weigh in on  
22 whether or not they think there is a need for

1 consultation.

2           One other thing is I'm really excited  
3 with the White House Council. And the Midwest  
4 Alliance of Sovereign Tribes was -- Mark Normand  
5 drafted it up. So, I'm going to give credit to Mark  
6 Normand. But we were the first Native Org to adopt a  
7 resolution supporting the White House Council. And  
8 then after a year, we noticed there wasn't really much  
9 movement. So, we were the first to pass a resolution  
10 calling for an executive director. And then, so, the  
11 four years, the last dark four years, nothing really  
12 happened. And I'm grateful that this administration  
13 has reanimated it. And so, in that space, I  
14 anticipate the White House Council coming together  
15 will be an expert body that will be able to understand  
16 federal Indian policy, that will be able to share  
17 ideas and help move the ball.

18           I appreciate that Secretary Rice and  
19 Secretary Holland are the co-chairs. So, I think one  
20 final area here is I think there should be a  
21 compendium of this input, for transparency purposes,  
22 that I think could be housed either under the Domestic

1 Policy Council or under the White House Council, so  
2 that we have a one stop shop to go see what the input  
3 was. And then that way, we can continue on an ongoing  
4 basis if it is really a reflexive process. Tribes can  
5 update and improve upon the input that we've given.  
6 So, I hope that answered a number of the questions.  
7 And I'm available if you have any questions. Yes?  
8 Thank you.

9 MR. GARIOTT: Thank you, Chairman.  
10 That was -- those were excellent comments and ideas  
11 and thoughts and some things that at least thus far  
12 that, in my experience, that we've not heard before,  
13 you know, including examples and, you know, just to  
14 make sure that I summarize, and make sure that I'm  
15 hearing it right, you know. Among a number of  
16 recommendations, one is that tribes should have some  
17 kind of capacity to initiate consultation, that  
18 sitting on advisory committees does not constitute  
19 consultation, the idea of a consultation certification  
20 for employees, and then also there should be some  
21 (inaudible) or compendium or, you know, some place  
22 where many consultations notes and ideas and

1 recommendations are all put together. And then  
2 perhaps the White Council and Native American Affairs  
3 would be a good place for that compendium to live.

4 MAN 1: That was good.

5 MR. GARIOTT: Continue to invite others  
6 to make comments. Or if any of the other, if Chairman  
7 or representative from Santa Clara has further  
8 thoughts and ideas, comments, we're here to listen.

9 MAN 1: Let me say I guess one final  
10 thing, is maybe -- 'cause a lot of these, actually all  
11 of what I just covered, I did cover in a number of the  
12 consultations. And so, it shouldn't be new  
13 information. But then begs the question, what kind of  
14 a comprehensive meta-analysis was done across all of  
15 the consultations since January.

16 Because it seems like -- and there's a  
17 way to do this with (inaudible). That's a software  
18 program for qualitative input. And be able to pull  
19 together all of the text across the different  
20 consultations and find some common themes -- and then  
21 also look at it for some quantitative sort of strength  
22 of suggestion, because the comments that I just went

1 through all were covered previously in several other  
2 consultations.

3 And so, and so, for tribes to believe  
4 that they're not wasting their time -- you know,  
5 'cause in the past, we've been asked our input. We  
6 give it and then there's no follow-up. And I'm not  
7 saying that's currently happening. But to demonstrate  
8 clearly that we were heard and this is what we  
9 understood from what we heard, I think that meta-  
10 analysis and that comprehensive report should be  
11 pulled together, both qualitatively and  
12 quantitatively. All right. Thank you.

13 MR. GARIOTT: Hear you loud and clear.  
14 And one of the things, you know, I think this is --  
15 seven for me is I always remember how busy my own  
16 Chairman was, and that, you know, he was working  
17 through, anywhere between two and four hundred emails  
18 a day in the middle of a pandemic, and that everyone's  
19 time is incredibly important and valuable, and that we  
20 should be using the latest tools and technology to  
21 make everyone's jobs easier and be more efficient.

22 MS. GILBERT: We do have a hand raised

1 from Governor Chavarria, if you want to go ahead.

2 MR. CHAVARRIA: Okay. Thank you again.  
3 I just want to mention that the interior agency should  
4 never assume that the agency knows whether a given  
5 action in a given area will or will not cause impact  
6 or concern to the pueblo. So, I think this is very  
7 important. So, one of the things, a good model maybe  
8 the interior can consider is the SOPA, S-O-P-A. It's  
9 a scheduled proposed action, that's employed by the  
10 USDA.

