

TRUST LAND CONSOLIDATION PROGRAM
REGIONAL TRIBAL CONSULTATION
MEETING HELD OCTOBER 6, 2011
IN OKLAHOMA CITY, OKLAHOMA

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REPORTED BY JUDY THOMPSON, CSR

1 MS. GILLETTE: First, before we start off, I
2 just want to thank everybody for joining us here today.
3 To really start the day off in a good way, I wanted to
4 ask my good friend from the Comanche Nations, Robert
5 Tippeconnie, to lead us into prayer.

6 AUDIENCE MEMBER: We can't hear you.

7 MS. GILLETTE: I asked Robert Tippeconnie to
8 lead us in prayer before we began.

9 (Invocation by Mr. Tippeconnie)

10 MS. GILLETTE: Thank you, Robert.

11 And I wanted to just say from the Department
12 of Interior, we're really glad that we've had such a
13 wonderful turnout at many of the consultations.

14 This is not the last consultation. We did add
15 another one at the end of the month in Rapid City for
16 the Great Plains Region. I know that we heard from
17 some of you already through the other consultations.
18 There were Oklahoma representatives present at a few of
19 the other consultations.

20 But I wanted to just bring the message from
21 Washington and from the Secretary's Office that this is
22 a really high priority of the Administration. The
23 Obama Administration was committed to looking at the
24 difficulties of the relationship between the Department
25 of the Interior and the United States and Indian tribes

1 and how we've had interactions that were sometimes, you
2 know, some pretty dark chapters in the history of the
3 United States. And I just want to acknowledge that up
4 front and know that this Administration is really
5 committed to turning the page to those, to that chapter
6 and starting a new one.

7 And the Cobell Settlement is probably the
8 biggest example of why and how we want to do that. I
9 think that I've heard both the Secretary and Assistant
10 Secretary, Ethel Hawk, and even the President himself
11 talk about how we do need to get to a place where we
12 have a more trusting and positive relationship with
13 Indian tribes. And for that, to me, what that means is
14 a real commitment to meaningful consultation. That's
15 an initial step that we can take.

16 And that is something that this whole process
17 that we're going through right now is meant to really
18 listen to the tribes in terms of what you all think
19 would be to the advantage of the goal that we're trying
20 to get to, and that's to make a better future for our
21 children, really, and I think that's something that
22 brings us together in a common purpose.

23 But we do know that the Cobell Settlement also
24 raises a lot of concerns about -- because it is a
25 reminder and it is -- we understand that we need to do

1 things in a better way when it comes to land
2 consolidation.

3 We also understand that you have many
4 suggestions and solutions to offer. And we, for that
5 reason, we embarked upon doing consultation before we
6 rolled out a strategy or a plan.

7 And so this is the sixth and -- it's not the
8 last, but it was going to be the last. The final
9 consultation will be at the end of this month. But we
10 wanted to hear from you to know what we could do better
11 with the land consolidation aspect of it.

12 I'm going to turn it over to Mike to talk
13 about some of his experiences as the Director of the
14 BIA. We know that there is a lot of hesitancy, we've
15 heard a lot of hesitancy in terms of what we're going
16 to be able to accomplish with this settlement. And
17 we'll get into the terms of the settlement in a second
18 here on a slide show.

19 But the settlement is 3.4 billion dollars.
20 And 1.8 of that is for this land consolidation piece.
21 The land consolidation piece is something that is in
22 addition to the settlement of the claims. It is part
23 of the claims, but it is not just the settlement with
24 the class membership. It is to do something proactive
25 to address further fractionation of Indian lands.

1 And we just come out here in really -- I guess
2 I would like to just speak for myself. But I do come
3 out here in a humble way, because I know that we don't
4 know everything. And most of what we have to learn is
5 going to come from the tribes themselves and the folks
6 that this program is going to impact directly. And so
7 we're coming out to be inclusive.

8 After this, the next steps after this are
9 going to be laid out, again, in a slide show. But we
10 do have a plan to have another round of consultations,
11 not necessarily -- we might not have time for those to
12 be face-to-face, but we do want to provide folks with
13 an opportunity to comment on a plan that we come up
14 with based on the information that we're hearing in the
15 consultations.

16 So with that, I am going to turn it over to
17 Mike to just provide some of his welcoming remarks.

18 MR. BLACK: Good morning, everybody.

19 My name is Mike Black. I'm Director of the
20 Bureau of Indian Affairs. Welcome. And thank you for
21 your hospitality in welcoming us into your country.

22 I just want to talk real briefly -- we're not
23 here to talk to you. We're here to listen and get your
24 feedback on what you see the best way for us to
25 implement the Indian land consolidation portion of the

1 Cobell Settlement.

2 Just a couple of things here. As Jodi stated,
3 1.9 billion dollars of the settlement is set aside for
4 the Indian land consolidation portion of the
5 settlement. That's what we're here to discuss today.

6 We have received from the Court permission to
7 be able to come out here today and, in all of the
8 consultations, to visit with everybody, talk about the
9 Indian land consolidation portion of the settlement and
10 nothing else.

11 We haven't been released from the No-Contact
12 Order on the remainder of the settlement or any of the
13 other issues around the Cobell Settlement.

14 So in order for us to be ready to implement
15 that 1.9 billion dollar portion of the Indian Land
16 Consolidation Settlement, we're here to solicit input.

17 We've been operating an ILCA program for about
18 ten years or so. And, as many of you know, I think the
19 maximum we've ever had in that program in any one year
20 is about 35 million dollars.

21 Well, this is quite a step up from 35 million
22 dollars. And we have ten years under the settlement in
23 order to be able to obligate all of those funds.

24 And so in order to have a development plan and
25 be prepared to do that, we really need to come out and

1 hear from Indian country and the people that will be
2 affected and the tribes that will be affected. Because
3 this is really an effort -- you know, it goes hand-in-
4 hand with some of the things we've been doing over the
5 past year and a half regarding fee to trust, and that
6 is the restoration of tribal homelands.

7 That's one of the goals of this act, is how we
8 can start to consolidate homelands, put them back into
9 tribal ownership and tribal jurisdiction and tribal
10 control.

11 So we really are here to hear from you today.
12 I look forward to all of your comments. And all of
13 that will be taken in with all of the rest of the
14 comments we received at the previous five and the last
15 one that will be held in South Dakota. We'll
16 consolidate those comments.

17 And we'll be coming back out with what's come
18 out of those. The testimony and stuff and the comments
19 are being posted on the website. And Stacie or
20 somebody will probably touch on that and let you know
21 the website where you can go to to see some of the
22 previous testimonies that's been done in other
23 consultations.

24 And, there, again, we'll be compiling all of
25 those comments, looking at all the different options

1 and suggestions that are coming in. And then that's
2 what we'll be using, largely, to drive the plan to
3 implement this program.

4 Again, thank you all for coming. We really do
5 appreciate it. And we look forward to hearing from
6 you.

7 MS. GILLETTE: Thank you, Mike.

8 Before we get started, what we wanted to do is
9 provide the tribes around the table the opportunity to
10 introduce themselves. I think we will have time to do
11 introductions for everyone. We have quite a few folks
12 in the room, but we would like to know who you're
13 representing. So we'll go around first with the tribal
14 leaders at the table.

15 And then I did want to just go back to the
16 point Mike made. This government-to-government
17 consultation is really important to what we're doing.
18 And we also want to give the opportunity for others to
19 have input.

20 But, initially, I think Stacie is going to set
21 this up in a minute here. But just to clarify, the
22 first part of the consultation will be with the tribal
23 governments. And in the afternoon, we will have time
24 to visit with the organization constituents and
25 stakeholders who would like to voice their opinions, as

1 well.

2 And just to reiterate that, we do take the
3 government-to-government relationship that the United
4 States has with tribal governments very seriously and
5 wanted to just reiterate that's something that we are
6 committed to strengthening.

7 We'll start with just -- I guess I'll start it
8 off.

9 I don't think I introduced myself before, but
10 I'm Jodi Gillette, and I'm the Deputy Assistant
11 Secretary of Indian Affairs of the Department of the
12 Interior. I'm also an enrolled member of the Standing
13 Rocks Sioux Tribe.

14 MR. BLACK: Again, Mike Black, Director of the
15 Bureau of Indian Affairs, and I'm a member of the
16 Oglala Sioux Tribe, South Dakota.

17 MS. OOSAHWEE: My name is Sedelta Oosahwee.
18 I'm here with the Cherokee Nation (inaudible).

19 MR. BROKESHOULDER: Eddie Brokeshoulder from
20 the Absentee Shawnee Tribe. And I work for the Office
21 of the Treasury.

22 MS. DEERE: Hello. I'm Cathy Deere. I'm the
23 Tribal Treasurer of the Absentee Shawnee Tribe. And
24 I'm glad to be here.

25 MR. MAYNAHONAH: My name is Louis Maynahonah,

1 Chairman of the Apache Tribe of Oklahoma. (Inaudible)

2 MS. EDWARDS: I'm Brenda Edwards. I'm
3 Chairman of the Caddo Nations.

4 MR. STANDING: I'm Leslie Standing. I'm the
5 President of the Wichita and Affiliated Tribes from
6 Anadarko.

7 MR. KODASEET: Good morning, I'm Michael
8 Kodaseet. I'm the Speaker of the Third Legislature of
9 the Cheyenne Arapaho Tribes.

10 MR. NOWLIN: Rupert Nowlin. I'm the Arapaho
11 District 3 Legislator of the Cheyenne Arapaho Tribes.

12 MR. TIPPECONNIE: Robert Tippeconnie,
13 Secretary/Treasurer of the Comanche Nation.

14 MR. GOVER: I'm Marshall Gover. I'm President
15 of the Pawnee Nation.

16 MR. FIELDS: Good morning. Jim Fields, Tribal
17 Counsel, Pawnee Nation.

18 MR. FERGUSON: Good morning. My name is James
19 Ferguson. I'm an attorney with the Department of
20 Solicitors.

21 MR. WALTERS: My name is Tony Walters. I'm
22 Counselor to the Deputy Assistant Secretary Jodi
23 Gillette in the Washington, D.C., Department of Indian
24 Affairs. Member of the Cherokee Nation of Oklahoma in
25 Tahlequah.

1 MR. PITCHER: I'm Greg Pitcher, Shawnee Tribal
2 Counsel.

3 MR. UNDERWOOD: David Underwood, stakeholder
4 and member of the Chickasaw Nation.

5 MS. PIAKITAH (PH): I'm Sheila Piakitah. I'm
6 with the Chickasaw Nation.

7 MS. FINKENBERG: Loretta Finkenberg, Finance
8 Director of the Kickapoo Tribe (inaudible).

9 MS. WILSON: Kristen Wilson, Executive
10 Director of the Kickapoo Tribe of Oklahoma and an
11 enrolled member of the Kickapoo Tribe of Oklahoma.

12 MS. EASTMAN: Shauna Eastman, Tribal Attorney
13 for the Assisted Living (inaudible) and also a tribal
14 member.

15 MR. RONDELL: I'm Winfield Rondell. I'm the
16 Tribal Secretary, Sisseton-Wahpeton Oyate Tribal
17 Reservation, South Dakota.

18 MR. ROUSSEAU: Good morning. My name is
19 Garryl Rousseau. I'm from Sisseton-Wahpeton Oyate, and
20 I'm the Vice Chairman.

21 MR. SMITH: My name is Craig Smith. I'm with
22 U.S. Senator Tom Coburn's Office. Welcome to Oklahoma.

23 MR. MALLOY: Charles Malloy with the Citizen
24 Potawatomie Nation.

25 MS. BUTCHER: Rhonda Butcher, Self-Goverance

1 Director, Citizen Pawnee Nation.

2 MR. CASIAS: I'm Robert Casias. I'm the Chief
3 Cadastral Surveyor for the Bureau of Land Management
4 for this region.

5 MR. WHITMORE: I'm Richard Whitmore. I'm a
6 Bureau of Land Management, Indian land surveyor with
7 the Southern Plains Regional Office.

8 MS. ANDERSON: Julie Anderson, Acquisition and
9 Disposal Specialist in the Anadarko Agency.

10 MR. (INAUDIBLE): Monty (inaudible) from the
11 Anadarko Agency, Tribal Operations Office.

12 MR. JACOBS: Eddie Jacobs, Oklahoma Indian
13 Mineral Association, member of the Muskogee Creek
14 Tribe.

15 MS. JACOBS: Marciana (ph) Jacobs, Cheyenne
16 Arapahoe, Cheyenne member of the Cheyenne Arapahoe
17 Tribes -- Cheyenne Arapahoe Indian land and mineral
18 owner.

19 MS. NIGHTWALKER: Jane Nightwalker, Arapaho
20 Third Legislator from the Cheyenne Arapaho Tribes.

21 MS. WHITESKUNK: Fiona Whiteskunk, Cheyenne
22 District 4 Legislator with the Cheyenne Arapahoe
23 Tribes.

24 MS. WORK: I'm Susan Work, Assistant Attorney
25 General, Cherokee Nation.

1 MS. PHILLIPS: Good morning. My name is Robin
2 Phillips. I'm the Superintendent at the Anadarko
3 Agency, Southern Plains Region.

4 MS. LANE: Good morning. I'm the
5 Superintendent of Pawnee Agency under the Southern
6 Plains Region and (inaudible.)

7 Oh, my name is Terry Lane.

8 MR. HARRAGARRA: Lester Harragarra with the
9 Otoe-Missouri Land Development Authority.

10 MS. ROBERSON: Good morning. My name is Rose
11 Roberson. I'm a Management Analyst with the Southern
12 Plains Regional Office.

13 MR. TALLEY: Roland Talley, Program Analyst,
14 Southern Plains Region.

15 MR. MOORE: Daniel Moore, Regional Director,
16 Southern Plains Regional Office, Anadarko.

17 MR. MAYTUBBY: Good morning. Bruce Maytubby,
18 Deputy Regional Director for Southern Plains Region.

19 MS. DENNEY: Hi. I'm Dale Denney. I'm the
20 Realty Officer for the Makah Tribe and a member.

21 MS. BELLMARD: Robin Bellmard, Superintendent
22 of the Horton Agency, Southern Plains Region.

23 MS. TIPPECONNIE: Good morning. Danny
24 Tippeconnie, Superintendent Council Agency, Southern
25 Plains.

1 MS. TSOTADDLE: I'm Lea Tsotaddle, Probate
2 Specialist with the Iowa Tribe of Oklahoma, and I'm a
3 member of the Iowa Tribe.

4 MR. NIMMO: I'm David Nimmo. I'm President
5 and Chief Executive Officer of Chickasaw Nation
6 Industries.

7 MR. HARP: Ron Harp, Vice President of Upper
8 Mohawk, Inc.

9 MS. SOUTHERN: Jacqueline Southern, member of
10 the Sac and Fox Tribe.

11 MR. WILLIAMS: Tom Williams. I work with
12 Choctaw Nation, American Real Property Management. I'm
13 a mineral owner, I'm a tribal member, and I also own
14 some surfaces.

