

TRANSCRIPT
U.S. Department of the Interior
Tribal Consultation: Presidential Memorandum on Tribal Consultation and
Strengthening Nation-to-Nation Relationships
March 10, 2021
10:00 am ET

Coordinator: Good morning, and thank you for standing by. I'd like to inform all participants that your lines have been placed on a listen-only mode until the question-and-answer session of today's call. Today's call is also being recorded. If anyone has any objections, you may disconnect at this time.

I would now like to turn the call over to Ms. Ann Marie Bledsoe Downes. Thank you. You may begin.

Ann Marie Bledsoe Downes: Good morning, everyone. Thank you all for joining us today for this important event. I'm Ann Marie Bledsoe Downes. I'm the Tribal Governance Officer for Interior and the Tribal Governance Officer position is established by the departmental manual as position that will oversee consultations for all of Interior.

This is a formal tribal consultation on the president - on President Biden's memorandum on tribal consultation and strengthening the nation-to-nation relationships. The focus of the consultation today is how Interior and its bureaus and offices, can improve the consultation from this point forward.

A couple of quick announcements. Given that this is a formal tribal consultation, only officially designated representatives of federally recognized tribes, are invited to speak. This session will be transcribed, and the transcript will be made available on our website at doi.gov/tribes/tribal-consultation.

This session is not open to the press. And if you are a member of the press, we respectfully ask that you disconnect at this time. We know that three hours is not a lot enough - not a lot of time to address this important topic. However, we are under a tight timetable under the presidential memorandum.

Please be assured that this is not the only opportunity that you will have to make your voice heard on how Interior can improve consultations. We see this consultation as the beginning of an important and ongoing dialogue. And in just a minute, we are going to introduce the federal representatives that are here with us today, and provide an overview of the subject of today's consultation, and do all of this as quickly as possible so we can meet as much time for all of you to do the true purpose for why we're here, and that's to hear from tribes.

Before we start the formal part of today's consultation, we wanted to make sure that we were starting this off in the right way. And we have asked one of our tribal leaders to do a prayer for us this morning. Chief Billy Friend from the Wyandotte Nation, has graciously agreed to do that for us. And I would like to turn it over to him now to do our opening prayer. Friend?

Chief Friend, if you could please press Star 1 on your telephone, the operator will be able to pull you into the conference.

Coordinator: Billy Friend is in. Your line is now open.

Chief Billy Friend: Okay. Thank you. Let us pray. Our most gracious heavenly father, as we come before you this morning, we come thankful for such a beautiful day that you've given us together for this call this morning. And father, we're reminded of your word that you said to be careful for nothing, but in all things, with prayer, with supplication, with thanksgiving, to let our requests be made known unto you. And father, as we come before you this morning, we recognize you as the creator of all things, the giver of life. And father, we come with a heart full of thanksgiving, and as tribal leaders, we are grateful for the many blessings you've bestowed upon our tribal nations and upon our people. And father, we have many things to be thankful for. We're thankful for the opportunity that you've given each one of us as leaders to serve our people. And father, we are truly servant leaders. And father, we're thankful for the opportunities that's been given to us, and we're thankful this morning for the federal officials that have come and have agreed to enter into meaningful consultation and collaboration with - to address those needs that we have today as tribal nations, and the needs that we have to serve our people. And father God, as always, we ask for your wisdom as we enter into these negotiations, father, and these consultations. You said, if any man lack wisdom, let him ask of you and you give to all men liberally and upbraideth not. And father, you've always been faithful to our fathers and our grandfathers to grant that wisdom. And we ask that you would grant that wisdom to us today. And we pray for your direction. We pray for your guidance throughout this next three hours as we meet here this morning via this teleconference. And father, as always, we pray God that you'd help us to be better people today than we were yesterday, and help us to be better tomorrow than we are today. And father, we ask these things in the name of Jesus. Amen.

Ann Marie Bledsoe Downes: Thank you so much, Chief Friend. We really appreciate you responding to our request to help us in this way and getting us started today. Thank you so much. Now, it's my pleasure to introduce our Chief Of Staff for the Department of Interior, Jennifer Van der Heide. Jennifer has worked as Chief Of Staff for Representative Deb Haaland, our Secretary nominee, and she's been really critical to this agency-wide effort on tribal consultation. Jennifer?

Jennifer Van der Heide: Thank you so much, Ann Marie. Good morning to all. And on behalf of Interior, all of Interior, I want to welcome everyone to this consultation session about how the Department of Interior, including all of our bureaus and offices, can best improve consultation. We're so grateful for the time that you're spending with us today to help us improve the work that we do.

We know how busy each of you are, and we know how busy and - right now, and facing the many extreme demands on your time, as you respond to this pandemic and do everything that you can to keep your tribal citizens and tribal communities safe. All of us have suffered immeasurable losses. And for that, I also send to each of you, our condolences. So, thank you so much for your leadership at this critical time.

I also want to share greetings and well-wishes from Congresswoman Deb Haaland. She's so deeply grateful to have Indian country support as she navigates her historic confirmation. From the letters, the call, texts, prayer circles, and creative social media, she's been lifted by your support every step of the way.

We're expecting a procedural vote on Thursday this week, and then a vote on her confirmation on Monday the 15th. If so, she would be sworn in as the

nation's first Native American cabinet secretary on Wednesday, March 17th. And she looks forward to coming to work for you.

As one of his first actions upon taking office, President Biden committed to fulfilling federal trust and treaty responsibilities to tribes, and declared that regular, meaningful, and robust consultation with tribal nations, is a priority of his administration.

Meaningful consultation is an expression of respect for tribal sovereignty and self-governance, and it's important to not be understated. Interior wants to take this opportunity to open a new chapter in consultation, where meaningful consultation becomes second nature to all of us in federal decision-making processes.

I look forward to hearing what you have to say today, and hope that this is just the beginning of an ongoing fruitful dialogue, in which we can strengthen and evolve our relationships with you. Thank you, Ann Marie, and to everyone here.

Ann Marie Bledsoe Downes: Thank you so much, Jennifer. Thanks for taking some time and being with us to help open today. I really appreciate it. A quick housekeeping note. I would like to ask all of you that get in the queue and are prepared to make comments, that you state your name and your affiliation for the record.

You did give your name and affiliation when you entered through the operator, but sometimes it's not always clear. And so, because this is transcribed and on the record, if you could state your name and affiliation before providing comment, that would be really helpful for us.

Now, I'm going to introduce our incoming Principal Deputy Assistant Secretary for Indian Affairs, Bryan Newland. Bryan will serve as the lead for this consultation, but I want to emphasize that this consultation is not just about Indian Affairs. It is about all of Interior, from the office of the secretary, to the individual bureaus and offices, for which we have representatives from all here today. And you're going to hear that in the introduction.

Bryan's a former tribal chairperson, and is already familiar with Interior, having served as counsel for the Assistant Secretary for Indian Affairs in the Obama administration. I'm now going to turn it over to Bryan.

Bryan Newland: Hi. Good morning everybody, and thank you, Ann Marie. I appreciate that kind introduction. I'm really excited to be here with all of you today, and to hear what you have taught for us to learn how to improve the consultation process.

As Ann Marie said, this is a department-wide effort. So on the line today is not just representatives from the Bureau of Indian Affairs and Bureau of Indian Education, but senior leadership from agencies across the entire Department of the Interior, including our wonderful Chief Of Staff, Jennifer Van der Heide, from whom you've already heard.

And I'm going to turn it back over to Jennifer momentarily, just to introduce folks from key offices within the department's senior leadership. Jennifer?

Jennifer Van der Heide: Thank you so much, Bryan. I'm really pleased today to be able to let you know that on the line today from the office of the secretary, we have Bob Anderson, Our Principal Deputy Solicitor, Natalie Landreth, our Deputy

Solicitor for Land. And from the Secretary's Indian Water Rights Office, we have Pam Williams, our Director, and Tracy Goodluck, Our Deputy Director.

And we couldn't be more proud of all of these senior leaders who we know are so committed to listening to this consultation, and working to lift up Indian country. Thank you, Bryan.

Bryan Newland: Great. Thanks, Jennifer. I want to take a few moments to introduce some of the key folks from Indian Affairs within the department. So, from the Office of the Assistant Secretary for Indian Affairs, we have with us Morgan Rodman. Morgan is the Director of the Office of Indian Energy and Economic Development.

Liz Appel, who helped organize and coordinate this consultation, along with Morgan. Liz is with the Office of Regulatory Affairs and Collaborative Action. David Conrad also helped organize these consultations. He's the Director Of The Office Of Public Affairs.

Sharee Freeman, who many of you know, is the Director of the Office of Self-Governance. From the Bureau of Indian Affairs, today we have Director Darryl LaCounte. We have the Eastern Region BIA director, Kim Bouchard. We also have the Eastern Oklahoma Regional Director, Eddie Streater, and the Southern Plains Regional Director, Jim Schock.