11 So, the USDA transmits that SOPA binder  
12 to the pueblo early in the year, so that everything  
13 that is being planned is on the pueblo's radar screen.  
14 And that calls for additional follow-up. It calls for  
15 a consultation session, whether that action is going  
16 to impact our traditional cultural properties, our  
17 landscape, aboriginal land, our spiritual sanctuary.  
18 So, that is very helpful for the pueblo in working  
19 with the forest service.

20 You know, also the, we had good working  
21 relationships with the National Park Service, with  
22 (inaudible) Caldera and the Bandolier National



1 Monument. It's also this model of practice for tribal  
2 communication. 'Cause we always have those  
3 collaborative discussions internally. And then before  
4 the pandemic, the BIA southwest regional office, the  
5 archeologist had quarterly meetings. And so, that was  
6 also critical. However, once we got into this  
7 pandemic, you know, those kind of meetings went to the  
8 wayside.

9           And then also our northern pueblos  
10 agency, you know, touches base with us when there's a  
11 meeting action or clearance needed by the pueblo. So,  
12 if we were not in this pandemic, I think all of these  
13 things have already started to continue to be  
14 implemented. 'Cause again, many requests are made at  
15 the last minute. And for us to comply with our  
16 internal cultural committee, our water committee, our  
17 tribal council, it does take time for that internal  
18 review process.

19           Bureau of Land Management, you know,  
20 I've seen an inconsistent track record with working  
21 with the pueblo. And I believe that needs to have  
22 great improvement. I see there are many

1 inconsistencies between the BLM field offices. So,  
2 that's also critical. Fish and Wildlife, we've also  
3 had numerous consultations within the southwest  
4 region. However, those need to be better formulated.  
5 So, this is what I had mentioned earlier on, one  
6 central template that could be tailored to each  
7 individual region is very critical, based upon the  
8 uniqueness of that pueblo, tribe or nation within that  
9 region, which is very critical. And having this  
10 information far in advance is very critical.

11 Then we, as the pueblos, tribes and  
12 nations can tell you yes, this topic is going to  
13 require further consultation. And again, making sure  
14 it's catalogues, identified, making sure there's a  
15 matrix to follow up, not just saying okay, well, we'll  
16 had a consultation session with Santa Clara. So,  
17 we're checking off the box, and never get a return on  
18 our comments or question. So, I think that's very  
19 critical, to ensure consensus, proper consultation is  
20 identified.

21 And then we move forward on these  
22 individual meetings at headquarters at the regional

1 levels, but also at the agency levels. And I think  
2 what's very important to also mention is the  
3 distinction between a direct service tribe through BIA  
4 and the self-governance tribe. So, self-governance  
5 tribes are in a better position while those that are  
6 still considered direct service tribes have to work  
7 with their respective agency or the regional director,  
8 while (inaudible) Santa Clara's self-governance tribe,  
9 I have that direct communication leaked to Secretary  
10 Holland, to Assistant Secretary Newland and all the  
11 other agency representatives there at headquarters,  
12 which is very important.

13 So, that's also something to take into  
14 consideration, which is very important. But I  
15 appreciate the opportunity again, to follow up on some  
16 more of the specifics and possible recommendations to  
17 include as you prepare a final draft. Okay? Thank  
18 you.

19 MR. GARIOTT: Thank you. Are there  
20 other comments? Anybody else.

21 MS. GILBERT: There is a comment in the  
22 chat, if you would like to read and address.

1 MR. GARIOTT: I will read the comment  
2 from Bernard Thomas. The comment says, "The present  
3 CFR, with regard to the low level or non-existing  
4 consultation, reflected within CFR 25 and others  
5 necessitates a two-to-three-year calendar schedule  
6 ahead to create overarching inputs from tribal leaders  
7 to institute the federal responsibilities, to adhere  
8 to some ongoing evaluation by tribal governments, to  
9 the extent to which the federal government is  
10 responsive to the treaties and supreme law of the  
11 land. Anything short of a comprehensive consultation  
12 process to revise the administrative rule making,  
13 including BIA and the Department of Education, is  
14 checker-boarding regarding the (inaudible)." Thank  
15 you for your comment.

16 And, of course, anything put into the  
17 chat for this, also becomes a part of the record of  
18 consultation, and gets put into the overall record of  
19 consultation. That record always includes a recording  
20 and transcript of everything here, as well as the  
21 comments that are put into the chat, as well as any  
22 written comments that are received directly. Other

1 comments?

2 MS. GILBERT: This is Regina. Again,  
3 if you would like to provide a verbal comment, please  
4 raise your virtual hand by going to reactions, and  
5 select "raise hand," and we will call upon you. For  
6 those of you joining by phone, if you would hit \*9 to  
7 raise your hand, and \*6 to unmute yourself. We will  
8 also take additional comments in the chat box.