15 MS. ACOYA: Peggy Acoya, member of the Sac and
16 Fox Tribe and an owner of property.

17 MR. CAMPBELL: Ray Campbell, member of the
18 Gila River Indian Community in Arizona. I work for
19 Jimmy Walker & Associates there.

20 MS. SMITH: Hi, everyone. I'm Stacie Smith.
21 I'm a facilitator. I've been asked by the Department
22 to help organize logistics and help out facilitating
23 these events, and also, helping to consolidate all of
24 the input that we're hearing in all of these different
25 events and making sure that the Department takes that

1 synthesis as they're developing their plan.

2 We have a transcript Court Reporter. And she
3 is trying to get down everything that she hears. I
4 know these microphones are not ideal and they're not
5 perfectly spaced. But I do ask for people to try to
6 speak into the microphones, even though you might be
7 able to hear each other, we want to make sure that she
8 can hear so that she can get these transcripts so that
9 we really have a good record of what goes on here
10 today.

11 MS. GILLETTE: I think, first, we wanted to
12 start off, we've been doing the same PowerPoint
13 presentation. I know some of you were in the first
14 consultation in Billings. And this hasn't changed much
15 from the first time that we sent it out. And there
16 were questions -- there have been questions and whether
17 or not we were going to modify what we are consulting
18 on, based upon what we are hearing.

19 And, to that, you know, we can respond that we
20 want to hear from everybody. So we wanted to make sure
21 that we had a dialogue with the tribes of Oklahoma. If
22 there were any other interested people that wanted to
23 come down and have the same information provided at the
24 first one as the later ones, so that, if you have
25 input, you could comment on that original content.

1 And, really, the first part of this PowerPoint
2 is going to talk about the -- it's really going to
3 discuss the terms of the settlement. And this gives
4 some basics on that, because what we found is that
5 sometimes all the press releases and all of the
6 information that gets sent out in Indian Country
7 doesn't often capture just, you know, exactly what it
8 is.

9 And so these slides are all based upon what is
10 being discussed and what has been settled by the Court,
11 the Court and the parties involved.

12 The Cobell Settlement was approved by Congress
13 on November 30, 2010. It was the Claims Resolution Act
14 of 2010, and it was signed by President Obama on
15 December 8th of 2010.

16 The 3.4 billion dollar Cobell settlement
17 includes two major components. A fund of \$1.5 billion
18 is for class members to compensate them for their h
19 historical accounting trust fund and asset
20 mismanagement claims. That's an area that we're not
21 really -- we are completely forbidden to talk about
22 here. So that's an area that we just -- we're not
23 addressing here at all.

24 But we are talking about the 1.9 billion
25 dollar fund for the voluntary buy-back and

1 consolidation of fractionated interest.

2 And I do want to emphasize the voluntary.
3 This is a fund that was meant to purchase interests
4 that people want to sell. We're not going out and
5 making anybody sell.

6 The total amount for the land consolidation
7 component of the settlement, the 1.9 billion dollar
8 fund for the voluntary buy-back and consolidation of
9 fractionated land interests, up to 15 percent -- this
10 is the terms of the settlement itself. Up to 15
11 percent or 285 million dollars can be used for
12 administrative costs. So that "up to" means that no
13 more than \$285 million dollars can be used for
14 administrative costs.

15 And, as an additional incentive for land
16 consolidation, up to 60 million dollars will be set
17 aside to provide scholarships for higher education for
18 American Indian and Alaskan Native use.

19 And that 60 million dollars isn't a part of
20 the 285, just so that's clear.

21 1.615 billion dollars for land purchase and
22 scholarship funds up to 60 million. So that figure
23 comes from 1.9, and you subtract the 285 million
24 dollars. And so that's the actual funding that we'll
25 be able to provide to purchase.

1 The terms of the settlement in respect to the
2 land consolidation funds, they can be only used for
3 specific purposes, and that's acquiring fractional
4 interests in trust or restricted lands, including
5 administrative costs related to such acquisitions,
6 cannot be -- and this is a really important point. It
7 cannot be used for the purpose of fee lands.

8 So when we're talking about land consolidation
9 from the perspective of the Department of Interior in
10 this consultation, we have a pretty set definition
11 that's by law. And we really aren't able to discuss
12 changing that. And we do hear from the tribes in the
13 field that land consolidation, to them, is more
14 holistic in the way that they look at it. So just to
15 make that clear upfront.

16 And for every land sale, a portion of the sale
17 will be set aside in a scholarship fund for Native
18 Americans and Alaskan Native students up to a cap of 60
19 million.

20 I'm recused from that issue, so I'm not going
21 to really go into it. But if you have questions,
22 either Tony or Mike can speak broadly about that.

23 And the only thing that I'm going to say is
24 that there's not been -- it's very preliminary. There
25 aren't decisions that have been put on the table yet.

1 I don't even -- I'm not sure. I'll let Tony speak to
2 that. But I don't think we even have preliminary plans
3 in place.

4 So costs associated with supporting the work
5 of the Secretarial Commission on Trust Reform, that's
6 something we went out recently in July to -- we had a
7 Federal Register Notice and asked people to submit
8 names for that Trust Reform Commission. And the
9 important thing to note about this Commission is that
10 it's just not the land consolidation or on the Cobell
11 Settlement, but it's broadly on all trust issues.

12 The background on the Cobell Settlement, that
13 status of the settlement, I'm going to turn this over
14 to our Solicitor's Office so he can provide that
15 timeline.

16 MR. FERGUSON: The status of the settlement,
17 on December 21, 2010, Judge Hogan granted preliminary
18 approval of the Cobell Settlement.

19 June 20, 2011, Judge Hogan approved the
20 settlement after holding an extended hearing on the
21 subject.

22 On August 4, 2011, Judge Hogan entered final
23 approval, triggering the 60-day appeals window.

24 The settlement becomes final and funds become
25 available for disbursement after any appeal from Judge

1 Hogan's approval has been resolved.

2 And I'd like to spend a brief moment on that.

3 The Cobell litigation had two orders that were
4 issued that barred communications with Class Members.
5 And, although the parties have entered into a
6 settlement, those communication orders are still in
7 place.

8 So in order for this consultation to take
9 place, the Department had to go to the judge and ask
10 for permission to hold these consultations.

11 That permission was granted, but it was given
12 very strict parameters. And that is what Jodi and Mike
13 were referring to earlier. And as much as they would
14 like to be responsive to the comments and questions
15 that are asked, there are limits on what they can speak
16 about.

17 And so that's why they are limited to speaking
18 about the land consolidation portion of the settlement.
19 So often you may hear them, they want to respond, but
20 they have these parameters in which they have to stay
21 in place.

22 So we would very much appreciate it and think
23 our time will be well used if we could just keep that
24 in mind.

25 The Appeals Process: Currently -- so the

1 Cobell Settlement is not final until the appeals
2 process is over. And that definition of when this
3 settlement is final is in the Settlement Agreement
4 itself. And it is also in the legislation which
5 approved the settlement. And so until all the appeals
6 have been concluded, the settlement is not final.

7 Currently, there have been six appeals that
8 have been filed.

9 What will happen going forward, there will be
10 a Scheduling Order from the judge, laying out a
11 timeline. And so until that happens, there's no way
12 for us to say or for Jodi and Mike to tell you how long
13 the process will take. The Court has said it will
14 expedite the issue, but exactly how long that will
15 take, we do not know.

16 I haven't seen a Scheduling Order. I've heard
17 that they hope for it to happen as early as January.
18 But I have not seen that Order. And so I'm hesitant to
19 give you a timeline of which I am unsure.

20 Jodi.

21 MS. GILLETTE: I'm going to turn the rest of
22 the slide presentation over to Mike.

23 MR. BLACK: Key features of the Land
24 Consolidation Program.

25 Basically, in the settlement, they went along

1 with the Indian Land Consolidation Act and statutory
2 authority that's set forth therein. That's what we'll
3 be following in the implementation of the settlement
4 and the open portion of it.

5 The purpose of ILCA and the Cobell Land
6 Consolidation Program, there's a quote down there that
7 comes straight from the law. And, basically, it is to
8 acquire as many fractionated interests as economically
9 feasible and to consolidate these land interests into
10 tribal ownership to promote and enhance tribal self-
11 determination, economics, social and cultural
12 development needs.

13 And that kind of goes hand-in-hand with one of
14 our big pushes this last year or a year and a half to
15 restore -- restoration of tribal homelands.

16 Consultations, really what we're here to do is
17 to hear from everybody on how you feel would be the
18 best way for us to implement the Land Consolidation
19 Program.

20 Internally, we have identified some ideas and
21 some potential guiding principles for moving this
22 program forward. And these are really just laid out to
23 provoke some input. And there's nothing set in stone.
24 There's no priority on these things that we're going to
25 be outlining to you. These are just some different

1 options and ideas that we've thrown out, and we're
2 looking for that input hoping to provoke some comments
3 and some discussion on it.

4 Potential approach program should serve
5 multiple goals. These are some of the things that we
6 talked and looked at, and that is to reduce land
7 fractionation in the highly-fractionated areas,
8 implement a plan that is time and cost efficient.

9 As you noted earlier, I don't know if we
10 really went into, but we're limited. We have a
11 ten-year time frame to do this. So how can we do this
12 most effectively and most cost efficient.

13 We have up to \$285 million. It doesn't mean
14 we have to spend \$285 million to administer this
15 program. But that is our limit. So we do have to
16 operate within those constraints.

17 To consolidate land in the areas of tribal
18 preference. We've been hearing a lot about this as
19 we've gone around through the consultations on what
20 tribes feel is their preference. Some of it's
21 economical or economics; some of it is cultural; some
22 of it is historical, etc.

23 Reduce fractionation in highly fractionated
24 areas. Strategy one would be to prioritize those
25 highly fractionated lands? And that would be done, you

1 know, from our viewpoint, in working with the tribes.
2 What are your priorities in some of those highly
3 fractionated areas. What do you see those areas that
4 you would like to see brought back into tribal
5 ownership.

6 Target individual Indian money account owners.
7 You know, with every fractionated interest, we have
8 account owners. If we are able to buy up all of their
9 interests, we're basically able to eliminate one of
10 those accounts that has to be managed. And those funds
11 could be put to better use somewhere else, possibly.

12 Strategy three, target landowners having the
13 most number of purchasable interests,

14 Strategy four, target landowners having the
15 most number of tracts.

16 (Microphone problem interruption)

17 We'll try this so I don't squeal so much. I
18 must giving off something here.

19 Implement a plan that is -- can everybody hear
20 me okay?

21 Implement a plan that is time and cost
22 efficient. Target lands requiring minimal prep work
23 prior to offers being made. In some of those cases,
24 that's really -- we have on hand, possibly, a lot of
25 owners out there that have already indicated they're

1 willing to sell or that they want to sell to this
2 program. And they're just waiting for that
3 opportunity.

4 Target tracts which have landowner consent and
5 target tracts with the largest interest per owner.

6 Consolidate land areas in the areas of tribal
7 preference. And, there again, that's to be determined
8 in consultation with the various tribes.

9 Target tracts identified by the tribes and
10 target tracts with economic opportunity for the tribes.
11 And, there again, there may be other factors in there
12 that we need to consider by the tribes, and that's who
13 we need to hear from.

14 The next steps would be to, basically,
15 incorporate all of the input that we're getting from
16 these consultations into more or less a consolidated
17 grouping.

18 Like I said, we've heard a lot of common
19 comments as we've gone around country, and I expect
20 that we'll hear a lot of the same words here today.
21 But every time we hear some new ones, and we hear some
22 different ideas, some different ways that this program
23 can be implemented.

24 Those will all be put into a consolidated
25 consultation summary, and those will be available to

1 everybody.

2 Develop the Cobell Land Consolidation Program
3 Implementation Plan based on all of these comments and
4 on the statutory requirements.

5 (Microphone problem interruption)

6 I don't know where this is coming from.

7 Can you hear me okay?

8 COURT REPORTER: If you speak very loudly.

9 MR. BLACK: I'll speak really loud. That way,
10 you won't have to listen to me squeal.

11 Basically, we will be -- based on what comes
12 out of these consultations, we'll be compiling all of
13 those results, all of those comments, all of the ideas
14 and coming up with somewhat of a base plan.

15 And there will be further consultations, based
16 on what comes out of this and what we're able to
17 develop. And then we'll be working with the tribes
18 again on outreach and additional consultations. And
19 then, hopefully, we'll be able to move from that point
20 into the implementation of the program.

21 MS. GILLETTE: Another thing that -- another
22 item that we wanted to highlight is that we have
23 extended the comment period for written comments to
24 November 1st. It was October 15th. But we wanted to
25 give folks time to write up whatever concerns they

1 might have or any comments that you might have, either
2 as tribes or individuals. We do have that commenting
3 period available.

4 We have the address, Michelle Singer,
5 Director, Assistant Secretary of Indian Affairs, etc.
6 And we also wanted to let you know that any of the
7 background documents, anything that we're talking about
8 here is available on the website. It's www.doi.gov. I
9 don't believe we have that on their --

10 MS. SMITH: We do.

11 MS. GILLETTE: Okay, it's on here, but we
12 don't have it on our slide presentation. Back slash
13 Cobell. So www.doi.gov/cobell, C-O-B-E-L-L.

14 Back to the slide.

15 All of the consultations that we've held to
16 date, we have transcripts available for all of these
17 online. So this consultation itself will be online,
18 and we're trying to be as transparent and let people
19 know what's being state so that you can refer to those
20 comments that might be up there and reflect on those as
21 you provide written comments.

22 We added one more section in Rapid City, South
23 Dakota, at the request of a pretty strong voice from
24 the Great Plains Region. We went to six of them, and
25 we thought they might be able to attend the Billings

1 one, but they really felt strongly about having one in
2 Rapid City. So we're trying to be responsive to folks.

3 The November 1st deadline for comments is
4 probably not going to be very flexible because we are
5 running up against having to produce a plan and have a
6 cutoff time for input on how we should look at the
7 plan. And we intend to go out again on another round
8 of consultations. It might be face-to-face, because of
9 the time factor, or we might have one face-to-face.
10 But we'll talk about that if it makes sense to have at
11 least one face-to-face where folks can come.

12 But that's going to be a really short
13 turnaround time so that we can start getting things in
14 place. And this is all in the spirit of looking at our
15 policy decisions with a full understanding of what
16 folks are saying out in the field before we make that
17 decision.

18 So that's where we're at right now.

19 I wanted to also just highlight that the
20 reason that we have a facilitator with us today, Stacie
21 Smith and, she's from the --

22 MS. SMITH: Consensus Building Institute.

23 MS. GILLETTE: Consensus Building Institute.

24 And the reason that we wanted to have her on
25 our team is because we know that there is a hesitancy

1 to trust what we're saying.

2 And so what her role is, is to be a mediator
3 to make sure that the steps that we're taking
4 throughout the consultations are reflective of what
5 tribes are saying. So she's sort of like a third-party
6 neutral that can say, you know, this is -- she can go
7 back and forth. And that's actually her role.