From the Bureau of Indian Education, we have Director Tony Dearman, and from the Bureau of Trust Funds Administration, we have Jerry Gidner. We also have Deputy Director of the Bureau of Trust Funds Administration, Doug Lords.

At this time, I'm going to turn it over to Deputy Commissioner of the Bureau of Reclamation, Camille Touton. Camille?

Camille Calimlim-Touton: Thank you, Bryan. Good morning leaders. My name is Camille Calimlim-Touton, Deputy Commissioner for the Bureau of Reclamation, on behalf of Water and Science. With me today is David Applegate, Acting Director, US Geological Survey, and Jeff Morris, Tribal Liaison Officer, Bureau of Reclamation. Thank you, and I'll pass it off to Shannon Estenoz.

Shannon Estenoz: Good morning. My name is Shannon Estenoz. I am the Principal Deputy Assistant Secretary for Fish And Wildlife And Parks. I'm joined on the phone today by Martha Williams, the Principal Deputy Director of the Fish and Wildlife Service, and Dorothy FireCloud, the Tribal Liaison for the National Park Service. We are grateful and honored to be with you today. And now, I want to recognize Laura Daniel Davis.

Laura Daniel Davis: Thank you, Shannon. This is Laura Daniel Davis. Good morning, everyone. I'm the Principal Deputy Assistant Secretary For Land And Minerals Management, and joined here today by Barry (inaudible), the Division Chief Of The National Conservation Lands For The Bureau Of Land Management, Mychal Yellowman, The Indian Programs Branch Chief For The Office Of Surface Mining And Reclamation, Hilary Renick, the Tribal Liaison Officer For The Bureau Of Ocean Energy Management, and Jack Lorrigan, The Tribal Liaison Officer For The Bureau Of Safety And Environmental Enforcement. And we're grateful and honored to be here with you this morning. And I'm going to pass it to Rachael Taylor.

Rachael Taylor: Good morning. I'm also honored to join the call this morning. My name is Rachael Taylor, and I'm the Principal Deputy Assistant Secretary for Policy

Management and Budget at the Department. I've got a number of representatives from our organization who are also joining me, including Mary Josie Blanchard, who is the Director For Gulf Of Mexico Restoration For The Office Of Environmental And Policy Compliance, Susan King, who is the Regional Environmental Officer For The Office Of Environmental And Policy And Compliance, and Emily Joseph, who is our Assistant Director Of Operations For The Office Of Restoration And Damage Assessment.

I want to say thank you to the tribal leaders and representatives for your time, and that we're grateful to listen and learn from you this morning. Turning it back over to Bryan Newland. Go ahead with the program.

Bryan Newland: All right. Thank you, Rachael. And as you all can hear, we have the department's entire senior leadership team on the line with all of us today to hear directly from tribal leaders so that we can craft an all-of-DOI approach to tribal consultation.

And when we have so many folks on the line, occasionally we miss people. So, I want to acknowledge the Department's Principal Deputy Assistant Secretary for Water and Science, Tanya Trujillo, is also on the line listening in as well.

So, at the top of the call, Ann Marie explained that this consultation is flowing out of President Biden's executive memorandum to all federal agencies to consult with tribes on improving the tribal consultation process. We sent to you in advance of these consultation sessions, a framing paper with a number of questions to help guide this discussion.

So, before we start, I just want to quickly review the questions included in that framing paper. The first question asked, does the input received in 2009, still

reflect tribal views about consultation today? Are there any additional comments or suggestions?

Question two asks, should Interior include the actions recommended by the January 2017 report in its a plan to improve consultation? Question three asks, are there additional suggested steps Interior could take to improve tribal consultation and make it more meaningful?

And the final question asks, what actions to improve tribal consultation should be made the top priorities in Interior's plans? So, with everybody introduced and with the questions setting the table, I want to turn it over to our operator, Erica, to open the line up to comments from tribal leaders and representatives. Erica?

Coordinator: Thank you. First question comes from David Weeden. Your line is now open.

David: Hi. Sorry. I was on mute. I didn't have a question at this time. I'll wait.

Coordinator: Next question comes from Matthew Pagels. Your line is now open.

Matthew Pagels: Thanks for the opportunity. I too will wait to see how the conversation goes before I - it's more of a statement.

Coordinator: Next question comes from Andrew (Ranin). Your line is now open. Next question comes from Andrew (Ranin). Your line is now open.

Andrew: I'm sorry. No question here.

Coordinator: Next question comes from Chairwoman Andrews-Maltais. Your line is now open.

Cheryl Andrews-Maltais: Thank you. And I just wanted to - this is Chairwoman Cheryl Andrews-Maltais from the Wampanoag Tribe of Gayhead Aquinnah. And I just want to thank you all for this opportunity, and can't say how heartened I am to have this level of a stellar team with so much experience and dedication to Indian country, leading this forum and this consultation.

With regard to the questions of the framing papers, with question number one, I believe that the time is now for - to change the way that we looked at and framed the information in 2009. Obviously, as the tribes have evolved and have become more and more acclimated and sophisticated with how they do business, it is time always to go back and reflect and or to change, modify, and update the policies that were put in. And the January 17 - of '17 report, in my opinion, did not do enough justice and did not take enough input from tribal communities.

In regards to question three, I believe steps that can be taken is this one important step, DOI, the bureaus, excuse me, should be able to set the framework with the Department of the Interior, who has the closest relationship and understanding of tribes.

And that, DOI, by setting the stage and not as a paternalistic oversight department, but as a supportive ally and a partner in tribes asserting their sovereignty and elevating their tribal communities and opportunities for their communities.

We believe that the department should use the solicitor's offices to be defending tribal rights whenever tribes have called upon them, do a quick

assessment where we can help the tribes, because unfortunately, what has happened is that the Interior department has not been funded adequately to provide enough solicitors in order to be that ally and that defender of - for tribes rights.

And also to fully embrace section six of Executive Order 13175, which is increasing flexibility to Indian tribal waivers, so that tribes can actually exercise jurisdiction and make those decisions that we know that we can make on behalf of our tribal communities, because we're the only ones that have the information and the knowledge necessary to do that.

I believe that we should be having quarterly roundtables with the Secretary of the Interior, represented by regional tribal leaders, and that rotation can change so that this way, the secretary becomes very familiar with each region and the unique challenges that those regions face.

And every quarter, each bureau within the Department of the Interior, should be having regional consultations with the tribes, in order - with regional representation to get the global or macro perspective. And then in the individual regions meeting with the individual tribes, to establish protocols and a way of doing business and interacting with each of the tribes within that region.

And from there, just again, I would - don't want to take up too much additional time, but I just want to thank you all for this opportunity, and look forward to having those meetings, because I think we can set the stage and establish a new perspective on how Indian country relates and interacts with the Department of the Interior and all bureaus.

But because it's all so unique and unique to every region and every tribe, it is

necessary to reach that deeply into Indian country. So, thank you and best of luck. We're all rooting for you.

Bryan Newland: Thank you, chairwoman. And operator, just very briefly before we continue, I want to add that many of you will have - may have specific questions on specific issues on this consultation. So, our teams are taking notes. I just want to make sure that you know that we're probably not going to be providing direct answers to your questions on specific items today, but we'll follow up with those of you who asked those questions. Thank you.

Coordinator: Thank you. As a reminder, to ask a question, please press Star followed by 1. Please ensure that your phone is unmuted and record your name clearly when prompted. And to withdraw your request, please press Star 2. Next question comes from Terri Parton. Your line is now open. Terri Parton, your line is now open.

Terri Parton: Hi. This is Terri Parton, President for the Wichita and Affiliated Tribes in Anadarko, Oklahoma. In regards to question one, it says, does the input received in 2009 still reflect tribal views about consultation today, and are there any additional comments or suggestions?

And I believe that still is true today. I would like to say, like coming from a smaller tribe, we have about 3,400 tribal members, and consultation is great when we can speak up and be able to, you know, speak about our issues and stuff, but we have a hard time with smaller tribes being able to cover all the consultations.

I don't know how to address that, but I would like you all to keep that in mind as you schedule them, because sometimes they get scheduled on top of each

other, and not having enough staff to cover, or people with the expertise to cover all of those, becomes kind of hard.

You know, I can assign somebody to sit in on the consultation, but if they really don't know what the issue is, and it's something maybe as a tribal leader I would know, it makes it very hard to cover all those consultations and stuff. And I don't know how to address it, and I'm not complaining about consultation, but I would like you to take that into consideration for smaller tribes.

And I think all of those are okay. Should the Interior include the actions recommended by the January 2017 report in its plan to improve consultation? That one is fine, but on E, education and training, I think there needs to be more of an emphasis to people in the Interior at all levels.