9 MR. GARIOTT: Everyone who's listening  
10 in, this is the second of three planned consultations.  
11 The first one happened on Monday. Today is the  
12 second. And we have a third consultation tomorrow.  
13 And then, of course, written comments, we'll continue  
14 to receive written comments until December 31st. Give  
15 it a few more minutes.

16 MS. BROWN: I'm going to bring up the  
17 consultation -- or sorry, the consensus model on the  
18 screen. So, if people would like to have a few  
19 minutes to look at that and provide any comments.

20 MR. GARIOTT: Thank you, Rachel. While  
21 we're waiting, I would also just remind everyone that  
22 the comment period for the revisions to the

1 regulations for the By Indian Act is still open. And  
2 that, we're accepting comments until December 27th.  
3 I'm sorry, December 23rd. And that also, we're also  
4 still receiving, comments are open to be received on  
5 the Department of Interior Boarding School Initiative.  
6 And that is open until the 27th.

7 Can this consensus model be emailed to  
8 participants? My understanding is that the revision,  
9 the draft to the revisions has been emailed to  
10 everyone in the Dear Tribal Leader letter, and that  
11 all of this information is available on the website.  
12 And if folks want, Rachel, maybe we can, for the  
13 participants, I think that we've all received  
14 everyone's email as part of the registration process,  
15 (inaudible) a link to the website. And again, they  
16 can, all this information will be there.

17 MS. BROWN: Yes. As a follow-up to  
18 this session, we will send out an email to  
19 participants with that information.

20 MS. GILBERT: This is Regina again. If  
21 you would like to make a verbal comment, please raise  
22 your virtual hand by going to reactions, and select

1 "raise hand," and we will call upon you. If you're  
2 joining by phone, you can raise your virtual hand by  
3 hitting \*9, and \*6 to unmute yourself. And it looks  
4 like there is one more comment in the chat box.

5 MR. GARIOTT: There's another comment  
6 in the chat box. Bernard Thomas. And the comment  
7 reads, "In addition to government," -- I'm sorry. "In  
8 addition to government to government, there needs to  
9 be an entire section devoted to restoration of  
10 individual tribal rights, and the need to funding  
11 support of tribal (inaudible) support, or supports to  
12 cover such things as land tenure, restoring land  
13 tenure, overcoming (inaudible) rules by a tribal  
14 government over an individual landowner. Thank you  
15 for that comment, Bernard. Give it another minute or  
16 two. If there are no more comments, we'll give it  
17 right up to 3:00.

18 MS. BROWN: The individual who  
19 requested a copy of the consensus seeking model, I  
20 have uploaded the PDF version of the Dear Tribal  
21 Leader letter, which also includes the model, in the  
22 chat box. There is one more comment in the chat box

1 from Bernard.

2 MR. GARIOTT: The comment reads,  
3 Bernard, "The pandemic is raising issues of the need  
4 for comprehensive medical care spending, geriatric  
5 research and services, (inaudible) rehabilitation,  
6 that include, includes tribal language lessons as an  
7 example." Being that there are no further comments or  
8 hands raised -- it is now 3:00, we will conclude  
9 today's tribal consultation. I want to thank everyone  
10 for taking the time out of your day and for  
11 participating, both tribal side, federal side, your  
12 time and attention.

13 As always, comments, input is always  
14 appreciated. And we thank you so much. Also remind  
15 everyone there is an additional consultation on the  
16 same subject tomorrow. Sometimes people participate  
17 in more than one consultation. And that's fine. And  
18 we invite to share the word with others to participate  
19 in the process. So, with that, we will conclude  
20 today's session. Thank you, everybody.

21 (The proceedings were  
22 concluded at 3:01 p.m.)



## 1 CERTIFICATE OF NOTARY PUBLIC

2 I, SEKOYA HICKS, the officer before whom the  
3 foregoing proceedings were taken, do hereby certify  
4 that any witness(es) in the foregoing proceedings,  
5 prior to testifying, were duly sworn; that the  
6 proceedings were recorded by me and thereafter reduced  
7 to typewriting by a qualified transcriptionist; that  
8 said digital audio recording of said proceedings are a  
9 true and accurate record to the best of my knowledge,  
10 skills, and ability; that I am neither counsel for,  
11 related to, nor employed by any of the parties to the  
12 action in which this was taken; and, further, that I  
13 am not a relative or employee of any counsel or  
14 attorney employed by the parties hereto, nor  
15 financially or otherwise interested in the outcome of  
16 this action.

17

18

  
<%25485, Signature%>

19

SEKOYA HICKS

Notary Public in and for

20

WASHINGTON DC

21

22

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I, SONYA LEDANSKI HYDE, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
<%12151, Signature%>

SONYA LEDANSKI HYDE

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