8 We've hired her to be neutral and not
9 pro-government or pro-tribe, but to make sure that both
10 sides are balanced.

11 And then we also wanted to have her -- she has
12 a lot of experience in working through different
13 issues. And one of them was on the No Child Left
14 Behind negotiated rule making on school construction.
15 She has experience in working through some difficult
16 tribal issues, as well as lots and lots of other
17 things, lots and lots of other issues that were worked
18 through.

19 But we really appreciate her helping us
20 organize and put on these events.

21 MS. SMITH: Thank you.

22 With that, I just want to say a few other
23 things, and hopefully, I won't squeak too much here.

24 I just want to give a quick overview of the
25 day.

1 You all have agendas in your packets. If you
2 didn't grab those when you came in, they're available
3 at the door. It has an agenda for the day.

4 It also has an overview of those preliminary
5 goals that Mike Black went through with a little bit
6 more detail about each. So I encourage you to look at
7 that.

8 There's also a page that has some facts about
9 land consolidation and the different regions and the
10 number of interests, a little bit more background on
11 the Cobell Settlement.

12 And on the back of that page, so at the very
13 end of the packet, it also does have the web address,
14 if you didn't get that down, of www.doi.gov/cobell.
15 And it has a little bit about the Indian Land
16 Consolidation Act, which is the act that is governing
17 how this land consolidation program can be done.

18 So going back to the agenda for a moment, just
19 to reiterate, so the morning session is really this
20 government-to-government consultation time.

21 All of the elected officials who are
22 representing tribes or anyone else who's been asked by
23 their tribe to speak on behalf of the tribe, it would
24 be great to have at least one person from each tribe
25 come and join us at the table. If you have other

1 elected officials or others who are empowered to speak
2 on behalf of the tribe or represent the views of the
3 tribe, feel free to just defer to them outside the
4 table, so that they're welcome to speak during this
5 morning session, as well. Just call on them.

6 And it might be helpful to just turn your
7 placards on their sides when you want to indicate that
8 you want to speak, So you don't have to, you know,
9 raise your hand. And that way, we'll know and we'll be
10 able to make sure you get your chance to speak.

11 The afternoon session will be open to hearing
12 comments from all of the tribal members, members of the
13 public, landowners, tribal organizations, interested
14 others.

15 We are going to ask that employees of DOI be
16 in listening mode primarily today. This is really an
17 opportunity to hear from the stakeholders who are
18 really affected by land consolidation. So we're going
19 to open that up to all of you in the afternoon,
20 possibly sooner if we run out of conversation here in
21 the government-to-government level. But we'll move
22 these microphones in a way that they're convenient for
23 all of you to be able to share your thoughts with the
24 Department, as well.

25 Just one more thing. About the agenda for the

1 afternoon, we did put a couple of key issues that we
2 wanted to suggest people might want to speak to. This
3 comes out of what we heard from the previous sessions.
4 So the preliminary goals and strategies, that is those
5 priorities that Mike went through.

6 The issue of appraisals has come up a lot.
7 How are you going to do the appraisals for this program
8 in a way that's responsive to the time constraints, the
9 cost constraints that are also fair and that are
10 responsive to the actual values and valuations of these
11 parcels?

12 And then the administration of the Indian Land
13 Consolidation Program, any experiences you might have
14 had or heard, or any concerns you might have or
15 thoughts that you have about how is this program going
16 to be administered so that it's most effective.

17 So those are a couple of possible topics you
18 might want to speak about. And I think they're topics
19 that the Department is particularly interested in, in
20 input about. As they develop their plan, they need to
21 think through all of these things and respond to them.
22 So your input on those topics is really helpful.

23 Lastly, I just want to offer you a couple of
24 meeting guidelines to help us be as effective as we can
25 with our time here today.

1 The first is to share the floor, to try and be
2 as concise as you can in your comments. Sometimes a
3 story can be helpful to illustrate your experiences,
4 and that's great. But try to remember that we have a
5 limited amount of time. And everybody wants to be able
6 to have a chance to speak. And, also, the more concise
7 you can be about your points, the easier they are to
8 hear and to record.

9 Being respectful to each other, we know you
10 know this. We know there's hard feelings that go back.
11 We know there's a very painful history, a very painful
12 past. The Department is here really hoping for a turn
13 of the page. That doesn't erase everything that
14 happened in the past, but to really try and be as
15 focused on positives moving forward.

16 You're welcome to express frustration or
17 negative feelings, but not to do so attacking the
18 people in the room.

19 Speaking one at a time and using the
20 microphones despite how challenging the microphones
21 might be here, it's really helpful, and it makes sure
22 that our transcript writer here is able to record
23 everything.

24 And, lastly, to be constructive. As much as
25 you can, give real recommendations, what should the

1 Department do about these issues? They want to hear
2 from you. They want your advice. They want your input
3 and your feedback so that they can go and create a plan
4 that can be as responsive as possible to what it is,
5 Indian country needs.

6 You on the ground, you who experience this
7 every day, the plan needs to be responsive to you. And
8 the best way to do that is be as specific as you can in
9 your input and your recommendations to the Department.

10 So just a couple of meeting guidelines.

11 With that, I would like to hand it over to
12 you, our tribal leaders and our tribal representatives
13 to begin to share your thoughts.

14 And again, if I can ask you to just introduce
15 yourself, say your name as you're going to speak and
16 your affiliation so that we make sure that we get that
17 recorded.

18 MS. GILLETTE: How do you want to start?
19 We'll stay with the table here first. So if there's
20 any order that you would like to have us follow;
21 otherwise, we can just go around.

22 Do you want to start?

23 MR. TIPPECONNIE: The administrative costs,
24 I'm curious about that -- Robert Tippeconnie, Comanche
25 Nation.

1 Administrative costs, 285 million dollars,
2 will that be -- it seems to me that there needs to be
3 administrative costs by the Indian Nation Tribes, as
4 well as DOI. So I'm curious, you know, how that will
5 work out.

6 But the point that comes to my head is that
7 each tribe or even nation will have lands that we've
8 identified. Now, we can gather the total of that
9 through the Bureau, through our OST, gather all those
10 individual allottees, fractionated. And maybe at
11 someplace, we put criteria there. Like you said, 50 is
12 greater than 50 percent persons on the tract, or
13 whatever.

14 But I have curiosity about that administrative
15 cost, because if we get into it, you know the nation
16 has to expend monies, as well as DOI. And how will
17 that be allocated?

18 Each nation will be different in the total
19 tracts that they're interested in. So it seems to me
20 there needs to be some consolidation or some simulation
21 of all these tracts and the status. And then it gets
22 us some sense of the course limit of the dollar for
23 administrative or for purchase.

24 MS. GILLETTE: I think what I hear you asking,
25 are you asking for more data so that you can give us a

1 recommendation on how we should think about that?

2 Because those are real, you know -- what I'd like to
3 say is that we have a ceiling on what we can spend on
4 administrative costs. And we also know that there is a
5 feeling on what we can spend on land consolidation to
6 purchase those interests itself.

7 And then we have a set number of tribes this
8 deals with. That's not all 565 tribes. By law, the
9 ILCA Program only touches on those tribes that have
10 fractionated allotments.

11 So you have a set number of tribes. You have
12 a set number of dollars to spend.

13 And then we also know that everybody is not
14 going to be willing to sell. So we're not going to --
15 with this amount of money, certainly, we're not going
16 to break even because it's voluntary. We're not going
17 to eliminate fractionation altogether.

18 So those are really important questions. And
19 we haven't made any decisions about that.

20 And so if you need more information, that's
21 something that we're trying to get out in short order.
22 We've been trying for a while. But we do want to get
23 information out about fractionated interests by tribe.

24 Would that be helpful?

25 MR. TIPPECONNIE: Yes.

1 MS. GILLETTE: I think that's something that
2 we're working on. And I was hoping to have it before
3 this consultation, but -- you know, that is something
4 that we are aware of as a request from the tribes from
5 the last consultations.

6 MR. GOVER: Marshall Gover with Pawnee
7 Nations. I go along with Robert. This administrative
8 cost, is this going to be -- this administrative money,
9 is this going to be able to be contracted by the
10 tribes, too? Or how is that going to be divided up?

11 MR. BLACK: That question has come up in
12 almost every consultation we've had.

13 Under the Indian Land Consolidation Act, there
14 are some restrictions on our ability to contract
15 portions of the program. But that's one of the things
16 we're looking at right now.

17 And there's been some instances, there's been,
18 like, cooperative agreements done where the tribes
19 operate portions or some of the programs.

20 So those are some of the things that we're
21 working through with our solicitor's office on just
22 what capabilities we have. And we should be able to
23 flesh a lot of that stuff out as we go through the
24 comments and we're starting to put different ideas to
25 those comments.

1 But that has been one of the big questions,
2 and that's one of the things we're looking at really
3 long and hard, just how can we incorporate self-
4 determination into the process of implementing the
5 Indian Land Consolidation Program.

6 MS. GILLETTE: And it has to be the concept
7 self-determination, because we can't do contracts by
8 law under the Indian Land Consolidation Program.

9 MR. GOVER: Just two more questions. I don't
10 want to occupy all the time. What about other
11 landowners? What if they want to buy up -- keep the
12 land in their family for historical purposes, you
13 know? Do the families get a chance to buy other family
14 members' land in this?

15 MR. BLACK: It wouldn't necessarily be part of
16 this program, but they would have that ability to do
17 that.

18 If somebody didn't want to sell to the Indian
19 Land Consolidation Program and they'd rather sell to a
20 family member, that option is there. You can do that
21 right now.

22 MR. GOVER: One last question. What are these
23 appeals about?

24 MR. BLACK: I'll turn that over to James.

25 MR. FERGUSON: The appeals process, the way it

1 works is you have a window in which to file what is
2 called a Notice of Appeal. And the Notice is not
3 necessarily substantial. It's something that says we
4 plan to appeal.

5 And then, once you file that Notice, after
6 that, the actual appeal is filed.

7 So at this point, we couldn't tell you what
8 all the appeals contain. So the Notices of Appeal have
9 been filed. And the substantive appeals themselves
10 will follow shortly.

11 MR. ALLEN: Rupert Allen with the Shawnee
12 Arapaho Tribes.

13 As somebody that's worked on one of these land
14 acquisition deals for the tribe, how much -- there
15 needs to be a lot of training done, not only for tribal
16 officials that are working on this consolidation
17 agreement, but also for the Bureau.

18 The land purchase that I worked on, it took
19 well over a year to complete. And a lot of it was
20 spent in feeling our way around in the dark. And I
21 worked with a really good realty officer with the
22 Bureau. But it was something that hadn't been done in
23 so long that there was no real procedure set down.

24 So I'd like to make sure that there's some
25 sort of BI handbook, or whatever, and that there's

1 adequate training for both the Bureau personnel and
2 tribal personnel that's going to be involved in these.

3 MS. GILLETTE: When did you work on that?

4 MR. ALLEN: Two years ago.

5 MS. GILLETTE: Two years ago. And beyond that
6 handbook, like, what kind of training would be helpful,
7 do you think?

8 MR. ALLEN: Some sort of seminar, you know,
9 where the actual realty officers can sit down with the
10 tribal personnel who is going to be responsible.

11 MS. GILLETTE: Thank you.

12 MR. KODASEET: Mike Kodaseet with the Cheyenne
13 Arapaho Tribe.

14 I know you mentioned -- I don't know, the
15 study, or whatever you got. How long before you
16 identify the tribes with the fractional land issues?
17 Do you see that? Do you have a time line to decide?

18 MS. GILLETTE: Actually, we -- are you talking
19 about in terms of the goals?

20 MR. KODASEET: No, you had stated earlier that
21 you were having a study to determine -- you said not
22 all tribes --

23 MS. GILLETTE: Oh, yes. We actually -- I
24 mean, there's a rough figure that I can give, and I
25 don't know if I should give it, but I'll say that it's

1 less than 200 tribes to be sure that are affected by
2 this.

3 And, you know, this is -- these are all items
4 that are really important to how we think about this.
5 But if your tribe does have fractionated interests,
6 then you're probably in that category.

7 It's a matter of the degree of fractionation.
8 And those are all questions that we haven't settled on
9 yet.

10 MS. SMITH: I just want to remind people again
11 to try and speak into the mics as much as you can for
12 our transcript. I know the mics are not as ideally
13 sensitive as we would hope.

14 MR. KODASEET: And how soon will we be sending
15 notification out to the tribes?

16 MS. GILLETTE: When we've finished -- when
17 we're able to release that information, I believe we
18 would either -- if we can't get it out before we do a
19 preliminary plan, we'd send it out ahead of time, and
20 probably send it out with a letter or submitting like
21 that, and give that to you as part of this.

22 And then we'd also post it on the website for
23 reference material.

24 MR. MAYNAHONAH: Louis Maynahonah from the
25 Apache Tribe of Oklahoma.

1 I attended that consultation meeting at
2 (unintelligible). And when I was in there, you know,
3 they had that 1.9 million dollars budgeted for
4 buy-back. It was mentioned up there that 500 million
5 dollars of that was going to go to administrative fees.
6 And \$1.4 billion is to buy-back the land.

7 And it was suggested by some of the tribes up
8 there that they can go three ways, either by contract,
9 or the BIA, or the tribes themselves administer the
10 ILCA plan.

11 It was mentioned a while ago that you-all had
12 a 285 million dollar ceiling. Where did -- I mean,
13 where did that 500 million dollars come from up there?

14 MS. GILLETTE: Did the tribe say that?

15 MR. MAYNAHONAH: Pardon?

16 MS. GILLETTE: Did the tribe say that?

17 MR. MAYNAHONAH: Well, it was mentioned during
18 the meeting by -- they took a poll with some little
19 gadget that the tribes -- one of the questions from the
20 --

21 MS. GILLETTE: So was this at the --

22 MR. MAYNAHONAH: From the facilitator up
23 there.

24 MS. GILLETTE: So was this the one this
25 summer, this past summer?

1 MR. MAYNAHONAH: September 26, I think.

2 MS. GILLETTE: Okay, the one in Minneapolis?

3 MR. MAYNAHONAH: In Hinckley, yes.

4 MS. GILLETTE: I don't believe that we said
5 that it was going to be 500 million dollars. I'm
6 positive of that, because I was there at that
7 consultation.

8 MR. MAYNAHONAH: Were you there?

9 MS. GILLETTE: Yes, both of us were there.

10 MR. MAYNAHONAH: Well, did you hear that 500
11 million dollars for administrative purposes?

12 MS. GILLETTE: Well, if a tribe says it, then
13 that is something that we can't control. But the
14 settlement itself has a 15 percent cap on it, and we
15 can't change that. That's firm. And so this isn't
16 moving around. This has been 285 at that consultation
17 it was. I had the PowerPoint here, as well from that.