Some people get it and some people don't. I mean, the BIA to me is there to help us become self-sufficient. So, if we are pursuing self-governance and trying to eventually take over - take their jobs and take them on here at the tribe, then staff should be trained that that is their - that is the ultimate goal, is to make sure that our tribes are self-governing and self-sufficient, and to do whatever they can when it comes to trust applications, when it comes to anything that they're doing there, that that is their main goal, is to help the tribes become self-governing and self-sufficient.

And I don't - I think some people get it. Some people are really good at it through the BIA. And then some, they're just there because it's a job. And I think it needs to be emphasized that, you know, that is the goal is, one day that - you know, hopefully one day the BIA won't even exist, that the tribes will be able to handle everything on their own and stuff. And I just think that education and training needs to be there.

Are there additional suggestion steps Interior could take to improve tribal consultation and make it more meaningful? Just making sure that there's follow-through at - not just at the top. You know, if we're tribal leaders and we're getting here on a national call, I know there's regional people on the line that could help make sure that this stuff gets pushed - you know, gets taken care of and pushed through, I think instead of us just getting on here and just talking about things and, you know, giving our wish list that somebody on the BIA side or on the Interior side, needs to make sure that it gets followed through with.

And what actions to improve tribal consultation should be made top - the top priorities in the Interior's plan? And again, it's just the follow-through, making sure that - you know, I know you all can't address every issue or situation immediately, but they're all - there needs to be follow up.

What are you doing to follow through with the tribal leaders' suggestions or comments on things, and making sure that we get the follow-up? Thank you.

Bryan Newland: Thank you, Chairwoman.

Coordinator: Next question comes from Kim Teehee. Your line is now open.

Kim Teehee: Good morning, everyone. I feel like I'm talking to my dear, dear friends in a very public conversation. Congratulations, everyone, on your positions. This is truly an historic time. I just want to go over maybe just a few recommendations.

One, I think internal collaboration with the federal family, you know, so many of you on this call today, are accustomed to working with Indian tribes and

know the cross cutting ways in which our issues impact our communities. But there are so many people in other agencies that don't typically have the kind of history that this department does with working with Indian tribes.

And so, having internal one-on-one sessions, Indians one-on-one sessions and such, I think could be helpful. An example, I was just on a tribal consultation call yesterday with five participants, and that was due in part because there was less than 24 hour notice. And also I think that there was just - I don't think there was an appreciation for how tribes were impacted by the decision-making points that was forthcoming.

Two, I believe perhaps a uniform definition of consultation within is not the total family. I know that would be challenging, but within the department as a whole. You know, every department is going to have their own views about what consultation means, and having gone through this myself, I know some of the consultation definitions, at least from a lawyer's perspective, sometimes tends to be very narrowly viewed. So, that one-on-one engagement sometimes gets lumped into consultation. So, just being thoughtful about what that is, so that the meaningful aspect of the consultation standard is fulfilled.

I think another area could be - and could also be part of the Indian - you know, sort of the internal collaboration, would be incorporating the canon of construction, construing ambiguities in favor of Indians, you know, educating colleagues and the federal families through the department about what that canon of construction is and how it can be useful - a useful tool whenever decisions are being made regarding Indian tribes.

Another area that I think would be helpful would be recording inputs and outputs so that - some agencies are better at doing this than others, so that

they, you know, record what the recommendations are, and then they can report out of those recommendations, what were included in the policy decisions that were ultimately made by the agency.

And then I think finally would be including OMB. As we know, OMB can sometimes be challenging to work with. You've got a lot of career dedicated staff at OMB, and who have had - survived different administrations, and some have been more empowered during the administration to make policy by budget.

And then - you know, and so, including them in some of these discussions so that they're learning as well about our issues, I think, could be important too. And that's about it. Thank you, guys.

Bryan Newland: Thank you, Kim. I really appreciate your comments, and it's good to hear from you.

Coordinator: Next question or comment comes from Brian Vallo. Your line is now open.

Brian Vallo: Thank you. (Foreign language). Good morning. This is Governor Brian Vallo from the Pueblo of Acoma, New Mexico. Thank you for the opportunity to provide some comments. I guess, regarding the first question, you know, there's - there are a lot of things to consider here, and I suppose that within each department within the agency, there, I'm sure have been some flags raised around, you know, what has been effective with the items of 2009, and the ways in which that consultation has played out since then.

But I think some - a couple of key things, and it was just mentioned, is that I really feel strongly that there needs to be some inter-agency collaboration and

understanding and just sharing really, I think, of experiences around consultation.

I think that agency staff can learn from one another, and should be in in communication with one another where consultation is concerned, because, you know, unfortunately, some of our agencies still miss the mark. And, you know, if the intent of strengthening consultation under the Biden administration, and President Biden's memorandum, you know, needs to be - we need to identify the process.

For example, today's consultation is, I think, just one step in this process. I believe there needs - well, should, and should be additional consultation and perhaps some discussions regionally, as has already been suggested, to really refine some of the issues that are important to our tribes and our respective regions.

I think there also needs to be an acknowledgement of our current state of affairs where the public health crisis is concerned, and the ways in which the pandemic has really limited our ability to actively and meaningfully kind of be - participate in consultation.

Our particular tribe has been I think - you know, I will go so far as to say that, that - the fact that we've not been at the table because of our executive orders and other internal mandates to protect our people, and especially our traditional elders and knowledge keepers, that that has worked against us and has been used against us by federal agencies, including some under the Department of Interior.

And moving forward, you know, we need to be - and I encourage the agencies to be cognizant of the fact that some of us tribes are still holding our cultural

resources, our cultural human resources very close to home, and protecting them every way that we can.

And so, that consultation where these individuals are concerned, may not be immediate, and that we still might need some time, even as the vaccine is - vaccinations are rolling out. So, I think that that needs to be considered - taken into careful consideration.

The other thing about this whole process is that I hope that it generates a clear understanding, joint understanding of consultation, and one that sustains the concept of consultation, that we don't lose sight of all of this if an administration changes, but that at some point, we have to achieve a clear understanding of what consultation is, and that we should be the best stewards of that process, both on the tribal level, and certainly the federal level and state level and local government level for that matter.

And we should be working towards achieving that rather than, you know, letting things slip by the wayside when there's a change in administration or a change in leadership on the federal level or in any government level. So I'll end my comments here. Thank you for the opportunity.

Bryan Newland: Thank you, governor.

Coordinator: No further questions on the phone at this time.

Bryan Newland: Following up, this is Bryan Newland, again, from the department. I just want to follow up on a few comments that were posed referencing the need for better coordination among federal agencies. And I think it was Chairwoman Parton, had mentioned how difficult it is to catch up to federal agencies with

all the consultations, and the governor just spoke to how the pandemic has impacted tribes' ability to participate in meaningful consultation.

It would be very helpful to us to get a sense from tribal leaders and representatives on how we can use electronic, whether it's video conferencing or telephone conferences like this, to enhance or improve the consultation process, on top of in-person meetings after the pandemic ends.

Is there - do you all have any thoughts on how this can help us better coordinate consultation, or make it more accessible for those tribes that can't be traveling all over the place every week to different consultations?

Coordinator: And as a reminder, to ask a question, please press Star followed by 1. Please ensure that your phone is unmuted, and record your name clearly when prompted. And to withdraw your request, please press Star 2. Have a question or comment from Chairwoman Andrews-Maltais. Your line is now open.

Cheryl Andrews-Maltais: Thank you. Cheryl Andrews-Maltais, Chairwoman, Wampanoag Tribe of Bayhead Aquinnah. Thank you for the opportunity to circle back, everyone. But I think with regard to the overwhelming amount of consultation that is expected of tribal leadership, this is kind of what happened in the first go-around, because everybody is mandated to come up with a policy or check their policy of consultation with a specific deadline.

So, of course, that's putting a burden on tribal leadership to be in so many places with our subject matter experts. So I believe that if the pandemic has taught us one thing, the use and implementation of electronic means of meeting, is certainly one way of being able to address that.

but also having some sort of, I guess, not necessarily clearinghouse, but some sort of consolidation of when those consultations are being scheduled throughout the federal agencies and - because it is - I mean, there was one week, I think last week, I think I was on the phone nonstop for three days, consultation on top of consultation on top of consultation, with overlap.

And what that, you know, doesn't allow for is that meaningful side of the consultation, to be able to hear and have dialogue, and then get that feedback after the consultation, because that's one of the things that we ask for so that we can see how each of the regions are responding back to the same questions that are posed, and how that's helping you help us so - to get to where we need to be.

And also, as part of consultation, when we're talking about meaningful consultation, it should be with the goal of finding concurrence. And instead of just checking the box to say that we spoke with the tribes, what are we doing as a real action step to get to where the tribes are comfortable with the consultation, to come to concurrence or agreement before those actions, those decisions, or those policy implementations, are made?