18 MR. MAYNAHONAH: And then, again, I've got
19 another question about -- the comment period is to be
20 by November the 1st. And Mr. Ferguson said there are
21 appeals in the works now. Then why -- I kind of get
22 the impression that we're being pressured to give you
23 our comments by November the 1st. But those appeals
24 are going to be a little bit longer time to be
25 considered by the judges, right?

1 MS. GILLETTE: Right.

2 MR. MAYNAHONAH: And Indians have a long
3 history of taking their time in deciding something.
4 And it's come down from those treaties. And they take
5 a long time. But then Government sets in and they
6 pressure you to do something. Say, hey, we've got this
7 deadline, and I want you to do that.

8 But since this money, I think, is a judgment
9 won for the Indians, right? And I think that they
10 should have -- they should send a message over to the
11 BIA, saying let us decide this ourselves, but stay
12 within the guidelines of the judge.

13 You know, being pressured for such a short
14 time to make a decision, I think the original suits
15 were for 50-some-odd billion dollars, right? And then
16 it got whittled down to this 1.4 billion dollars to pay
17 out to the individual mineral owners.

18 And over 50 percent of that is going to go
19 back to purchase that land.

20 And 15 percent of that is going to be
21 administered by whomever is given the authority to
22 administer it.

23 That was my questions.

24 MR. BLACK: Just to respond real quick to your
25 comment. I mean, largely, you know, this is all we --

1 we need to be prepared when that order does come down
2 from the Court after it goes through the appeals
3 process. We're hoping to be able to hit the ground
4 running. And that money is to implement this program
5 and get on the ground and be able to start purchasing
6 these interests.

7 This won't be your only opportunity to
8 comment. We're trying to be able to get all the
9 comments back from these consultations to begin with
10 the development of an implementation plan. And, as I
11 stated in the one of the slides up there, we'll be
12 doing additional consultations and soliciting
13 additional input based on all this.

14 So this won't be your only opportunity to
15 provide input and comments.

16 MS. GILLETTE: I'd also like to add there was
17 one slide we didn't go over. It is about the ten-year
18 time period. So by law, actually, by the terms of the
19 settlement, this 1.9 billion dollars is only available
20 for 10 years. That ten-year clock starts ticking when
21 the judge or when the Court resolves all appeals.

22 So 10 years from that time, from when the
23 judge says all appeals are settled and resolved, to ten
24 years out. Anything that's left over goes back in the
25 Treasury.

1 So you can see -- you mentioned the tribes
2 take a while to get together. Well, sometimes, you
3 know, it takes a long time, and the Government takes a
4 long time to get moving on certain things.

5 And so these time frames for comments are
6 meant to move us faster, as well, so we can get a plan
7 out for you to get back to you to comment on. And it
8 is -- I feel like we have a pretty tight time frame
9 knowing that we had asked for an expedited process with
10 the judge and he granted it. And knowing that
11 sometimes in settlement cases like this, it takes years
12 to settle the appeals, but we're working for an
13 expedited process so we can get this program moving as
14 quickly as possible.

15 But the goal of the administration is to make
16 sure that we have a plan in place that will make full
17 use of the opportunity to purchase 1.9, you know, use
18 the 1.9 dollars for land consolidation.

19 And we know that 10 years can go by pretty
20 quickly. And so we're trying our best to get, like
21 Mike said, hit the ground running as soon as the judge
22 says yes.

23 We don't have to worry about appropriations.
24 The funding is already there waiting for us to spend
25 when the judge issues that final nod for resolving

1 those appeals.

2 MS. DEERE: I just have a few comments.

3 First of all, my name is Kathy Deere. I'm
4 with the Absentee Shawnee Tribes and am the tribal
5 treasurer.

6 I'm part owner on 12 tracts of land, and there
7 could be 20 or more of us on these lands. So I'm
8 probably one of these 200 tribes that have fractionated
9 lands. And there's 11 regions.

10 My question is: On these 11 regions, is there
11 at least 200 tribes, are they all from these regions,
12 these 11 regions?

13 MS. GILLETTE: I think we set out a -- I don't
14 know if Tony has it. Yes, he does. It's on this page
15 where it shows -- you guys have, on your handout, by
16 region, which regions have more fractionated
17 individually-owned interests.

18 And you can see that some of them, some
19 regions have more than others. And for Souther Plains,
20 it's up there.

21 There are 12 regions. ILCA doesn't address
22 fractionated interested in Alaska.

23 MS. DEERE: You know, in Oklahoma, there's 39
24 of us. So probably 39 of us are part of that 200,
25 right, that's fractionated lands?

1 To me, it would seem like, as a region, that
2 we should be responsible for our own fractionated land,
3 because it pertains more to us. We know what's being
4 fractionated.

5 Like our Tribe, we have a realty office, and
6 we have good people that work in there. And these
7 people know each land, who has what, who's on what, you
8 know, everything.

9 And, to me, being on a region, I think, in
10 that region, the tribes in that region should be
11 responsible for their own fractionated land
12 consolidation part.

13 And that's my feelings on that.

14 And then, as far as the agreement on
15 administrative cost and stuff like that, I think that
16 should be up to the regions to administer those
17 administrative costs.

18 Each region that's involved in this has their
19 own administrative costs that they can take care of.

20 And on the appraisals, you know, we had bought
21 some land from a tribal member, and it took us a year
22 to get one appraisal. It's two parts of land. And
23 it's taken us two years -- excuse me, a year to get
24 this land, to buy it back for the Tribe. And the most
25 part of it is the appraisal part, you know.

1 As a tribe, we should be able to provide our
2 own appraisals, you know. We can have BIA train us, or
3 whatever, and, you know, be able to do our own
4 appraisals. Because, you know, people out there in the
5 White man's world, you know, you say you want this land
6 and, boy, you can get an appraisal done in, what, a
7 month, maybe more, you know.

8 So I would think it would be good for, you
9 know, each region to have a group of appraisers that
10 can go out and do these types of things.

11 And as far as, I guess, the timeline for
12 saying who's going to get what on each of these lands,
13 you know, start with people that have -- there's, like,
14 100 owners on one. Start with the highest. To me,
15 that would be the most feasible, is to get the ones
16 that have -- there's 100 people on this one tract of
17 land. You know, start with them, because that would be
18 the most people. Because most of those people probably
19 want to sell because they probably own a 16th of it, or
20 whatever, you know. If we can talk to them and maybe
21 one person out of that whole tract would want to buy
22 that, one tribal person might want to buy that. To me,
23 that would be the easiest to start at, is get the
24 people that are the most owners on these tracts, you
25 know, to get them going.

1 And say, okay, we'll buy this from you, you
2 know. Most people -- times are hard, and a lot of
3 Natives are ready to sell. They don't want to sell it
4 to the White man, you know. They want to sell it back
5 to the tribe or someone in the family, you know. But
6 give them an opportunity.

7 And that's what I'd like to see on that part.

8 As far as time and cost efficiency, you know,
9 like I said, that was along those lines, too. That
10 would be -- start with the highest number of people on
11 these tracts and then go down to the 20 or more people
12 or less, or whatever.

13 And I've probably got more stuff, but right
14 now, I can't think.

15 MS. GILLETTE: Sure, that's fine.

16 MS. DEERE: Oh, one more thing. The appeals.
17 On these six appeals, you said there were six appeals?

18 MS. GILLETTE: Yes.

19 MS. DEERE: Okay. Were they all timely
20 appeals?

21 MR. FERGUSON: Yes, ma'am. There was a 60-day
22 window in which the appeals had to be filed. And,
23 again, the Notice of Appeals. I know it sounds like
24 we're splitting hairs here. But the Notice of Appeal
25 had to be filed. And the cutoff date was October 4th.

1 So what's today? The 6th. So that just passed.

2 So, yes, they were all on time.

3 MS. DEERE: And can you say why most of these
4 were appealed?

5 MR. FERGUSON: Again, as we said earlier,
6 there was a Notice of Appeal. And so they'd have to
7 file something substantive shortly, based on the
8 Court's timeline.

9 But to the extent that you have an interest in
10 what was in the appeal, most Courts did document
11 online. And so, for the most part, you will be able to
12 look that up.

13 MS. DEERE: Okay. And that will be on the
14 Cobell?

15 MR. FERGUSON: They're not on the Government's
16 website.

17 MS. DEERE: Oh, okay. So where do you have to
18 look?

19 MR. FERGUSON: We're getting a bit far afield
20 here. I'll tell you what, when we take a break, I'll
21 be glad to talk to you.

22 MS. DEERE: Okay.

23 MR. FERGUSON: Okay, thank you.

24 And to the extent that anyone has those type
25 of questions, not exactly on fractionation or land

1 consolidation, please feel free to talk to me on the
2 break. I'll be here.

3 MS. DEERE: All right. That's all for now. I
4 may have some more.

5 MR. HORSE: I've got one.

6 My name is Ricky Horse. I'm with the Kiowa
7 Tribe.

8 COURT REPORTER: Hold on just a second. I
9 can't hear you at all.

10 MR. HORSE: My name is Ricky Horse, and I'm
11 with the Kiowa Tribe.

12 This lady asked a question here about the
13 appraisals, but, also, with that appraisals comes
14 surveys. I'm going to speak for myself, because, like
15 her, I have several areas, land I've come into, almost
16 1,000 acres. And we own some land in Lawton,
17 Oklahoma.

18 We went to the Bureau to get us a survey on
19 our land, because it's so divided. And it's one place
20 is over here and another one is over here.

21 So as they came and surveyed this land, they
22 gave us surveys that were all messed up. One land was
23 over here. Another tract was over here. And I know,
24 myself, where my land is.

25 And then we go back to the Bureau and say,

1 hey, this is messed up here. And they know they messed
2 up.

3 So they go back and survey it again. Well,
4 when they surveyed it, some of it was correct and some
5 of it wasn't correct. As a matter of fact, as we found
6 some land we didn't even know we owned, didn't even
7 know we had.

8 So when this thing takes place, how are we
9 going to know that those lands are going to be put in
10 the correct spots, because we have a problem with our
11 housing program that went on when they came in and
12 surveyed these tracts of lands for an acre and a
13 quarter. And when they come and put these houses on,
14 some of these houses weren't even on the lot. They
15 were in different spots, because the surveys were done
16 wrong.

17 So how is this going to help us in that area
18 right there?

19 MR. BLACK: I don't have an exact answer there
20 for you there. We have heard issues with surveys, as
21 we've gone around, you know, during these
22 consultations. And that's something else that will
23 have to be addressed.

24 As to your specific questions, I'll try to get
25 some answers for you on that.

1 What we're largely dealing with here is within
2 a parcel are numbers of fractionated interests. And
3 we, generally, know where those parcels are. We may
4 have some survey issues out there. But those
5 fractionated interests will be purchased and
6 incorporated into the whole parcel of Indian ownership
7 of the tribe. So they won't move.

8 And I'm not saying -- I think the survey
9 issues are going to relate more for us right now, as
10 you said, it's going to tie directly to the appraisals.

11 But I'll take this question back and see what
12 kind of answers I can get back. And if you can give me
13 any more specifics on your situation, I'll be happy to
14 -- and if anybody else has anything like that.

15 I don't have a solid answer for you right now.
16 I'm sorry.

17 MR. HORSE: Will the Bureau be a part of that,
18 then, when that time comes if the tribes decide to buy
19 some land? And I know we will. But will the Bureau
20 come in there and survey those tracts of land, or is
21 that going to be up to the tribes to go and get those
22 surveys done?

23 MR. BLACK: Are you talking fee interests?

24 MR. HORSE: Yes, on any land, any land that is
25 fractionated. And there's a lot of those lands where I

1 am in southwest Oklahoma, that there's 40 acres over
2 here. There may even be 12 acres. And I even come in
3 on a spot with there's only an acre and a quarter, and
4 there's probably 20 heirs that come in on an acre and a
5 quarter, you know.

6 MR. BLACK: Well, an acre and a quarter, I
7 think we might be talking two different things here.
8 And that's trust lands and fee lands.

9 MR. HORSE: Yes.

10 MR. BLACK: Now, in fee lands, we're dealing
11 with the fee to trust process, which is outside of the
12 Indian Land Consolidation Program. And that's where
13 the surveys and stuff will come in. And, basically,
14 those surveys are provided to the Bureau of Indian
15 Affairs and BLM Indian Land Survey Office will review
16 those surveys and validate the accuracy. I don't know
17 the exact steps involved in all that.

18 But that's something we would work with you
19 on. I don't know that we would go out and do the
20 surveys on the fee land. In the process of bringing
21 them into trusts, then we would be reviewing those
22 surveys, etc.

23 MR. HORSE: Thank you.

24 MR. TIPPECONNIE: Robert Tippeconnie, Comanche
25 Nation.

1 Getting back to the appraisals and
2 administrative costs, you know, the administrative
3 costs were laid out here. There's different opinions
4 as to how that could be expended in a self-
5 determination manner. You know, it could be the
6 Nation, the Indian Nation can do that if they have the
7 resources and the skills to effect all of that
8 acquisition.

9 But when it comes to all that administrative
10 costs, you know, will the appraisals be out of the
11 amount that's in the purchase dollar, or is it an
12 administrative dollar?

13 The appraisals are always a headache, you
14 know. And I don't want to go to the fee to trust.
15 That's especially a headache there.

16 But I hope we can expedite, as I know now we
17 can take a different mode of acquiring that, a
18 different tactic in acquiring the appraisal. Rather
19 than a full quote "appraisal," we can go to the
20 realtor, and we can do different things under the
21 present fee to trust.

22 So I'd like to think that we're going to have
23 that capability.

24 But my question again is: In the
25 administrative costs, will the appraisal be in the land

1 purchase area when you have the money for the land
2 purchase, or will it be in the administrative side?

3 Because I can see it's limited in administrative
4 maybe.

5 And then I'll ask one other question. When I
6 look at this graph here, I can see, you know, that the
7 land bases that are fractionated are pretty heavy in a
8 couple of areas of the country, in Indian Country, you
9 know, if you look at the Rocky Mountain and the Great
10 Plains.

11 So my question earlier was, you know, given
12 the fact that we have some data, and this is part of
13 the data, that gives us an appreciation of where the
14 fractionated lands lie, will there be, are you thinking
15 of appropriating or apportionating, whatever, you know,
16 these dollars based upon this type of data?

17 Now, I know there's the other criteria which
18 is imposed, as you suggest, if there's 100 -- you know,
19 if there's only two, it's fractionated and there's only
20 two owners, that's a great -- I mean, the priority
21 should be given where it's truly fractionated, where
22 you have multiple, multiple owners.

23 So it may look like this is a high percentage
24 of fractionated lands, but I don't know how many
25 owners.

1 So I think our criteria is pretty critical to
2 all of us.

3 But, also, my question -- I'm talking too
4 much. My question, again, based upon the fact that
5 data is here, would they be getting, initially, a
6 greater distribution of this 1.5 million dollars?