Because again, it drills all the way down to the regions, but all the way back up to the federal agency. And I think it was Kim that mentioned the 101 of education, is going to be one of the most critical parts of maybe starting with some of those aspects of educating the other federal families within the administration, as to their responsibility for consultation, and giving them the tools to understand what that responsibility is, with Department of the Interior leading that as a cognizant agency for most of us.

But I think that by starting with education is the best way of doing it, and then

looking for concurrence with the tribes, and not just checking the box, but also implementing and utilizing as many forms of communication for consultation. And those tribes that don't have the connectivity, ensuring that Interior works to find ways to provide connectivity to those tribal locations that do not have reliable accessibility, whether it's by phone or by internet connection. Thank you.

Coordinator: Next question or comment comes from ...

Bryan Newland: Thank you, Chairwoman.

Cheryl Andrews-Maltais: You're welcome.

Coordinator: Next question or comment comes from Terra Branson. Your line is now open.

Terra Branson-Thomas: Good afternoon - or good morning, excuse me. I'm Terra Branson-Thomas. I'm the Secretary of the Nation and Commerce from Muscogee Creek Nation. And I want to echo everyone else's appreciation with the thoughtfulness and construction of the consultation today, and echo some of the comments that others have made, particularly the chairwoman.

I think one of the challenges, both as a person who's worked in a technical capacity, and now provides support and representation to Muscogee Creek Nation, is the feedback component. One thing that I've noticed in my experience is that, particularly with the Department of the Interior, there's sort of an urgency at the beginning of a consultation, when questions are being asked and information is being sought out from tribes.

And then at the end of the consultation, when it comes time to agency

reflection or decision-making, often it is difficult to receive that information in a timely manner. And we recognize that there will be times when tribal governments and the federal government may not come to agreement, but there is an expectation that there be communication, respectful communication about where the department lands and for what reasons on a - on any particular issue.

And so, while I agree that consultation is important, timeliness is also as important. And we all work for governments and understand that bureaucracy can lengthen timelines, but it's really important that if you're going to engage tribal governments, they're going to expend a lot of energy and resources to participate in consultation, and do so meaningfully, it's important that we be able to close the loop in a timely manner, and be able to reflect on the responses and opportunities that that presents.

So, I would just encourage, you know, as you look at your consultation policy and your procedures, that you consider some sort of timeline or procedural questions about what's a respectful timeline. You know, at the beginning of a consultation, perhaps internally, you set some goals about when you expect to be able to make a decision.

We know that things come up. You know, we've all lived through a pandemic and things change on the go, but it'd be good to set out from the outset that, you know, this is kind of our timeline. Here's when we expect to be able to make a decision, so that tribes have a way to gauge that, and understand what their expectations should be for that process.

And then kind of circling back on - again, on the closure or the completion of a consultation, I think one of the challenges that I've experienced is that, sometimes it's hard to understand where to go when a consultation is

floundering or where we are kind of at an odds, and maybe there is no end, right? Maybe there is no conclusion, that we're just going to be at odds.

That's okay, but I think expressing that and acknowledging that that's where we are, can also be important for tribal governments to understand maybe it's not with the agency. Maybe we need to move somewhere else. And so, that can be really helpful, instead of just allowing things to kind of hang out in the ether without any response.

And then just on your final question about virtual versus in-person, I agree with the chairwoman that sometimes connectivity is a challenge for tribal governments, and that should not impact their ability to participate. So, I do think using a couple of different mediums can be really useful.

I also - while we have connectivity to participate in virtual meetings, whether it be on Zoom or Teams or what have you, and even in a teleconference, I also think there's a lot of value to having departments maybe outside of the Bureau of Indian Affairs, but particularly in the Department of the Interior, visit tribal communities and participate on the ground, in-person conversations.

And so, while we move forward and hopefully there's a light at the end of the tunnel for the pandemic, I hope that the bureau will - or the department will consider still hosting in-person meetings with virtual components, so that if tribes can't travel or don't have the means to travel, there's still an opportunity to participate, and there's still engagement at a local level where sometimes learning is easier.

And so, I just wanted to offer those comments. We'll also probably provide written comments, but just in reflection of some of the discussion today, I wanted to provide those. And thank you for the opportunity.

Bryan Newland: Thank you, Secretary Branson.

Coordinator: Next question or comment comes from Kitcki Carroll. Your line is now open.

Kitcki Carroll: Good afternoon and good morning. This is Kitcki Carroll. I serve as the Executive Director for USET and the USET Sovereignty Protection Fund. I just want to build upon a couple of comments that were made earlier by Ms. Teehee and Chairwoman Andrews-Maltais.

There are a lot of terms that are thrown around within this diplomatic relationship space between tribal nations in the United States, and consultation is one of them. One of the failures though or one of the shortcomings, is that even though the term is frequently used by our federal partners, it's very apparent at times that there is a lack of an understanding behind the true meaning about what that actually means.

So I think what's going to be critically important to the success of any meaningful consultation effort or process, there's going to be a much deeper and richer understanding by federal officials about the origins and the questions that answer what - or the answer to the question why this consultation space even exists.

So I just want to reinforce that, you know, there are many organizations, there are many entities, there are many individuals, who stand ready to support that effort to make sure that our federal partners are fully informed and aware of the history and the richness of that relationship, and why it is so unique, because without that, it's just - you know, it's one thing to mandate consultation processes, but if people come to that table without a full and deep

appreciation of what that means, it's never going to have the success that it needs.

The other thing that I want to respond to is, while we recognize that the department here plays a very unique and special role within the relationship space, it's our position that every federal entity has a trust and treaty responsibility. They all have a responsibility to engage in consultation at the same level.

So while we appreciate that DOI oftentimes can see a much greater footprint within this space, every federal department agency bears that same responsibility at the same level. So, it's time to move on with the understanding that DOI is kind of the only game in town. The other ones kind of just follow along as they follow along. They need to be up to speed, just as much as the Department of Interior does.

I also want to underscore the point that Ms. Teehee made about OMB, because that can't be stressed enough. OMB continues to take the position that they are just an extension of the White House, and therefore don't have any consultation responsibilities to Indian country.

That is just fundamentally unacceptable. So we will look to this administration to approach that differently. It's a mandate that agencies such as OMB be required to consult with Indian country as well. OMB plays a very critical and vital role within this space, and when they aren't at the table in a transparent way, that is very detrimental to our efforts.

And then the last thing I would say is, even though we're talking about consultation and evolving to meaningful consultation, it's very important that we stress, when we talk about the origins of this relationship, it wasn't about

consultation at the origin. It was about consent, and that's what we need to evolve to.

And while some people may paint that as unrealistic or naïve, it is absolutely doable because that's at the origins of relationships. If we're going to talk about nation-to-nation relationship, government-to-government, equal sovereignty, et cetera, then we should be approaching this from a consent based model, not just a consultation model, because to the chairwoman's point, when you approach it from that standpoint, you oftentimes end up with just a check the box sort of situation. So I appreciate the opportunity to offer some comments this morning. Thank you.

Bryan Newland: Thank you, Kitcki. It's good to hear from you again.

Coordinator: As a reminder, please press Star 1 to ask your question. Please ensure that your phone is unmuted, and record your name clearly when prompted. And to withdraw your request, please press Star 2. Next question or comment comes from Matthew Pagels. Your line is now open.

Tina Abrams: This is Tina Abrams, Councilor from Seneca Nation of Indians. (Foreign language). Thank you to the DOI staff, and we appreciate the swift scheduling of the regional consultation per President Biden's memo of January 26. The Seneca Nation believes that in order for meaningful consultation to occur, it must be much more than a mere box-checking activity performed by a government agency.

In the past, the Seneca people, like all natives in this country, have suffered grave historical injustices at the hands of the federal government. In the late 1700s and the early 1800s, we lost much of our formerly extensive land base through the treaty process.

In the late 1800s, encroachments upon our Allegheny territory by non-Seneca settlers and railroad corporations, resulted in the congressional creation and then approval of an inequitable 99-year lease term for these squatters. As a result of these undesirable leases, the government allowed non-Senecas to live on our lands against our wishes. In some cases, they paid as little as \$0.25 per year in rent until 1990, when leases were negotiated.

In the 1960s, encroachment of our extremely limited land base occurred again when the United States took 10,000 acres against our will, and allowed the US Army Corps of Engineers to construct the Kinzua Dam, and flood our ancestral lands.

600 Senecas were displaced and forced to relocate as a result of a clear and indisputable violation of our treaty rights. The government's process at that time was simply to inform the Senecas late into the process, on what the government had already decided to do.

We can no longer abide such treatment. We are a sovereign nation that possesses treaty rights. Rather than being a mere box-checking activity, consultation must be an ongoing nation-to-nation process that treats native nations as sovereign governmental entities.

The Interior Department should disabuse itself on the notion that there exists some sort of narrow "consultation window" during which consultations should occur. Consultations should be initiated in a timely manner, and should continue for as long as it is necessary, rather than for some predetermined period of time.

Consultation in the end, is a process that involves the relationship between

government and native nations being consultant. Federal agency staff and liaisons, should become educated on the history and culture of all native nations with whom they consult.

Native nations should never be treated as or lumped into with mere stakeholders. We are much more than stakeholders. In accordance with the United Nations Declarations on the Rights of Indigenous People, it is the Seneca Nation's position that federal agencies should obtain our concurrence before taking any action that would negatively impact our traditional lands, waters, and other resources, or our treaty rights.

In a word, meaningful consultation involves "respect." It involves government agencies respecting native nations' sovereignty and their treaty rights. As native nations currently battled the dire effects of COVID-19, it is glaringly obvious that the inadequate consultation processes, can have real-world consequences.

In May of 2020, when the Treasury Department distributed the first round of CARES Act funds reserved for native nation government, Treasury dispersed funding based on population data used in the distribution in the Indian Housing Block Grant. That block grant population data undercounted the actual enrolled populations of numerous native nations, including the Seneca Nation.

The Seneca Nation was undercounted by several hundred persons. Admittedly, this issue involves the Treasury Department, rather than the Interior. Also, the Treasury finally is just now consulting on this issue next week on March 18th, nearly 10 months after the funds were distributed.

However, if more funding becomes available for disbursement to native

nations, a more equitable formula needs to be employed. Formulas should be arrived at through proper consultation with native nations. (Yawi), and thank you for providing this opportunity to the - for the Seneca Nation to share some of our thoughts on consultation. And we intend to submit detailed comments to the Department of Interior by March - by the March 19th deadline.
(Foreign language)

Bryan Newland: Thank you, Councilwoman.

Coordinator: Next question or comment comes from Lance Gumbs. Your line is now open.

Lance Gumbs: Yes. Good morning. Thank you for giving me this opportunity to speak, and thank you for holding this consultation about consultation. I think that's appropriate, given the new administration, and I just have a few comments on some issues.

I think that when we talk about consultation, I just want to echo some of the statements that have been made by some of the previous speakers, in terms of the educational component of consultation. It's great when we have these consultations and, you know, we go in and we sit and, you know, we give our opinions or we give our statements, but the follow-through in the consultations from the previous administration, and I am going back to the Obama administration, the follow-through was pretty lax.

There was no real follow-through after the consultation. You went in, you spoke, and then that was pretty much it. And going - and moving forward, I think that there needs to be a better response from these consultation sessions to the various tribal leaders.

And then bringing it down to the regional areas, there really is a lack of

education. And I think that that educational component is critical to moving in any type of meaningful consultation. And I'll give an example. The Northeast Tribes here we had a sit down, a consultation with the former Assistant Secretary.

And we literally had to educate the individual on the nuances of the area, our region here, and helping them to understand that we have a different situation here in the Northeast from just about any other region in the United States. We're first contact tribes here in the Northeast. And there was really a lack of understanding.

And so I think that that is a really critical component to any meaningful consultation.

Somebody's trying to call me just...

Coordinator: Next question comes from Earnest Marshall. Your line is now open.

Earnest Marshall: My name is Chief Earnest Marshall. I'm the Chief of the Muscogee Creek Nation.

And my thing is confrontation has always been from the beginning a lot of negotiations with the United States.

I was given permission by the United States to do 201 years' of research in the National Archives and Records Administration and the Department of Treasury. And in the process of doing that we found treaties and agreements that broken from the past. And we also found bearer bonds.

And with those bearer bonds we took them to the Department of Treasury who sent us in there. And they did not want to even help us to recognize those bearer bonds, even get them cashed.

We have the 1862, 1864 Union Pacific Railroad Act that was signed by Abraham Lincoln. And we have the – these bonds that was used by the South to fight the North with, that was used by French and English currency that we took to the United States and to the bank.

And with this bank, Chase, we took the bearer bond to. And they said that they discriminated against the (bear), but they didn't discriminate against individuals.

We want to bring those bonds to the table with the U.S. Government who has written – who did not sit down with us who gave us permission to do the research and to negotiate the infrastructure of the tribe. Those bonds are worth a lot of money. We talked to Congress and (Senators). We talked to bankers. We even talked to Jamie Dimon who has even discriminated against us many ways and the U.S. Government said they tapped him on the hand.

One comment to Title VI of the '64 Civil Rights Act and pertaining to some things that we do even with - though we are sovereign, we had to use the U.S. Government Act to try to get things right. Nobody wants to listen.

Now we have a new Administration. The last Administration tried to steal the bonds from us. And I, myself now, I'm living in a safe house because the hotel which I ran, 150 rooms, were burnt down by Giuliani and Trump because we went to them (first). And we even negotiated with some of their people. We even had the first COVID mask and everything and Trump let his

son steal it directly from others from one other tribe who had gave us contact out of Panama to get the money to help our tribe with.

It's really to me – I hope this is not a repeat. I hope that this is not just a sit down to listen to what we have to say. And I hope that we can get something constructively done.

And I like to meet with somebody from the Department of Interior in reference to these bearer bonds. The 1862, 1864 Union Pacific bonds that are called (currency 60s) that are worth \$9.8 trillion.

Who do we talk to? How do we tell people we have something of value that you gave us permission to find? But yet and still you close the door on us, you let us be discriminated against, and you let the Navajo die. You had other tribes die before the COVID. I even had to lobby CDC to get certain things for the Navajo.

So how do we get honesty, truth, and respect when we already know that they're dancing around the treaty? That the Treaty of Paris and other treaties have been disrespected and we can't even negotiate them now.

And I appreciate your time, your efforts. And I hope that you come in peace like we do and hope you come in truth and that you can help our tribe and that you can take these bonds that we have. We have 123 of them, and that you can find these tribes and not to talk about money. Thank you and may God bless you.

Bryan Newland: Thank you. Operator.

Coordinator: Yes. Next question comes from Darby Weaver. Your line is now open.

Darby Weaver: Yes ma'am. This is Chief Darby Weaver from the Choctaw Nation of Indians. We're located in South Alabama in Mobile, just north of the 31st parallel.

We've had treaties with the United States Federal Government from 1786 to 1866, and a continual relationship thereof. We've been listed in the Armstrong Rolls. We've been listed in the Cooper Rolls by our location if not by name. We've been listed in Choctaw Nation versus United States courtesy of the Act of March 3rd of 1837, which took our ancestors' names that were not on the – were not included in the Wards Register of The Treaty of Dancing Rabbit Creek of September 27, 1830, 7 statute 333.

What we're curious of is we've been deliberately denied all these years ever since one of our tribal leaders here recent, named John Johnston complained in 1830, I believe it was, by a federal act followed by Chief Post Oak, Captain Red Post that they called him. And also by some of other tribal leaders in 1836, Hoshi Homa, John Johnston again, and a Chief called Elah Tubbee, which we call Tom Gibson. His name is referenced in the March 3rd of 1837 depositions in which about 4000 of our people here are listed there.

And in 1889 we have a Tribal Roll, which listed those same people. We're descended from those people. And we're also listed on the United States Census of 1830 and the Alabama Census of 1830 precisely where we still stay today. And we've been neglected for all this time.

And we're part of the – we were labeled Mississippi Choctaw in the Supplemental Act of July 1, 1902, which was preceded by the Curtis Act of 1898 of course. And we were essentially removed from each section step-by-step.

We were remembered again in the Supplemental Act of 1914. We were part of Choctaw Council, Mississippi, Alabama, and Louisiana between the years of 1902 to 1914.

The United States Federal Government came along with the American Indian Policy Review Commission May 17, 1977. We're listed in Volume I, Chapter 11, non-federal recognized tribes, Page 468 as Washington County and Mobile County Choctaw Indians numbering 4000.

We've been recognized by the United States Government since then. A group, one of – as two tribes we were listed as then and the BIA recognized those two tribes in front of a Senate Judicial Hearing along with Senator Richardson around 1990, I think it was. And they recognized there were two tribes here and that this other group called the MOWA Band of Choctaw Indians. Had they been recognized with these two tribes they would've had an easier time becoming federal recognized themselves.

We are the Choctaw Nation of Indians. We've been recognized as the Choctaw Nation of Indians as a community, which entered as a parliamentary. You'll find us in the Senate Judicial Report of 18 – December 14th of 1870. You'll find us in the Act of 1851. You'll find us in the Act of 1870.

Bryan Newland: Mr. Weaver.

Darby Weaver: Yes.

Bryan Newland: Mr. Weaver. I apologize for interrupting. This is Bryan Newland. I appreciate that you and others from groups that have petitioned or are seeking federal recognition...

Darby Weaver: We haven't petitioned.

Bryan Newland: ...want to comment on this matter. I just want to make sure that I clarify for folks on the line that the President's Executive Order and the purpose of this consultation is to have a meaningful dialogue with federally recognized tribes and their authorized representatives. And I'm going to ask you Mr. Weaver to...