7 MR. BLACK: Let me address your first question
8 on appraisals. Appraisals is administrative cost of
9 implementing the program. So, yes, it would come out
10 of that. That has been one of the top topics in our
11 consultations, is how to deal with appraisals.
12 Realizing the difficulty that everybody has had and in
13 timeliness of getting appraisals, the accuracy of
14 appraisals, etc.

15 And we've had some excellent recommendations,
16 as we've gone around, dealing with the state's zone
17 type appraisals, mass market appraisals, market
18 studies, etc., in different ways.

19 And, there again, anybody that's got some
20 experiences or has some ideas on this, we're really
21 looking forward to that input.

22 We do realize that that could be a hindrance
23 to the implementation of the program if we don't come
24 up with more streamlined, efficient, effective ways.

25 And that's the response to your first

1 question.

2 And then your second question on the
3 distribution of the funds, that isn't anything we've
4 decided yet. That's really information that we put out
5 there. And you're right. Just because one region may
6 be highly fractionated -- generally, that does
7 correlate to a lot of owners out there.

8 But, you know, there again, we are looking at
9 some of the options we've posted up there earlier. And
10 that is, really, what is the tribal preference, what is
11 most economically viable, you know, what has the
12 biggest bang for the buck and the best return for the
13 tribes? Some of these lands may be highly
14 fractionated, but they may not be very productive
15 lands. Even though they would hold the line of
16 cultural value to the tribe, they might not be
17 economically viable.

18 And that's where we've got to -- we've got to
19 look at all of these factors.

20 So, no, no decision has been made as far as
21 we're going to distribute based on that chart or
22 anything like that.

23 MR. FIELDS: Good morning. My name is Jim
24 Fields with the Pawnee Nations.

25 I just have a couple of questions and some

1 comments.

2 But I think that, as I understand the
3 consultation process, you're here to listen to us. And
4 as I hear the comments from the tribal leaders here at
5 this table that we have more questions.

6 To me, the questions we have are good. But,
7 as I understand the consultation process, is it should
8 be based upon what our comments are. Not what our
9 questions are, but what our comments are.

10 Historically, if you look at the relation
11 between the Federal Government and the Bureau of Indian
12 Affairs, and the tribes, it's one of kind of a
13 paternalistic attitude where you would always tell us
14 what to do. And here we are again. We're in a
15 situation where we're asking you how you're going to
16 treat us and so forth.

17 So I think this comment period or comments
18 should be based on how we think it needs to be handled,
19 not questions on how you're going to handle this, but
20 we should comment on how we think it should be done.
21 Because if you listen to these tribal leaders, they say
22 how and what if and so forth. But I think the comments
23 should be this is how we think it should be done from
24 this region, based upon whatever our backgrounds are
25 and so forth.

1 So let me first start -- when you talk about
2 prioritizing purchases, and I heard some of the leaders
3 ask, how are you going to do this? Will it be by
4 region? So much allocated by a region.

5 I heard you comment that this would be those
6 most highly fractionated interests to be purchased
7 first.

8 You also, as you go around the country, you
9 probably come across regions with different law,
10 different probate laws that affect Indian tribes
11 differently.

12 Let me tell you, for example, in Eastern
13 Oklahoma, the Five Civilized Tribes have their own
14 probate laws that they go through. And whether you
15 know it or not, it goes through the State Court.

16 Megan, my Cherokee sister over here, will
17 elaborate on that.

18 But if you look at the probate law for the
19 Five Tribes going through State Court, it also has to
20 be the cost -- the cost of it goes to the heirs. If
21 you look at Eastern Oklahoma by itself and the Five
22 Tribes, you see that they deal primarily with what you
23 would call presumed heirs.

24 What that means, it means that the estate has
25 not been probated in State Court. And, in fact, we

1 probably deal with two or three generations of presumed
2 heirs.

3 And so, when you go through this purchase
4 process with the Five Tribes, does that mean all these
5 estates have to be probated first before you look at
6 purchasing them?

7 Secondly, when you look at the probate laws of
8 the Five Tribes, then when the land is distributed by
9 probate, any lands where the heir is less than one-half
10 degree Indian, then that land automatically becomes
11 unrestricted. It becomes fee land automatically.

12 And so I think that, in a way, that's -- the
13 fact that it hasn't been probated is good for the
14 tribes because these lands have stayed in fee status --
15 I mean, under fee status, because they haven't been
16 probated yet.

17 And if you notice with Eastern Oklahoma,
18 there's quite a high percentage of those tribal members
19 that are less than one-half degree Indian or tribal
20 member.

21 So if they probate it, it all went to a fee
22 status, you have to consider that when you look at
23 purchase of land.

24 Second, here in Oklahoma, the lands, you can
25 have surface ownership and you have subsurface

1 ownership. And so, for example, I have lands that I
2 have an interest in subsurface or minerals, but not the
3 surface.

4 Then I have other lands where I may have
5 surface but no mineral interest.

6 And so how do you rectify that? I mean, how
7 do you deal with those kinds of situations? Do you
8 only purchase surface, or do you purchase surface or
9 minerals, or both? Or does the land have to be the
10 requirement of both ownership?

11 So that's a comment I have is, how do you deal
12 with that, because these are good questions for here in
13 Oklahoma?

14 The second thing I want to talk about is when
15 you talk about, during the presentation, you gave the
16 comments of economically feasible. Economically
17 feasible. I'd like for you to define what you mean by
18 that. Does that mean feasible for the tribe, or is it
19 economically feasible for the Federal Government, or
20 does that mean both, you have to have both approvals?

21 It also said in your slide presentation that
22 there will be, for every land sale, there will be money
23 set aside for scholarship for that land sale.

24 Well, when that land sale is set aside, will
25 the benefit, the scholarship benefit of that land sale

1 go to the tribe on which the land is situated, or will
2 it go to some kind of scholarship board?

3 The question is who's going to administer this
4 scholarship? Will it be up to the tribes?

5 And my comment is it should be left up to the
6 tribes, and not to a scholarship board or not to the
7 Bureau of Indian Affairs, but that the tribes self-
8 determine where that scholarship money is to go. The
9 tribe should be benefiting by those land sales that are
10 set aside for scholarships.

11 Your comment here is how do you establish a
12 purchase priority.

13 And I think another question, and I'm asking
14 questions instead of giving comments. But the question
15 I have is: When you purchase, use the benefit to
16 purchase fractionated lands, what if all the owners --
17 this is a voluntary program -- does not agree to sell
18 their purchase, their interests? Will the program buy
19 those owners who want to sell their fractionated
20 interests, even though there may be a great number of
21 owners not wanting to sell on a tract of land?

22 So is it all or nothing, or will it be you
23 purchase what the tribe facility finds?

24 My comment on that is that the tribe should
25 self-determine, again, what lands they want to

1 purchase. It should not be a governmental decision.

2 You're talking about the administrative costs,
3 and we hear talk that there should be some set aside
4 for the cost of the tribes in going through this
5 program.

6 My comment is that this should be included in
7 the administrative costs. What should not be included
8 is the cost of the Government in administering this
9 program.

10 For example, your cost in these consultation
11 processes issued by the Federal Government and not by
12 the administrative costs.

13 My comment is that the administrative costs
14 should be the cost of the tribes in administering the
15 costs of acquiring these lands.

16 Another question that I heard from the table
17 here was, you know, how do you prioritize who gets what
18 first?

19 I can tell you right now that the 1.6 billion
20 will not be enough for all those owners who want to
21 sell their land. I don't know if you have an estimate
22 as to what if every owner sold their land, what would
23 that cost be? Of course, in order for you to determine
24 that, you have to determine the value of the land. And
25 that goes to the appraisal.

1 And I think there should also be, you know,
2 tribes are, tribal members are funny, because if you're
3 not an Indian, you don't understand the concept of land
4 to us. Land to us is valuable historically. You know,
5 land, owning land was much like owning the air,
6 historically. And we're not -- we believe we're good
7 stewards of the land.

8 And then when you determine the value of the
9 land, there's also what you would call cultural value.
10 The value to us culturally and historically, that has
11 to somehow be factored into the appraisal process.

12 If you look at the appraisal process as being
13 done by a State Certified Appraiser, and I've seen the
14 appraisal handbook and the factors they use in
15 determining the appraisal value, and there's no
16 consideration for historic or cultural value to the
17 tribes. It's all based upon comparables and what the
18 land is worth and other areas. So that's how they
19 arrive at the value.

20 I think that, when you determine this, there
21 has to be some consideration for the cultural and
22 historical values that we place on land.

23 What I'd like to hear from you-all and from
24 the table here is how we'd like to see it done. I
25 don't like, you know, saying, how can this happen or

1 what happens here or in this situation? I think in the
2 consultation that you listen to us, and I would
3 encourage the other type of leaders to, rather than ask
4 a question, we should tell you how we think it should
5 be done. And then let you share with us.

6 Your mentioned, also, Jodi, that there's a
7 ten-year limit on the program and you used the word "by
8 law". And I don't think this is by law. The law is
9 established by Congress. Did Congress set this law or
10 is this part of the settlement by the Courts?

11 MS. GILLETTE: I misspoke. Yes, you're right.
12 It's by the settlement.

13 MR. HORSE: That's right. It's not by law.

14 (Inaudible)

15 MS. GILLETTE: The settlement?

16 MR. FIELDS: But it's not a law in Congress.

17 MR. FERGUSON: Actually, it --

18 MR. FIELDS: It has the effect of law.

19 MR. FERGUSON: It has to be passed as a law.

20 MR. FIELDS: I'm not through talking yet.

21 MR. FERGUSON: Okay. I apologize. I was
22 trying to respond to your question.

23 MR. FIELDS: I've got a lot that I hope you
24 can comment to all of them when I get through here.

25 MR. FERGUSON: Okay. I apologize.

1 MR. FIELDS: Or if you want me to restate
2 this, then you can comment on every comment. That's
3 fine with me. But you all laid out this, not me.

4 That's all I have for now. Thank you.

5 MR. TIPPECONNIE: I want to make a comment
6 after my brother here, because it did raise some
7 questions.

8 Robert Tippeconnie, Comanche Nations.

9 What I want to say is, you know, the Comanche
10 Nations knows what we want to acquire. So we will
11 present that. You know, we will present the area. We
12 will present the tracts, and we will give you that.

13 So, then, what we want to have is the ability
14 to get the appraisals. So we want the money, which I
15 -- when I raised the questions, I wanted to get it
16 clear where it was. So you've answered that for me.
17 So it's in administrative.

18 So the Nations would like to say that, you
19 know, let's expedite the way we make acquisitions or
20 purchases. And the way we've done -- and I hate to
21 relate to the fee to trust, because it's nothing but a
22 headache to us, the Comanche Nations, relative to that
23 type of acquisition. We've just struggled on that for
24 years, it seems like, and years.

25 And then because of the reformed handbook or

1 changed handbook, it changes time frames. And then
2 it's all sent back to us, all the cases. So we're just
3 very frustrated by that process.

4 So I hope -- what we want to say, in this
5 process, allow us to expedite our actions, the
6 appraisals and the purchases, and don't go through all
7 these nightmares that occur on acquisitions.

8 We know the lands. We've been telling you
9 what they are. And we would like you to say here's
10 this money to go ahead and proceed with this.

11 And then, again, it may be a shared
12 administrative matter between the Federal Agency
13 relative to us and our nation. But we would like to be
14 able to do a lot of that ourselves, go out and get our
15 appraisals, how we feel they should be done. And, you
16 know, there's framework now, what's acceptable in the
17 area of realty and appraisals.

18 So I think we can have options ourselves. We
19 can take those options and bring up that value on the
20 land. That's the way we'd like to look at. We will
21 lay out what we want. We have it. We know it, more or
22 less, and then present it.

23 Now, we would have -- because we do know now,
24 because we're acquiring lands, we have some sense of
25 values across our reservation areas. So we would have

1 some sense, tentatively, saying this is an amount that
2 we need for these acquisitions.

3 MR. BLACK: Thank you.

4 Mr. Fields, I'll try to respond to some of
5 your questions.

6 First off, I can't agree more with your
7 initial comments. That really is why we're here. It's
8 not for us to tell everybody here how we're going to
9 implement the program. We're here to solicit input on
10 what the tribes feel and how you think we should
11 implement the program.

12 And we are trying to respond to the questions,
13 largely, for clarification purposes in hoping to help
14 everybody formulate their responses and their comments.

15 To talk about a couple of the things, first
16 off, the surface and subsurface interests, everything
17 is on the table. We're looking at all the interests
18 that an owner has. They don't have to be in the same
19 parcel, in the same tract. They could have a surface
20 interest here and a mineral interest here. And we're
21 interested in buying it under the program.

22 On economically feasible, that was probably
23 the wrong term to use. That was really discussing, you
24 know, when it comes to tribal priorities, you know,
25 what may have the most economic impact or economical

1 viability for the tribe in generating their priorities.

2 I guess -- Jodi, correct me, but it's in the
3 ILCA, depending on how much money we have. But there,
4 again, I think it's still -- I'm, you know, as we've
5 been going around the country, we've been hearing more
6 from the tribes as to what would have the most economic
7 impact for them.

8 Then the scholarship fund, I'd have to turn to
9 Tony or somebody on that. I don't know all the
10 specifics on that. I'll turn that over to Tony in just
11 a minute.

12 Administrative costs, consultations should not
13 be included. They are not. As it stands right now, we
14 don't have any authority to spend any of the money
15 under the settlement. We don't have that until we've
16 gone through the appeals process and everything has
17 been finalized. We will not have the ability to spend
18 any of these funds.

19 How do we prioritize? Well, right now, we're
20 not prioritizing this. There, again, we hope to get
21 that from you.

22 And I do realize that the land is valued
23 differently by the tribal members of the tribes than it
24 is, probably, by your standard use of appraisals. How
25 we incorporate that, I don't know. There, again, that

1 is something we can solicit for input.

2 Then to the very last question, I can probably
3 turn that over to James. But this was -- the
4 settlement is a law passed by Congress. The Claims
5 Settlement Act of 2010, or whatever the name, the whole
6 entire term. But, yes, it is a law that was passed by
7 Congress. So that's what we're operating under.

8 Did I miss anything?

9 MR. FERGUSON: And, again, Mr. Fields, I
10 apologize for cutting you off.

11 But what Mike said is absolutely correct. It
12 is a law. The Settlement Agreement was adopted in the
13 legislation that Congress passed. So it is actually a
14 law passed by Congress.

15 MS. GILLETTE: And I just wanted to respond --
16 I do just want to comment on something that Councilman
17 Tippeconnie said at the end of his remarks. He was
18 talking about allowing the tribes to look at their own
19 processes and giving consideration to how you would do
20 it. And I think that would be extremely helpful. I
21 mean, you have it on record here. I think the words
22 that Mr. Fields said about the evaluation of lands.
23 Those are all things that are just extremely helpful to
24 how we're looking at this.

25 And what I would appreciate, and I don't know

1 that we've received very much of this, is, you know, if
2 you do want to submit written comments, set up a
3 scenario that, you know, this is our vision for what we
4 see happening, and this is how we would deal with -- we
5 have this barrier when we do things in the existing
6 process. This is how we would address that barrier.