Darby Weaver: To limit it to that.

Bryan Newland: I'm going to have the Operator move onto another speaker. Thank you.

Coordinator: Thank you. As a reminder to ask a question, please press star 1. Please ensure that your phone is unmuted and record your name clearly when prompted. And to withdraw your request, please press star 2.

Next question or comment comes from Lance Gumbs. Your line is now open.

Lance Gumbs: Thank you. I got disconnected earlier. I just wanted to follow-up on a couple more statements.

And in terms of the consultation process I think it's imperative especially on the regional level that the Regional Directors understand the harm that they can cause by putting out statements and papers without proper consultation to the tribal nation that they're referring to.

And this happened to us. Again I'm from the Shinnecock Nation here on the east end of Long Island, Tribal Ambassador.

And we had, you know, some serious issues in terms of our land status and the lack of understanding that the department has especially with New York State and our restricted fee status land. And there was a document that was put out by the Regional Director without any type of consultation with the tribe that was very harmful to us at that particular time with our restricted fee status versus the trust status.

So again it goes back to what I was referring to earlier about the educational component that I think is imperative that the Regional Directors, right on up the chain had about the given regions. And that was discussed earlier as well by a number of speakers in terms of understanding the regions and the nuances and the differences that many of us have out here. There are 574 federally recognized tribes. And no one size fits all of the tribes.

So the consultation process really has to extend beyond just the group meetings that have been occurring on some of these issues. And it really has to get down to, you know, site visits, discussion with the tribes and real meaningful consultation with the tribes before any documents are produced and put out to the general public.

Another issue that, you know, when in discussing this is the way that opinions are made internally there where and I'm going to go to the M-Opinion as one of them as an example where these opinions are made by the solicitors. And then there's no real discussion prior to these opinions to really have an understanding of how it may affect, you know, a given tribe.

So it is my hope that as we move forward that these major policy decisions that are being made by the lawyers there, there's real meaningful consultation before these opinions are made and put out so that there's a real understanding of the issues.

These guidelines, you know, are put out and by the department. And they really affect the tribe that may not have even – you know it may not have been understood how it would affect the tribe negatively. And so I think that that is something that needs to be looked at.

Also I'd just like to say that in terms of the educational component, the real discussion with the regions and having an educational process by the tribes themselves to members of the department. Because it becomes a real situation where you go into these meetings and you sit down. You have these discussions. And they really don't know your region. They don't know what you're talking about. They don't understand, you know, the dynamics that affect you and your area.

And so it becomes this one-sided conversation whereas I think consultation should be, you know a two-way street.

So those are just some of the comments that, you know, I had in terms of hoping – hopefully improving the way that consultation is done. Clearly small tribes like ours don't have the funding to go out to some of these locations that are quite far away. And so the idea of having – whether it's through the social media, through Zoom or any of these other avenues of communication, I think that that should absolutely be included in any further consultation process.

And it's helpful to see someone. You know this is great. But I can't see who I'm talking to. I don't know who I'm talking to. I know Bryan and a few of the others.

But I think that it's imperative that as technology advances that these Consultation Meetings also have the ability to see and talk with because body expression and language is also critical especially to us here in Indian Country. You want to know who you're speaking to. And you want to be able to put a name – or a face with the name of the individuals that you're having these conversations with.

So again I'd just like to thank you for, you know, this opportunity. And I'd like to thank you for, you know, having this and especially with President Biden coming in now. We have a chance to start anew and to really make progress here in these next four years for Indian Country as a whole. And I think that, you know, this is a very good start and just understanding the needs and concerns of the various tribes.

But understanding and I emphasize this again that there is different components in each region. And it is imperative that there be an understanding of that and that the people who are going to be, you know, dealing with these regions really get an education about the region where they're dealing with.

And I'll close by saying we've had Regional Directors for the Northeast here for our Eastern area who knew nothing about our area. And it's very difficult to have meaningful and conversations and consultations when these individuals know nothing about your area, nothing about your history, nothing about, you know, the nuances that make up your tribal body or your region.

So I would hope that those type of things be taken into consideration as this Administration and the department moves forward because I think that's a critical component to really having meaningful consultation.

So with that, I thank you for allowing me these – this opportunity. And ((Foreign Language Spoken 0:17:54.8-0:17:56.9)) to all.

Bryan Newland: Thank you Mr. Gumbs.

Coordinator: Next question or comment comes from Sonja Gourd. Your line is now open.

Sonja Gourd: That's you Chief.

Joe Bunch: Okay, good morning (Foreign Language Spoke)). This is Chief Joe Bunch with United Keetoowah Band of Cherokee Indians in Oklahoma. And certainly we thank the department for the opportunity to provide comment.

One of the issues that appears to be, and pretty much may echo some of the information that was passed on a little earlier, as a federally recognized tribe sometimes we get – there is a different flavor and because there are three federally recognized Cherokee Tribes in America. And sometimes the identity seems to get mistaken between which tribe we are.

And that goes along with the education process with – for the region as well as the department.

But one of the things I do want to recognize is the fact that when tribal nations make comments we know it's publicized in the Federal Register. And what happens from there? Is it a decisive decision? And it affects 574 different tribes. So what happens to that comment?

And I think we can do a better job of getting with those individual tribes who make comments and let them know.

The other part of it is as a small tribe within the three federally recognized Cherokee Tribes sometimes our comments are overlooked. And the thing is the fact that we have a means that – of no other. And what we want to share is decisions are made on our behalf without our knowledge and without our input.

And that's the portion that we're thankful today's opportunity to comment on this sort of – in this atmosphere. And we look forward to down the road as to what happens from here and how we can become involved even more so in this decision making process.

At this time, I'm going to defer my time and (unintelligible). Thank you, you all and you all have a good day.

Bryan Newland: Thank you Chief.

Coordinator: No further questions on the phone at this time. And as a reminder to ask a question, please press star followed by 1.

Bryan Newland: While we have a break in the queue, and we are one hour into the comments from tribal leaders and representatives, I just want to take a moment to recap some of the consistent themes that we heard today and some of which are consistent with comments we've received in other consultation sessions as well.

A number of speakers have referenced the need for federal agencies to coordinate consultation and communicate better internally within the federal government and then outwardly to Indian Country so that agencies are not consulting on important issues at the same time and which limits tribe's access to consultations.

Several speakers today have referenced their view that the consultation process should lead to concurrent or consent of affected tribes. Others have - other representatives have spoken about the need for training and education within federal agencies to better understand the tribes that we serve. And really the department should play an educational role in leading consultation or helping other agencies fulfill their trust obligation.

We've heard comments today about, you know, the need to make consultation sessions more accessible for tribes with limited resources and as the Chief just said, make sure that everybody's comments are received and read by federal agencies.

There have been also comments about the need to clarify or the definition of consultation itself and when that occurs. And making sure that definition is uniform so that everybody has clear expectations of consultation.

I also just want to just take a moment as well. A few moments ago I interrupted one of our speakers. I just want to make sure I explain why we did and why I did that. The United States Federal Government and the Department of the Interior have a trust responsibility to engage in a nation-to-nation relationship with federally recognized tribes. There is also a process for tribes seeking federal recognition to engage with the department and either obtain federal recognition or a clear and timely answer on their petition.

And while we welcome comments and views from groups seeking federal recognition, there is a separate process for that. And because we have limited time to speak directly with representatives of federally recognized tribes and hear from elected tribal leaders, we want to make sure that this process is fulfilling our obligation to federally recognized tribes so that you have an

opportunity to help shape the development of this consultation process and policy.

So thank you very much for giving me the opportunity.

Operator, I don't know. Do we have any folks jumping in the queue?

Coordinator: Yes sir. We have a question from Chairwoman Andrews-Maltais. Your line is now open.

Cheryl Andrews-Maltais: Thank you. This is Chairwoman Cheryl Andrews-Maltais. And you know if the mic is dead, I'm going to jump on it. You guys know me well enough.

But to – because we have this time set aside and you have invested with such high level of representation from the Department of the Interior, I think it's important that we really truly capitalize on this time and share as much as we possibly can.

And I'd like to go back to the education component, not only as the Department of the Interior may be looking at facilitating not only within the department's bureaus about education and to what trustee or Councilman Bunch was saying about having people really know their region within the Department of the Interior but also helping to facilitate educational components or asking whether or not the partner agencies within the Administration would be likewise willing and creating almost like a mandate as far as their course trainings to be able to have educational components about the trust and treaty responsibilities of every federal agency and every department and every bureau within that department in order to educate them so that we're not always having to start from a 101, Indian 101. Here's who

we are. Here's what your obligation is. And continue forward with that and hopefully that would help so that we're always doing this.

And those of us that have been here doing this for a long time, it's exhausting. The other component is maybe having the Department of the Interior facilitate education of Indian and Trust and Treaty Responsibility 101 to the legislators with every new freshmen class. I know we've spoken about this over the years. Way too many times to, you know, count.

But it seems that every time that we have a new class of freshmen legislators as well as some of our senior legislators, they do not seem to fully comprehend that their responsibility as legislators no matter what their party is to their trust and treaty obligations as identified, you know, within the constitution, executive orders, and court decisions to ensure that when they look at the issues that are facing Indian Country that they look at it from nonpartisan as well as from as a United States Senator or a United States Congressperson.

And I know that there are limitations as to how much the representatives within the Administration do with regard to influencing.

But at least if we start from a perspective of educating them as to their roles and their responsibility and the departments of all the Administration's roles and responsibility to uphold those trust and treaty obligations, it's a starting point and a building block from which we can grow.

The other component I'd like to do is go back and circle in on the comments that were made by both Kim Teehee and Kitcki Carroll with regard to OMB. And OMB is a critical component.

And I know that even within the Department of the Interior during my tenure we had an issue with OMB not acknowledging and/or respecting tribe's right to determine what they need to do in the categories that they need it.

And therefore having them not only part of the consultation but also in two Appropriations Act, and I can't remember, I should've pulled them up, the legislators directed OMB specifically that they needed to consult with tribes underneath the Executive Order 13175 and consultation processing.

So again as the Department of the Interior being our fiduciary and responsible to ensure that the rights and responsibilities of not only Interior but also can be acting as that conduit to ensure or support that the rest of the Administration as well as the legislators are made aware of their responsibilities and help clarify and define those as well as support and advocate an ally for us.

And thank you. And if the mic is sent to me again, before we let you guys go I might chime in again. But thank you again and also want to just recognize that what you guys have inherited and always do is a tremendous job and a tremendous responsibility. And we recognize that there are limitations to what you can do.

But every single one of you over the years that I've worked with you on either side of the table have always put Indian Country first. And I appreciate and respect that and thank you for it.

Bryan Newland: Thank you Chairwoman. Appreciate your comments.

Coordinator: Thank you. As a reminder to ask a question, please press star 1. Our next question comes from Darby Weaver. Your line is now open.

Darby Weaver: Yes ma'am. We have a federal reservation and a federal trust. And as such we would like to have more say about the environmental conditions in our local area here. We've had mining operations come in and literally right steps away from the reservation and endangering people's lives.

We've also had our freshwater resources where we have our streams where we fish and hunt endangering our wildlife. And we don't seem to have any consultation to figure out how this is happening and how it's being allowed to happen and why it's bypassing us.

So we would like to have consultation in that particular regard. Thank you.

Coordinator: Next question or comment comes from Jeremy Arnett. Your line is now open.

Jeremy Arnett: Good morning. This is Jeremy Arnett with the Office of Self-Governance for the Citizen Potawatomi Nation. I just wanted to cover a few things without retreading too much. Thank you to everyone who's made great comments this morning.

I would ask that moving forward we allow for enough time, as much time as is necessary for dialogue during consultation. We've had a few speakers this morning point out that it's often one way and (unintelligible) more closely resembles a listening session than an actual consultation. Those two should not be conflated. And it's important that there be an opportunity for a response in both directions.

The recent consultation on probate modernization actually did this and allowed for full written response with plenty of time. And then the federal reps actually responded to every individual point made and by tribal written response. And it was refreshing.

So it wasn't perfect. But look to that as an example of what's possible.

When you're setting up consultation sessions it's important that you communicate broadly that something is going to happen to both tribal leaders and their technical designees and as many forums and as often as is necessary to get the word out.

So please don't use facts because I think we're past that for the most part. But in the event that somebody needs a specific type of communication to make sure they don't miss a session, please have somebody on that, keeping that roster fresh so that people aren't caught with two days' notice. At least two weeks is actually the minimum for each session that we should get.

I would ask that you create a policy that persists between Administrations. We had that point made earlier. But something that has an anchor that will last whenever we swap parties or swap to a new President, we have new politicals. Just put something deep enough in that career staff can carry it forward and have confidence, that we can have confidence that we're not going to be doing a 101 session again or making the same request every four or eight years for the rest of eternity.

And finally, I would ask that in situations where there's a statutory emergency that necessitates consultation but doesn't allow enough time for that process to take place, that you have a sub-policy for those specific situations that still allows for some type of tribally vetted consulted upon process that we create together. And don't use that as an excuse.

And sorry if that's a little bit finger-pointing, but don't use the limited amount of time that you have to act to limit the amount of consultation. Even if that

means that notice has to be truncated or that some other part of the policy has to be put aside in order for us to have an effective conversation. Just have that ready to go because you all know that in the future there will be situations where a law is passed and you have 30 days to make a distribution of funds. But you also have to consult so please plan appropriately. Thank you.

Bryan Newland: Thank you Mr. Arnett. And your comments are well taken about the need for consultation to be a dialogue. I just want to respond to that point in particular to note that with this particular form of consultation we are really looking for advice from Indian Country on how to shape our policy and process.

And I assure you and others on the phone that the department's Leadership Team across all agencies is on the line with pen in hand taking notes so that we can get the advice that we need to shape this process for consultation so that it works for Indian Country.

And I do very much look forward to getting to the point where we can have face-to-face consultation and engage in more of an in-person dialogue. But your point is well taken. Thank you.

Coordinator: Next question or comment comes from Kitcki Carroll. Your line is now open.

Kitcki Carroll: Good afternoon. Kitcki Carroll again with USET and USET Sovereignty Protection Fund, the previous comments are – speaker just made a comment about what's possible.

And I just want to use that as an entry point to, you know, remind this Administration of the President's motto of building back better.

So while a lot of this conversation has been consumed about meaningful consultation, which is really the language that we used during the Obama Administration, while there was lots of positive from that, we would hope to see that in the Biden Administration that we move beyond successes of that approach into a different sort of realm and space of understanding.

You know the hard truth about this is that the relationship that exists is a consequence of the actions that the United States took. And this excuse that we often hear about limited resources to really engage in consultation and diplomacy in a way in which it should work is not an acceptable excuse, you know.

So, you know, there are models that exist right now within the federal framework that we can use as models about how to move closer to a relationship as we really envision. The processes that we're often captive to right now even though we use language of sovereignty and nations and governments, is really the furthest thing from it. We often find it lands itself, you know, in the government space or a special group sort of space. And as you all know and appreciate very clearly that we are the furthest thing from that.

So, you know, an earlier comment I had made a comment about needing for the federal partners to understand not only the regions but the tribal nations that they're about to consult with. Well if you look at the international model, you know, you have ambassadors that achieve that. United States would never think of going to France, having an ambassador who fully briefed them on exactly what's going on in France at that moment, the history with the United States, etcetera, etcetera, but that's lacking from our space.

So what it oftentimes lends to, to previous speakers' comments, is we have to do a whole history about the relationship before we can even get to the substance of the discussion.

So the opportunity that's really here is for the United States to really move beyond the framework that we're accustomed to and move closer to a framework of diplomacy but it's going to require federal investment.

And the United States has to be willing to make that sort of federal investment to allow for real diplomacy, to allow for real nation-to-nation, government-to-government conversations.

So while, you know, conversations that are regional are good, you're depriving tribal nations of the opportunity to have very direct specific conversations that are very unique to their individual circumstances.

And until we achieve that sort of approach and model, you know, consultation is always going to be lacking.

So I just want, again, you know, in closing just remind this Administration that we're not only building back but the intention is to build back better. That requires moving beyond the frameworks of what we did in the past and what we understand and be willing to take some risks and to change the norms of what we've been accustomed to over the years. Thank you.

Bryan Newland: Thank you Mr. Carroll.

Coordinator: No further questions on the phone at this time. As a reminder to ask a question...

Bryan Newland: Ma'am or...

Coordinator: As a reminder to ask a question, please press star 1. Next question comes from Ben Barnes. Your line is now open.

Ben Barnes: Good morning. This is Chief Ben Barnes with the Shawnee Tribe. And I want to thank Interior for having this conversation today. And I have some brief comments.

I think if we could ask Interior to do consultations in a better way I think we need to take some lessons from today. That during this process that we have vet – just as we ask that the press not attend these conversations, we should be vetting who attends these conversations so that we – and this is not just a federally recognized tribe jealously guarding its – who hears this information. But the reason we're here today relates to our sovereign. As one of the – as the third and final sovereign mentioned in the constitution we exist inside of international law.

And that's we have this right is to have a consultation with the federal government. Not one that we're assigned. It preexists.

And so we ask that DOI needs to set the example for all agencies. As, you know, we're found – as we are a sovereign, you know, there's already a framework for consultation and how that should work. Free, prior and informed consent should be the goalpost. Setting any other benchmark is going to fall short of the expectation of tribal nations.