7 And those would be just, you know, for us, as
8 we look at all of the different places that we need to
9 move quickly to improve would be extremely valuable.

10 So on that note, I think we're due for a short
11 15-minute break. And then we'll come back, and we'll
12 hear some more from tribal leaders. And we'll all be
13 available up here if you have any other individual
14 questions.

15 MS. SMITH: So we're going to take a 15-minute
16 break. It's 10:25. We'll come back at 10:40, and
17 we'll continue on.

18 Thanks, everyone.

19 (Break)

20 MS. SMITH: I'm going to hand it over to Tony
21 to respond to that, and then we'll open it back up for
22 comments from the Tribal Governments.

23 MR. WALTERS: Just quickly to talk about the
24 scholarship portion of the settlement and how it ties
25 to the land consolidation.

1 I don't know if Jim is actually in here yet
2 with his questions about this.

3 (Inaudible) -- land sale, a particular
4 specified amount will be transferred into a scholarship
5 fund. And that fund will actually be administered by a
6 nonprofit organization.

7 And the way that was selected was, under the
8 terms of the settlement, the plaintiffs were to provide
9 a list of the number of nonprofit organizations to
10 administer that scholarship program. And they did
11 that.

12 The two that they submitted were the American
13 Indian Graduate Center out of Albuquerque and the
14 American Indian College fund out of Denver.

15 And then it's up to the secretary's office to
16 select one of those two organizations to administer
17 this fund.

18 There's no timeline for that determination
19 yet. The office is still gathering the information
20 from these two organizations to help best determine
21 which one would best administer this program.

22 But it won't be solely up to just the
23 organization. There will be a board that will consist
24 of five individuals, two selected by the secretary and
25 two by the plaintiffs, and one selected by the selected

1 organization. And that board will determine how that
2 fund will get administered. And it will be up to that
3 organization to carry that out.

4 So there is time, still, for tribal input into
5 that. I don't know off the top of my head what that
6 consultation outreach will be for the secretary's
7 determination of which organization. But I know that
8 timeline to select that isn't coming up quickly. There
9 is time to discuss that.

10 Feel free, when you submit comments to this
11 land consolidation program, be sure to include any
12 comments you have on the scholarship fund.

13 MR. FIELDS: Jim Fields, Pawnee Nation.

14 I'd like for you to comment on what this
15 gentleman here just commented on. Of course, he's
16 Cherokee, so I should know better.

17 You tell us, then, this will be administered
18 by a board, a five-member board. Then they will do
19 this and will determine how the fund will be utilized.

20 I thought that was what this consultation
21 process is about, is for you to listen to us as to how
22 we want it to be administered, not for you to again
23 tell us how it's going to be administered.

24 I don't know if that was a Court decision to
25 have this board administer or was it input from the

1 tribal leaders? I think you heard the tribal leaders
2 discuss at this table that they're going to want the
3 scholarship to be done by the tribes themselves and not
4 by a board of your choosing. Because that flies in the
5 face of consultation and self-determination.

6 MR. WALTERS: Well, just to follow up quickly.
7 This consultation is certainly for tribal input on the
8 land consolidation portion of the Cobell settlement.

9 Unfortunately, the terms for the
10 administration of that scholarship fund are in the
11 Settlement Agreement itself. So that's not something
12 that the Department can control or change. That's
13 something that the parties agreed to. And that's where
14 the language comes from and the provisions come from
15 that dictate that we're to use one of these
16 organizations that the plaintiffs offer, and the
17 secretary will choose which one of those, and that
18 group, along with the Board of Trustees, will determine
19 how that fund is administered.

20 MR. FIELDS: You've already said it's a five-
21 member board. So somebody has already self-determined
22 that.

23 MR. WALTERS: The board -- the provisions
24 regarding the board are also in the Settlement
25 Agreement itself. And it doesn't dictate who the

1 individuals are. It just dictates who will select
2 those five members. And that's why I say there's still
3 time to get comments in on that to the secretary
4 through written comments. I'm sure there will be some
5 sort of follow-up on that decision, as well. But
6 there's still time to figure out what individuals are
7 on that board. But the composition of the board itself
8 is in the Settlement Agreement.

9 MR. FIELDS: So I think it would be for the
10 Tribes to self-determine how they want the board to
11 administer, whether they want a ten-member board or a
12 12-member with one member from each region, or
13 something. There has to be some way of knowing -- but
14 somebody has already made the decision for us.

15 What I alluded to a while ago was, in your
16 presentation, you said for each land sale, there is a
17 set-aside for scholarship.

18 My comment here was that that set aside, with
19 each land sale, should go to that Tribe where the land
20 is going to, not some national board.

21 One of other question that I had was on the
22 appeals process.

23 My question is why -- you know, you say that
24 there will not be a final scheduling order until all
25 the appeals are heard and settled. Why couldn't there

1 have been a set aside to expedite this? I'd like for
2 you to recommend this, that these appeals, they have an
3 amount of money attached to each appeal. Why can't
4 there be a set aside for these appeals and then
5 distribute the rest of the money, because the appeals
6 only go to a certain amount of money? And so why
7 should that hold up the distribution of all the rest of
8 the money? It makes logical sense to me that, since
9 the six appeals do not affect the whole 1.6 billion
10 dollars, that you could set this money aside and
11 distribute the rest of it.

12 MR. FERGUSON: Sir, the way the Settlement
13 Agreement is drafted, the agreement between the parties
14 is that the settlement is not final as to what's
15 adopted by Congress is, by definition, the settlement
16 is not final until all the appeals are heard.

17 So there is no permission for the Department
18 to make any unilateral decisions. This is simply what
19 the law states.

20 MR. FIELDS: Mr. Field again.

21 That's true. I can understand that. But if
22 this is to be determined or settled by tribal input,
23 then I think the Tribes should recommend back to the
24 Court, whoever it is that you're answering to, that
25 this be done in a set aside, because this is a

1 settlement issue, and it could be then considered
2 again, because my experience is that it will be years
3 from now. I know you've -- I've heard you use the term
4 "expedited," you've used, and "expedited process". But
5 to us, that expedited means as long as you want it to
6 be. It can be years after I'm gone and we're still
7 fighting over this thing.

8 So I think the fair way to do it would be to
9 set aside this money. And that would be a
10 recommendation that you make back to the Court, is to
11 come up with this set aside amount. Because that way,
12 this purchase program can begin a lot sooner than that.

13 One additional thing I'd like to bring up here
14 in Oklahoma, is that, when you deal with different
15 tribes and different land laws and probate laws, you
16 recognize that a hundred years ago -- most have been
17 130 years ago now, under what we call the General
18 Allotment Act of 1888, Congress passed that law to
19 allot these -- and break up the reservations. I think
20 it was -- the goal of the Congress at that time was to
21 break up the reservations.

22 And, unfortunately, and it's really
23 unfortunate, that here in Oklahoma most of the tribes
24 are under, what we call, the General Allotment Act. So
25 when we refer to the Pawnees and most at this table,

1 we're all General Allotment Tribes. In fact, we all
2 are, even the Five Tribes who resisted it up until 1906
3 when they passed it, was called the Dawes Act where it
4 was forced allotment on the Five Tribes.

5 On these allotments were -- I mean, all the
6 reservations were broken up and given them, even on
7 that percentage of acre bases or a value of land that
8 the purchase, that they could allot land to. But they
9 were effectively broken up.

10 What happened after that was there was a
11 mammoth plan, larger than the land here in Oklahoma.
12 Even if you're not from Oklahoma, you know what April
13 22nd was. April 22nd is where they had the land runs
14 where the so-called surplus lands and reservation were
15 opened up to White settlement.

16 So here, in Oklahoma, in Western Oklahoma and
17 the northeast part of Oklahoma, these lands were opened
18 to White settlement, that there's no compensation given
19 to the Tribes for those lands taken.

20 You may say, well, you had the, what we call,
21 the judgment funds, back in the beginnings of the 50s
22 and the 60s, where they were compensated for lands
23 taken. But that was for lands taken from our original
24 homelands.

25 For example, the Pawnees, we come from

1 Nebraska. So the Land Settlement Act was for the lands
2 that were ceded unfairly from our original homelands.

3 And, as you know, here in Oklahoma, depending
4 on what tribes you talk to, all tribes that are here
5 have been relocated here by force during the 1880s,
6 beginning with the Five Tribes in the 1830s, going
7 through the 1870s with the Plains Tribes.

8 And so a lot of times we're in a situation
9 here where the (unintelligible) and the lands alluded
10 to that are fractionated, are lands that were derived
11 from the General Allotment Act.

12 I think that, when you do these values of land
13 and so forth, these things need to be factored in
14 somehow.

15 But I think that, and I don't know how much
16 history you have done on these Tribes here in Oklahoma,
17 but there were other tribes. If you look at your pie
18 chart there, you see that, by far, the larger
19 percentage of fractionated land is what you call your
20 land-based tribes, which are primarily your northern
21 tribes. They did not go through the Allotment Act.

22 We, in Oklahoma, back in the 1880s, we fought
23 that. But we were, unfortunately, you know, we're
24 conquered people.

25 And I think that we've had to rely upon the

1 Federal Government to protect our trust interests. And
2 I can tell you right now that, you know, when you use
3 the word "trust," you have a trust responsibility.
4 Well, what does that mean? Is "trust" defined by law?
5 Or is trust defined by we're trusting you to do the
6 right thing?

7 And I can tell you right now, the trust policy
8 of the Federal Government is that we trust you to treat
9 us fairly. We trust you to protect the interests. And
10 too many times, historically, the Federal Government
11 has failed in its trust responsibility.

12 If you're tribal members, either from Oklahoma
13 or other areas, you should be on our side. You know, I
14 see a Cherokee sitting over there at the end of the
15 table. You know, historically, the tribes here were
16 warrior societies.

17 But today, in the wars fought, you look at
18 the, generally, the Cherokee, the Talahi, the Chalahi
19 (ph) that he's in a suit. And that's our warriors of
20 today.

21 So we would hope that you would be looking at
22 this from our viewpoint and not from the viewpoint of
23 the Federal Government. You know, tomorrow times,
24 historically, you know, it wasn't really until the
25 Indian Preference Program or Indian Purpose Laws, held

1 by Congress to the mid-70s, that we had Indians serving
2 in the Bureau of Indian Affairs in positions. Back in
3 the 1960s and 50s and so forth, they were clerks, but
4 they weren't in leadership.

5 So I would just encourage the Indians up there
6 at this table to look at it from our viewpoint. And,
7 when you go back to Washington and you formulate the
8 policies of this program, that you remember first that
9 you're an Indian, a Native American. And think back
10 about your heritage.

11 I never thought I would get to be an elder.
12 But I'm an elder now. And I like to think that
13 whatever I say and do here, I'm looking to the eyes of
14 my parents and grandparents and great grandparents,
15 because, for me, and I think for Marshall, too, it was
16 our grandparents who were relocated from Nebraska in
17 the 1870s.

18 And we're in the process now of acquiring land
19 back in our homeland, and we're going through that
20 process now.

21 And it's real emotional for me to go up to
22 Nebraska and look over those. As we traveled up
23 there -- we did this over a year and a half ago where
24 we got the land and the town of Kearney, Nebraska, had
25 a sign when we went up there that says, "Welcome home

1 Pawnees," because that was our homeland. You know, it
2 was a very emotional point for me to go through that.
3 We had a ceremony of walking across a bridge to our
4 homeland.

5 And so I would encourage you all to think
6 about how this, how this affected you. The Cherokees
7 in the 1830s removed. And the Pawnees, for us, it's
8 our grandparents that had to go through that.

9 So when you look at this and try to come up
10 with some issues on how to resolve this issue, I would
11 encourage you to look at it from our standpoint. Look
12 at it through our eyes. And then make the best
13 decision you can make with the input from this table
14 and these other tables you sat around in this
15 consultation process.

16 As Forest Gump says, that's all I've got to
17 say about that.

18 MS. GILLETTE: Thank you.

19 MR. BLACK: Do we have anybody else at the
20 table who would like to offer some comments on either
21 some of the priorities we've discussed or any specific
22 areas, such as appraisals, etc.?

23 MR. ALLEN: Rupert Allen, Cheyenne Arapaho
24 Tribes.

25 Again, you know, this whole process, I'm glad

1 you're having these meetings, because 10 years is not a
2 very long time when you're talking about land issues.
3 When we talk about water issues, you're talking
4 hundreds of years. Ten years is not very long. And
5 I'd certainly hate to see any of this money go back to
6 the Treasury. I'd like to see it all utilized.

7 I think there should be trigger points at some
8 point in time. If there's not, the majority of the
9 funds aren't being utilized by certain tribes, those
10 funds should be reapportioned to tribes that are
11 utilizing the funds.

12 The issue of percentage of heirs in allotment
13 required to do a land purchase needs to be addressed.

14 Right now, I believe by C.F.R., it's like, if
15 there's less than five, then 100 percent, 5 to 10, 70
16 percent. If over 20, 50 percent.

17 Now, in other occasions where tribal members
18 and tribal leaders have been told that, irregardless,
19 it's 100 percent, which is not necessarily true. But
20 these need to be clearly defined in your procedural
21 manual that, ultimately, you come out with.

22 Let's streamline it as quickly as possible,
23 because, as I said, 10 years is a very short period of
24 time when you talk about land issues.

25 Thank you.

1 MR. BLACK: Thank you very much.

2 I just want to -- if you don't mind, just
3 clarify one thing real quick on the consent issue.

4 When we're talking about the Indian Land
5 Consolidation Program purchasing interests, we're
6 talking a one-over-one interest. So the consent issue
7 is the one person that wants to sell their one interest
8 or their five or six interests. So it's not a matter
9 of having to go out and get 50 percent consent to
10 purchase that one interest.

11 MS. GILLETTE: So I think something that is
12 also important to think about is, you know, what is a
13 good way for us to think about -- some tribes already
14 do have land consolidation programs. For instance, a
15 tribe told us at the last consultation that their tribe
16 uses the lease income from their tribal land to
17 purchase fractionated interests from tribal members to
18 preserve it from going out of trust.

19 So if individuals want to sell their land, the
20 tribes can use that funding to purchase those. And
21 there's a number of those kinds of programs around the
22 country that we're not aware of because they operate
23 independent of the Government, other than the appraisal
24 and the LTRO and the titling function that the BIA has.

25 So if there's anything like that that you're

1 aware of or that you already do, and I think, you know,
2 likening it to anything that, you know, like you were
3 talking about, the fee to trust process. If there are
4 things like that that you're doing, that would be
5 extremely helpful for us to hear about.

6 And I just wanted to also say that we don't
7 have a set way of how we're going to do this. So, you
8 know, the idea that we would do apportionments or that
9 we would do, you know, sort of a formula or anything
10 like that, that's not been decided. And, you know, the
11 more that we hear about what you think would work for
12 your individual tribes, the better equipped we are to
13 make those kinds of decisions.

14 MR. GOVER: Marshall Gover with the Pawnee
15 Nation.

16 I wonder how this is all going to work,
17 because we have such fractionated land. The other day
18 across my desk came one that was reverted back to the
19 Pawnee Nation. This man passed away, and his interest
20 reverted back to the Pawnee Nation. He owned 1/256th.
21 That's how fractionated we are.

22 So how is this all going to work out? What
23 formula does this break down to? You say there's just
24 a couple hundred tribes, but how is this going to break
25 down to this formula?

1 And then 60 million dollars for scholarships,
2 but then, I hear there's a portion of each sale goes to
3 scholarships?

4 MR. WALTERS: To clarify that, it's up to 60
5 million. So a portion of every land sale will
6 contribute to that 60 million dollar fund. So it
7 starts at zero fund, but it will be up to 60 million
8 dollars based on the amount of sales that occur.

9 MR. MARSHALL: Then how does a portion of each
10 sale contribute to that 60 million?

11 MR. WALTERS: Yes. So, based on a particular
12 land sale, say it's -- there's a formula in the
13 Settlement Agreement. So it's based on the amount of
14 the sale here. So say it's \$500, I think that's maybe
15 \$25 or five percent. I'd have to go back. But on top
16 of that, that will be transferred over to the fund.

17 So it doesn't come out of the sale price. It
18 will go to the individual interest owner. The
19 individual interest owner will get the full value of
20 their interest. And then to incentivise that, it's
21 supposed to transfer a small portion of money from the
22 fund to this larger fund, up to 60 million dollars.

23 MR. GOVER: Then, you know, I have a comment
24 about the education fund, much like my brother, Jim,
25 here.

1 It seems like we were left out of that
2 process, you know. We have a tribal college, the
3 Pawnee Nation College. And if we are buying back
4 fractionated interests, why doesn't that go to our
5 Tribal College? Why doesn't it go to our scholarship
6 fund? You know, we have -- the Pawnee Nation College,
7 you know, it seems like it should stay at home, to us.

8 That's our viewpoint.

9 We realize that Courts do this, they told us.
10 Once again, we're being told. But, still, we're
11 supposed to be government to government.

12 A judge should have enough sense to look
13 around, because we're not the only nation that has a
14 college. Look at all of the nations. How many around
15 that has a college? My brother here, the Comanches,
16 they have a college. Brothers over here, they have
17 colleges. Creek Nation, all of them around, they've
18 got colleges.

19 All of them in Oklahoma here are
20 fractionated. Why can't we keep that money in our own
21 nations?

22 Sometimes, back in D.C., when we go back
23 there, it seems like, when I go back there doing
24 business for my people, I've got to have a book to see
25 where am I at today. What's their definition of trust

1 responsibility?

2 Then I go across the street, I've got to flip
3 that page. What's that definition? Where am I at
4 today? Oh, yeah, it's over here, that's their
5 definition.

6 You know, the point I'm getting to is the
7 formula we're going to use, because we've got some
8 highly fractionated land there in Pawnee. I don't know
9 if we've got more fractionated than other Tribes.

10 I know what that one was that come arose my
11 desk the other day. I know I've got a Pawnee Nation
12 College that I'd sure like to see the scholarship funds
13 at from my own sale. The lands that people want to
14 sell their land back to the tribe, and not be told,
15 well, it's going to go to this fund, but we don't know
16 where that money is going to go.

17 That's just the way the Pawnees feel.

18 MS. GILLETTE: Thank you.

19 MR. KODASEET: Michael Kodaseet, Cheyenne
20 Arapaho Tribes.

21 I think I'd have to agree with Mr. Gover's
22 assessment on that scholarship fund. We have a
23 Cheyenne Arapaho College, too. And earlier, you said
24 that the settlement will most likely just affect 200
25 tribes. But then you're talking about the scholarship

1 being administered by the Albuquerque Indian
2 Scholarship Fund. That, basically, makes it sound like
3 that would open the door to all the other 300 tribes
4 that aren't going to be involved in this fractionalized
5 settlement. I think that would be a concern of all the
6 tribes that are identified in that 200.

7 I believe that it would be in the best
8 interest of the tribal nations for that scholarship
9 fund to be administered by our tribal colleges or to
10 our tribal governments.

11 And I think, you know, it comes back to trust
12 responsibility. You know, that's a high moral and
13 ethical task that's placed on your shoulders.

14 Some of the issues of our tribes that we're
15 facing now, we feel that some of that responsibility
16 isn't being addressed properly. But, you know, that's
17 a book I don't want to open right now, because that
18 would take the rest of this meeting.

19 But anyway, that would be our concern. I
20 think the tribal nations that have colleges should
21 administer the scholarship fund.

22 UNIDENTIFIED SPEAKER: I'd like to comment a
23 little bit more on Mr. Bonstein's (ph) question.

24 You've already stated there's, like, 200
25 tribes that are participating in this --

1 MS. GILLETTE: I said it's under 200 tribes.

2 UNIDENTIFIED SPEAKER: Under 200, okay.

3 MS. GILLETTE: Yes, it's not --

4 UNIDENTIFIED SPEAKER: You have to be able to
5 participate in this buy-back program to be eligible for
6 scholarships.

7 MR. BLACK: Just to reiterate, the
8 administration of this scholarship fund has not been
9 determined in any shape or form. It hasn't even been
10 identified which organization will operate it under the
11 terms of the settlement.

12 So that's for that organization and the board
13 that will be in place, once it is in place. And I'm
14 sure there will be some sort of consultation before
15 that. I'm not sure, again, what the scope of that
16 outreach will be.

17 But any administration of that fund, I mean,
18 the eligibility requirements or any criteria will be
19 developed in the future. And certainly it has not been
20 established.

21 MS. GILLETTE: I just want to sort of just
22 further remind people that this is, you know, the real
23 focus of the consultation is on the 1.9 billion dollars
24 that's for land consolidation. And so there's a lot of
25 unknowns, and we're happy to take your input on the

1 scholarship. But the land consolidation piece is what
2 the purpose of this consultation is. It's not -- you
3 can certainly bring up your concerns related to the
4 scholarship, because it's part of that funding.

5 But we're interested in rolling out the land
6 consolidation, because if we don't -- if we're not able
7 to start that -- that scholarship fund is at zero right
8 now. And unless we start purchasing interests, it's
9 going to be at zero until we start rolling out the
10 programs. So we really need to get the land
11 consolidation implementation on the road right away.
12 Without it, the other thing doesn't exist.

13 UNIDENTIFIED SPEAKER: Would it be up to this
14 Board on how they want to allocate these funds to
15 tribes or colleges or private colleges with Indian
16 students?

17 MR. WALTERS: Yes, I believe that's correct.
18 That's why the board will be put in place, along with
19 the organization that will administer the fund, will
20 determine all of those, criteria, edibility, etc.

21 UNIDENTIFIED SPEAKER: So in other words, that
22 might be able to help each tribe's education program,
23 right?

24 MR. WHITAKER: Theoretically, yes.

25 Really, the scholarship fund, there's no

1 criteria. It's not established. Nothing has been set
2 on administration of funds. And it's really
3 preliminary to even be discussing how that's going to
4 be working, because it's really not the focus of this
5 discussion. And it's something that's not established
6 yet. So it will be up to that board.

7 MS. SMITH: Maybe it will be helpful to say
8 that these comments about the scholarship fund, and
9 we've heard them at many of the other consultations, as
10 well, will all be collected. And we'll make sure that
11 those comments get put in front of the people who
12 either are on the board or selecting the board so that
13 we're sure that those comments go to the people who
14 actually can act on them.

15 And your written comments, as well. Any
16 written comments you want to submit about the
17 scholarship fund, your views on the scholarship fund,
18 we can make sure that those get forwarded to the people
19 who are going to be working on those issues.

20 2ND UNIDENTIFIED SPEAKER: I would just like
21 to make one more comment. On the scholarship, you
22 know, you're saying that there's no money in there
23 right now. But I think what you're asking the tribes
24 to try to expedite this whole issue here, I think would
25 be motivation for the tribes to get the message to our

1 tribal members who are interested in doing this
2 buy-back.

3 And that would be something, again, that I
4 would reiterate that, you know, you're saying
5 it doesn't mean a lot. But it would mean a lot to our
6 people. A lot to some people that have this fractional
7 land that they own, this might be the selling point to
8 them is that, okay, I want to do this, but I want to
9 make sure that that money, that this scholarship fund
10 goes to my people.

11 You know, our tribal nations have always
12 wanted to look out for our people and for those that
13 are yet to come. It's always been the way we were
14 brought up. And I think this would be something that
15 would speak a great deal to trying to address what
16 you're asking us to do.

17 MS. GILLETTE: I think that you're absolutely
18 right. I don't mean that I don't think that it's
19 important. I didn't -- I hope that that wasn't --
20 that's not what I meant. Even if it was taken that
21 way, that's okay.

22 But I think it's extremely important. But I
23 do feel like we have to start -- and if it is important
24 and it is relevant to how we implement and how we get
25 people interested in the program, by all means, bring

1 those points up.

2 But to spend a lot of time talking about
3 things that we don't -- we really -- because I'm
4 recused. I can't even talk about that piece of the
5 settlement.

6 And then, for sure, the Bureau of Indian
7 Education will be involved in that decision-making, and
8 we can -- you know, we just can't respond very well to
9 the questions that are being brought up, because, one,
10 they're either undetermined or, two, because we're not
11 the right people to respond to those.

12 So, you know, by all means, I'm not saying
13 let's not talk about that, but we just have a limited
14 time here today. So however we can balance that with
15 the implementation of the Cobell Settlement, you know,
16 that's also helpful. But I get your point about why it
17 is tied to that.

18 MR. TIPPECONNIE: The Comanche Nation --
19 Robert Tippeconnie.

20 The Comanche Nation, we laid how we would
21 like -- and I have to say this: Before I came here a
22 few weeks ago, tribal members came to me, saying we
23 know about this; we know it's coming. So let's get
24 prep'd. So we are attempting to get prep'd. And I
25 laid it out that way. We're looking now, and we're

1 using resources that we have.

2 Well, my question is, though, you know, it's
3 always like on the front end of these things, we have
4 to find resources -- that's dollars -- to effect this
5 kind of, you know, inventory with our tribal members,
6 because these are individual allottees. So we have to
7 approach them.

8 So that was posed to me a few weeks ago --
9 well, a month ago, really, to get on with this. So
10 that's why I made that position. That's what we want
11 to do. We're going to give that information, we're
12 going to bring it forward. These are the tracts, these
13 are the locations, this is the tentative value, because
14 we have some sense across the landscape of our area,
15 what those values are per acres, etc.

16 So that's what we want to do.

17 But my question is, you know, we're using
18 resources on the front end of our own. Will there be
19 resources available, because I think it can expedite --
20 10 years is too short, actually, in a sense, unless
21 you're very active right now, moving out -- tribes, I'm
22 thinking of. Because tribes are going to be the ones
23 that have to go out and outreach with our tribal
24 members and see if they're willing and voluntarily
25 wanting to sell.

1 So I just want to say, you know, that some
2 resources will be very supportive.

3 We're doing it with some resources we have,
4 but other tribes don't have that. You know, there's
5 200 and some tribes. And I'm sure that some don't have
6 that.

7 So it could be a question to you, you know,
8 that we need something in the front end to be prep'd
9 like our members said in committee, get with it, you
10 know, move out. Be ready, because we want to acquire
11 these fractionated areas from these willing sellers.

12 MS. OOSAHWEE: Sedelta Oosahwee with the
13 Cherokee Nation.

14 I just wanted to comment on the education
15 part. Am I correct in assuming that you're trying to
16 decide whether AITC is to administer that or the
17 American Graduate College (inaudible)?

18 MR. BLACK: Yes, those are the two
19 organizations that are proposed, I would think.

20 MS. OOSAHWEE: I know that you have until
21 November 1st to have written comments. But the
22 American Indian College Fund does administer
23 scholarships to tribal colleges and to those programs
24 that will be a function of that program.

25 So maybe in the written comment, that we

1 simply can advocate for it to go to the American
2 College Fund versus the America Graduate College. And
3 American Graduate College provides funds for graduate
4 and undergraduate students in both programs. And they
5 also administer the Gates (ph) Scholarship Program.

6 So I just wanted to let you guys know that.

7 MS. SMITH: Are there other comments?

8 I know that we have some tribal leaders who
9 are not sitting at the table, chose not to sit at the
10 table. And I'm wondering if there are any tribal
11 leaders or representatives of Tribal Governments who
12 aren't at the table who would like to speak at this
13 time.

14 MR. BUTCH: I'm Rhonda Butcher with Citizen
15 Potawatomie Nation.

16 And I would like to make just a few comments.
17 And they're very consistent with what you've heard thus
18 far.

19 Focusing on the land consolidation portion,
20 what's really important to us, the operative word is
21 tribal self-determination. I just can't say highly
22 enough how important it is that each tribe determines
23 what parcels, what offers would be made to allottees, I
24 mean, which ones to prioritize. Because if it's
25 prioritized from above, we don't even know how it would

1 fall down. It may even fall down to the regions that
2 have the vast majority would get all of the funding,
3 and there would be none left for Oklahoma.

4 So tribal priority is the first thing that's
5 most important, I think, (inaudible) that we have as
6 much administrative control of that as possible,
7 because we know our people. We, in fact, are making
8 offers today to tribal members trying to consolidate
9 our lands. We are actually doing that very thing that
10 evidently you had experience with other tribes.

11 And the last thing we want is for us to be
12 making offers and then some letter come down from the
13 Federal Government that they'd like to make an offer,
14 as well. Obviously, that type of conflict would be the
15 last thing we'd want to see.

16 So tribal priority is important.

17 Allocation of the funding is important. It
18 leads into an allocation of the funding, and we want to
19 make sure that the Oklahoma Tribes have access. Even
20 though we don't have the absolute greatest in
21 proportion, we have a huge amount of need and huge
22 fractionation. You've heard the descriptions here.

23 So we want to make sure that funding goes out
24 to all the regions and that our region is able to share
25 in that. We weren't able to share earlier when there

1 was land consolidation. We tried, and I tried to get
2 into that ten years ago. And Oklahoma wasn't a
3 priority, so we weren't allowed to do so.

4 So I just want to make sure that we don't get
5 bypassed in this process, that there's some allocation
6 methodology that we can share. And the tribes need to
7 make it a priority.

8 But in that regard, when I talked to tribes
9 that did participate in your land consolidation plan,
10 which none of us have gotten access to, thus far, one
11 of the things that I heard them say loud and clear was,
12 when the Bureau bought this land, they gave it to the
13 tribes with a lien. And I want to make sure that, if
14 the land goes to the tribes, which we are -- obviously,
15 that is a high priority. If we get the choice, we just
16 don't want any liens put on the land to get any kind of
17 paybacks, which is obviously the crux of such a
18 settlement.