And while we know that that goalpost seems an unreachable one, some decades ago it seemed unreachable that we would have a woman sitting in the

chair of – and sitting as a chair of a agency as well as a Native American. That seemed impossible years ago. But here we are today.

So I ask that free, prior and informed consent be the star that we reach for. And consultation is not a singular event. It's an ongoing process. And we should treat it as a metric. And we need to pull that metric out much like a ruler and measure frequently to ensure the equitable treatment of tribal nations so that we can make that promise that we march ever forward, bringing fair treatment to the constitution's third sovereign. Consultation with our tribal nations needs to be planned on by agencies and needs to be built into the annual budgets.

And I also want to urge that the inability of tribal nations to not participate in every and all consultation does not constitute of a lack and desire by tribes for consultation.

And also I would – I will be submitting our other comments for the formal record. And I thank you for this time ((Foreign Language Spoken 0:40:52.7)).

Bryan Newland: Thank you very much.

Coordinator: No further questions on the phone at this time.

Bryan Newland: Okay. I want to add a couple. This is Bryan Newland again. I just want to add a couple of more items or themes that we've heard, again heard a lot about consent and concurrence.

As the Chief just stated, free, prior and informed consent should be the goalpost for consultation. And is a theme we've heard a lot today as well as a number of speakers who have recognized or stated that while this is

Department of the Interior engaging in consultation for the department, a number of you have mentioned that OMB should bear a similar responsibility because it also bears some of the trust responsibility.

We want to make sure that we are providing adequate opportunity for all elected tribal leaders and designated tribal representatives to share your views on consultation with the department.

If there are no other comments at this time we can wrap up ahead of schedule. But Operator, we can leave the line open for a few more minutes if folks want to jump in with additional comments or questions.

Coordinator: We have a question from...

David Weeden: Hello.

Coordinator: We have a question from David Weeden. Your line is now open.

David Weeden: Hello. I'd like to thank everyone for joining in on the call today. I'd like to thank the Administration for setting this up. It's a breath of fresh air to have this reinitiated as, you know, we've all been stressed by the last four years. And, you know, I encourage this new Administration on moving forward in a more positive direction.

I just want to say that, you know, under Section 2 of EO 1375, the order speaks repeatedly of the federal government's trust responsibility. The word trust has not been realized by tribes especially here in the east ever in our opinion, in my personal opinion. Laws and policies have long been imposed upon us without our input.

Under Section 2(c) of that section it states the federal government recognizes that the right of Indian tribes to self-government and support sovereignty and self-determination.

In the spirit of these recognized rights and trust relation – and the trust relationships, there needs to be further efforts and support of the tribes with regards to acknowledgment and reaffirmation of aboriginal rights and titles.

Here in the east, tribes have never conceded aboriginal rights and the titles. And therefore should be treated similar to states in some situations on jurisdictional matters. This I speak of and bring up in the area of windfarms and such.

I don't know if the consultation process has been elevated to that of which towns, towns where there's cooperative agreements are made and government purchase agreements are made. But the tribes are kind of left out of that process.

And I think that they should be more inclusive in that process with regards to development of wind industry, the wind industry.

On matters of self-determination and building internal capacities within tribal governments it's an area that the federal government needs to make additional efforts. This is clearly apparent in the historic preservation realm. The History Preservation Program lacks adequate funding for it to be effective.

There should be additional funding through appropriations and OMB for training opportunities to promote tribal participation in the fields of archeology, anthropology, environmental science, natural resources protection, and geospatial information systems. I think these programs

directly relate to some of the things that we're tasked with under NEPA and the National Historic Preservation Act.

But there isn't enough effort on the federal government's part to build and to support the tribe's building of internal capacities to be adequately effective and all the responsibilities that come with those programs.

There should – also under the spirit – in the spirit of self-determination there should be additional support of tribes' self-determination to charge for their time and efforts during Section 106 to start preservation processes as currently the funding mechanisms are inadequate to have robust programs, Historic Preservation Programs or National Resources Programs to deal with the volume of work that's put upon us.

Early consultations need to ensure participation while initial and preliminary impacts are being done which currently sometimes happen before the federal process begins. Officially that's an issue - before the process begins officially that's an issue for tribes because once the damage is done it's – and the impacts are invasive or intrusive to cultural resources the damage has already been done. Sometimes there's archeological start before the actual Section 106 process has officially been initiated. And that's a problem.

With regards to the trust relationship tribes need to feel that their comments are being taken seriously and factored into the decision making process. Presently consultation at times feels as though the consultation is merely a listening session. And they expect us to be – to concur. And ultimately we have no effect on the project decisions is what it seems like at times.

Section 3 of environmental - Executive Order 1375, the policymaking criteria, there needs to be additional tribal nation consultation sessions periodically on

specific matters affecting tribes when – in regards to budgets and a lot of the areas that I've previously mentioned, education, historic preservation, and some natural resources and things. There needs to be additional mandates also for local towns and county governments to improve consultation on projects and programs that affect tribal land's resources or access to those resources.

As I said, you know, Mashpee has a unique history. We predate the federal government and the federal system. We've had a long road to get federal recognition and are still going through the process of the affirmation of our lands and trust.

With that there are a lot of places here within Mashpee that lands were lost. And as I said earlier, we've never officially made any concessions on those lands. And the jurisdictional authority I think we should be consulted more on issues that affect our livelihoods in the way of resource areas.

There needs to be – I would support the government openly embracing recognition of all indigenous people's rights similar to the UNDRIP and some other documents that are accepted on an international level as well.

That's all the comments I have. And at this time I will be submitting comments in the written record prior, on or before March 19th. ((Foreign Language Spoken 0:50:21.7)) for listening.

Bryan Newland: Thank you Mr. Weeden.

Coordinator: Next question or comment comes from Melanie Fourkiller. Your line is now open.

Melanie Fourkiller: Hello everyone. Melanie Fourkiller, Choctaw Nation of Oklahoma. I send greetings from Chief Gary Batton. Thank you so much for having this session today and initiating this dialogue. We were so happy that one of the President's first priorities was to begin this process, and congratulations to all of you in your roles. And we wish you the best in advancing tribal issues and self-determination, self-governance as we move forward. And we look forward to Miss Haaland's confirmation next week so best wishes to you all.

A lot of good issues have been raised. Ideas, ideas for moving forward with consultation and advancing and improving upon what we've been doing in the past. I want to go over those. We will be submitting comments in writing.

But one thing I did want to introduce as a – as something for consideration is standing up the Tribal Advisory Committee to the Secretary. This would not supplant tribal consultation. But it would provide a forum for ongoing dialogue with the Secretary on matters that may not be prompted to tribal consultation or a triggering event that would prompt a consultative process but that are important for ongoing advice to the Secretary as well as all the key decision makers and agencies across the DOI.

Health and Human Services has had a Secretary's Advisory Committee for some time now. And I think that's very successful in getting that forum with tribal leadership and decision makers on an ongoing basis so that more back and forth dialogue and deliberation can be had together at the table several times a year so that it's an ongoing process, again not to replace tribal consultation but to enhance it.

So thank you very much and I will – that will conclude my comments at this time. Thank you.

Bryan Newland: Thank you.

Coordinator: A question or comment comes from Earnest Marshall. Your line is now open.

Earnest Marshall: Thank you for having the opportunity to listen to me. I thank you for having the opportunity to get all the tribes together so that we can have a fruitful discussion.

Again, I would like to bring the bonds that I spoke about earlier to the table for infrastructure development that we would send to the National Archives and Records Administration encouraged by (Meadows) and the Department of Treasury to do 201 years of research on for our tribe, the Muscogee Creek Nation.

And to bring those bonds to the table to help talk about infrastructure development and funding and the bonds in which the railroad and the railroad had agreed as well as country had negotiated treaties with our different tribes.

And I mentioned earlier the Dancing Rabbit Treaty of 1830 was actually started in 18.

Coordinator: No further questions on the phone at this time. As a reminder to ask a question, please press star 1.

Bryan Newland: And we'll hold the queue open for another minute or two.

Coordinator: Next question comes from Earl Evans. Your line is now open. No further questions on the phone at this time.

Bryan Newland: Okay. I want to – this is Bryan Newland again. I want to thank you all for participating this morning in the department’s consultation process. I’ve done my best to try to summarize some of the broad themes that we’ve heard consistently throughout today’s session and other sessions.

But also want to make sure that I reiterate to those of you on the line representing tribal nations that we are developing a – preparing a transcript of this. We have senior leaders from across the Department of the Interior on the line listening in. And all comments will be taken into consideration as we move forward to work to improve the department’s consultation process.

I want to express my gratitude to all of the elected tribal leaders, tribal employees, and representatives for jumping on the line today. We know how hard you work and how valuable your time is in your communities especially during this pandemic.

I want to wish you all safety for you, your families, and your communities and invite you to submit comments by the close of the deadline.

So with no other comments or questions from tribal leaders, we can close this session.

END