19 But I want to make sure that doesn't happen
20 after listening to some other tribal experiences.
21 That's important that the land is free and clear.

22 MR. BLACK: Thank you very much.

23 I will let you know that, on the lien issue,
24 there, again, that's another thing that's been brought
25 up consistently across the board. We're working

1 through some issues with our Solicitor's Office in
2 dealing with the liens.

3 The Act itself, basically, says we have to put
4 liens on the properties.

5 MS. GILLETTE: The ILCA Act.

6 MR. BLACK: The ILCA Act itself, not the
7 settlement.

8 It is not the intent of the settlement to have
9 liens put on, so we're working through the process
10 right now to see what we can do. It's not the intent
11 of the Act or the settlement or our intent to have, you
12 know, for Tribes to have to pay back these.

13 MS. GILLETTE: So the ILCA law says that we
14 have to put a lien on the property, and then the money
15 when that lien is being paid, then it goes to the
16 Government until the purchase price is paid off. And
17 that's part of the Indian Land Consolidation Act
18 itself.

19 However, there are steps in the ILCA Act to
20 address a lien waiver. And those are the legal points
21 that our Solicitor's Office are looking at to set up a
22 process to address that issue of what you've stated,
23 because we have heard this over and over throughout
24 Indian country.

25 And our Deputy Secretary Hayes made some

1 pretty strong comments in previous consultations about
2 the fact that we are working to address that in a way
3 that is consistent with what tribes are telling us.

4 I think that, you know, at some point, you
5 know, just to respond to the Indian Land Consolidation
6 Program, that program was set up because of the Act,
7 and it was never adequately funded. This is an
8 opportunity where we can use that authority to expand
9 the program so, though we have lessons learned from
10 that program, it is different, because it is part of a
11 settlement. And that bears a significant amount of
12 resources, a significantly more amount of resources
13 going into what the Act tries to do, to reduce
14 fractionation.

15 So that's something that we are looking at the
16 expertise that's been developed in the Indian Land
17 Consolidation Program. However, we're not mirroring
18 exactly those processes. And we're not limiting
19 ourselves to the priority areas that were previously
20 established.

21 MS. SMITH: Are there any other comments from
22 Tribal Leaders, Tribal Government Representatives,
23 either at the table or in the audience?

24 MR. FIELDS: This is Jim Fields, Pawnee
25 Nation.

1 I'd like for Jodi to explain, when you say
2 there's a lien placed on the land, I guess the lien
3 would be in favor of the United States of America; is
4 that right?

5 MS. GILLETTE: Yes.

6 MR. FIELDS: That the United States would
7 cover the cost or had the lien removed by the tribe's
8 use of the land, or would the United States place a
9 burden upon the tribe as to when they use the land for
10 a certain purpose, then the revenues from that purpose
11 go to pay off the lien? Or how do you get the lien
12 removed and a Release of Lien on the land?

13 And most of us here will go for that lien
14 waiver, because that's the first time I've heard that
15 term. My understanding was that when the land would be
16 given to the Tribes, it would be, more or less, free
17 and clear. I don't know the legal term, but free and
18 clear for the tribes for use for their benefit.

19 I notice in Strategy 2 in your paper, is
20 that you're going to target -- that 100 percent of the
21 fractionated land would be targeted first.

22 In other words, your target is all of the 100
23 or 200 or 300, whatever the landowner number is, would
24 have to agree to sell in order to purchase it first,
25 since that's your highest priority or top priority,

1 along with targeting the land with the largest number
2 of ownership and owners, period. That would be
3 targeted first.

4 So I think, if you were to follow that, then
5 you'd probably find those tribes around the table here,
6 and the Pawnees probably at the top of it, probably
7 have the most highly fractionated lands that are broken
8 up in undivided interests.

9 The other question I have is: When you start
10 trying to determine who gets what first, then it may be
11 a race by the tribes, competitive almost, to come up
12 with a -- maybe come up with a land consolidation
13 purchase program. And maybe if we just determine, once
14 we get -- because, as I understand this process, the
15 tribes will self-determine what lands they have an
16 interest in. If the Pawnees have a lot, maybe there's
17 lands that we're not interested in purchasing because
18 we can't do anything with it.

19 So there has to be some kind of determination
20 as to what use of the land that the tribes may have.
21 There's some -- because of this idea of a lien placed
22 on it, it kind of flies in the face of this whole
23 process, to me, because all you're doing is giving us
24 this land, and we're going to buy it back. I don't
25 think that will work.

1 So I would really oppose any kind of lien and
2 encourage you try to go for a lien waiver, if that's
3 what has to be done as far as getting title to it.

4 (Inaudible) that land is titled in the United States,
5 with the Pawnee Nation.

6 Those are my comments thus far.

7 MR. BLACK: Just to explain this briefly. The
8 statute that the ILCA operates under has a mandatory
9 requirement that the Government put liens on it.

10 Under the way the program has been operated in
11 the past, it's been based on, you know, appropriated
12 funds. And it's been fairly minimal. The top amount I
13 think we've gotten in any one year was \$35 million
14 dollars.

15 But the revenue generated off of those
16 properties that were purchased under ILCA and title
17 transferred to the tribe will put the lien on the
18 title.

19 The income derived from those properties goes
20 back to paying back the lien on the property. And then
21 those funds that are generated from that revenue go
22 back into what's called a recoup account to purchase
23 additional property. So it's not money that goes back
24 to pay back any fund or anything. It goes into the
25 recoup fund. And those funds are there, again, reused

1 to purchase additional properties.

2 Now, under the Act, it's not the intent to
3 have a recoup fund continue to operate. But the
4 statute and the ILCA law requires that liens be put on.
5 So we're looking at the process of how can we --
6 hopefully, it's not a point where the tribes have to
7 come in and request waivers on it every single time we
8 do this.

9 So we're looking at some of the processes and
10 what our latitude is within the operation of the
11 statute on the lien issue.

12 And we've heard the tribes loud and clear.
13 You know, they don't want to have liens on these
14 properties. They want to be able to take property in
15 title and be able to use it.

16 MR. FIELDS: Jim Fields, Pawnee Nation.

17 When you define a lien placed on a property,
18 that means that, if we think of a car, or a house with
19 a lien on it, that if certain conditions are not met,
20 then somehow we would lose title to that land. In
21 other words, if you say a lien is placed on it and
22 let's say, for example, we do not convey the revenues
23 from that land to pay this lien off, then are there
24 steps -- what are the steps for maybe the United
25 States, or whoever, whatever entity, getting title to

1 the land again opposing a tribe? Because when you use
2 the term "lien," that means that there is an
3 encumbrance against that piece of property. And
4 whatever revenues, as you said, generated by it goes to
5 pay off the lien.

6 Well, does that mean the great White Father
7 and the BIA and the (inaudible) agency looks after your
8 interests and then the tribes actually lose control of
9 that land, because the next step would be, as a
10 lienholder, you may step in and say, well, this is the
11 best use for that land. It goes through the process
12 and then you're telling us how to best use the land,
13 rather than the tribe self-determining that, you know.

14 So that sort of flies in the face of this idea
15 of self-determination, self-termination.

16 MR. BLACK: Well, everything you're saying is
17 one of the large drivers in the intent not to put liens
18 on the property, because the tribes should be able to
19 use that land.

20 Under the existing ILCA Act, we didn't have
21 that option. And those revenues, you know, that were
22 generated through the leasing process, or whatever,
23 automatically go into a recoup fund that's all set up.

24 But that's not the intent of the Act.

25 MS. GILLETTE: We have one other.

1 MR. STANDING: Leslie Standing from the
2 Wichita Tribe.

3 You know, this kind of burns me up, because I
4 lost four parcels of land in that Land Consolidation
5 Act back in 1983 I inherited from my mother and my
6 father. And now, I've got buy it back. You know,
7 that's kind of, like he said, a kick in the face from
8 this Government, again, you know.

9 They stepped all over Tribal Governments,
10 saying we've got sovereign rights, and they stepped all
11 over those sovereign rights with this payback thing on
12 this Land Consolidation Act.

13 We didn't want it in 1983, but it was shoved
14 down our throats by the Federal Government.

15 You know, it did not give the Tribal
16 Governments back then an opportunity to take a look at
17 what we had and how to work a solution to the problem.
18 The Federal Government said, hey, the Land
19 Consolidation Act is placed upon you, took the land
20 away from us. They didn't pay us no money. Not one
21 dime did they contribute to that land that they took.
22 And that's what's burning me up right now. If I would
23 have known this was in here, I never would have
24 participated in it today.

25 But it just makes -- it just kicks me right in

1 the face. I don't know how the rest of you feel, but
2 it does.

3 For land that they placed, made a law to take
4 the land away from us in the first place.

5 Fractionation of lands right now with the
6 Wichita Tribe, and I had my transportation officer go
7 down to the Rolls Department, and we got our allotment,
8 about 30,000-something acres that the Wichita Tribe
9 owned.

10 Now, I know, on some of my land, I know the
11 fractionation is there real bad. And trying to let me
12 find a solution as to how I can work it, you know, here
13 we go again, that 1983 Act is something else. Very
14 detrimental to Tribal Government.

15 And here you come back again, today, with this
16 issue again. And I don't appreciate it. I really
17 don't.

18 But I'm going to go back to my Tribal
19 Government and try to figure out a way to find a
20 solution to this.

21 And then -- you know, it really upsets me,
22 because that land was my mother's and dad's land in the
23 first place. We lost 100 acres in a judge's probate
24 that went to a non-Indian, and she took it out of the
25 trust. It was a lifetime use situation. But the

1 Probate Judge gave her that 100 acres. And I don't
2 know that it's ever been put back in trust, because I
3 took the issue to Echo Hawk back in 2008, and I never
4 got a reply from them.

5 So would you take that message back to them
6 and tell them I never got a reply from them?

7 Thank you.

8 MR. FIELDS: Jim Fields, again, with the
9 Pawnee Nation.

10 I hear this brother talking over here about
11 this Land Consolidation Act in the 1980s. And, of
12 course, the consequence of that, as you all know at the
13 table, you know, that in 1988, the United States
14 Supreme Court declared that law to be unconstitutional.

15 And you also know -- I got those letters -- my
16 father passed away in '83, so it was after that that
17 Act was passed. And I got a letter from the Government
18 saying -- and they used that two percent rule that any
19 heirs and there was two percent or less of the total
20 land value, that fits into that Consolidation Act back
21 in the '80s.

22 So I got a letter saying all this land, many
23 tracts of land that was succeeded to the Pawnee Nation.

24 And of course, in '88, when the Supreme Court
25 reversed that decision, then I got a letter putting it

1 back and giving it back to me.

2 But there's one part of the 25 C.F.R. today
3 that still bothers me, because we got resentful of
4 several tracts of land recently under that sole heir
5 rule of 25 C.F.R. inheritance that states that, if
6 there's a two percent interest out there that's
7 probated and it goes to a single individual, then that
8 land goes to the Tribe.

9 And to me, how could that be done because that
10 flies in the face of the United States Constitution
11 that prohibits the unfair taking of land. And that's
12 what that Supreme Court decision was based on. But,
13 yet, we use it today.

14 And so, in fact, that person who lost that
15 interest, recently, which is my cousin, actually, asked
16 me how could that happen? And what I said is it was in
17 that 25 C.F.R. part so and so that states that.

18 But, to me, that sole heir rule flies in the
19 face of unfair taking. I mean, it follows an unfair
20 taking of the land without the Indian owner permission.
21 But they lost the land.

22 These things should be considered, I guess,
23 when you do your homework. When you pull out 25
24 C.F.R., you see that there are discrepancies in the
25 regulations that we have to follow today.

1 There, you have what gentleman talked about
2 where that -- I guess it was a State Judge that ordered
3 that land be sold to a non-Indian. Well, that's very
4 similar to what's happening in Eastern Oklahoma, where
5 a State Court Judge, under the current probate system,
6 goes to the State Court.

7 The Genlapa (ph) Tribes here, most of us are
8 Genlapa Tribes, the probates are done by what they call
9 an Administrative Law Judge, employed by the Department
10 of Interior.

11 So we had these -- when my dad passed away, we
12 went to the agency in '84, and the Superintendent then
13 or the Administrative Law Judge from Oklahoma City just
14 divided the land up. My dad died intestate, so the
15 land was divided equally among his six decedents.

16 But these things happen.

17 But in Eastern Oklahoma, you have a situation
18 where -- you have a term called "forced partition."
19 And what that means is it means that, if I were to ask
20 you can a piece of land be taken from an Indian in
21 today's times without the consent, you'd probably have
22 to answer that, no, they can't take it.

23 But at least in Oklahoma, the estate court
24 system, you can be forced partitioned, and that's under
25 a term called the 47 Act, which determines the five

1 tribes, the probates. State Courts -- the State Court
2 Judge can dispose of the land. And there are cases
3 where an undivided interest in land, a non-Indian,
4 lawyers and stuff that have the land deeded to them, in
5 an undivided stake can force the petitioning of that
6 land.

7 And, you know, land is very hard to divide.
8 You cannot divide land equally. Each has different
9 values. So you can't say five owners in a 40-acre
10 tract, they each own eight acres. Well, that's what it
11 is.

12 But when you try to divide that between the
13 owners, you can't do it. You just cannot do it
14 fairly.

15 So what the State Court Judge will do is he'll
16 force a sale of the whole piece of property, because
17 whereas land is hard to divide, money is not hard to
18 divide. So the State Court Judge will order it sold.

19 And then, to take it one step further, the
20 first crack at buying land are the landowners. And the
21 other landowners have interest, being Native Americans,
22 we don't have money available.

23 But who has the money is a non-Indian who has
24 an interest in that five percent interest. But he can
25 force a partition. And then a State Court Judge orders

1 the land be appraised. So the Bureau of Indian Affairs
2 comes in and appraises the land. And then the State
3 Court Judge can turn around and sell it to the
4 non-Indian, or an owner maybe, at 80 percent or 90
5 percent of its value.

6 I can't remember (inaudible). I used to know
7 those numbers.

8 Say, it's 80 percent. So you would have,
9 then, an Indian landowner losing his land by this
10 probate law, and the Indian ownership goes out of
11 restricted status or trust status.

12 So these are things that you need to consider,
13 when you look at this, is what laws do we have on the
14 books now that are adversely affecting this process.

15 One other comment on the scholarship program,
16 you've heard most of the statements here saying it
17 should be administered by the tribes. And I concur --
18 I mean, I wholeheartedly agree with that.

19 But I hope that the scholarship program would
20 mean any kind of post-high school training programs.
21 Not only four years or graduate programs, but also the
22 vocational schools or trade schools, you know. A lot
23 of our Indian people may not be college equipped or
24 college minded, and they may want to go to maybe trade
25 schools or vocational schools. And I think the money

1 through this program should be made available for that
2 kind of training, not only four-year or a graduate
3 program, but these two-year vocational type programs,
4 or less.

5 Thank you.

6 MS. GILLETTE: I just wanted to thank
7 everybody for the comments.

8 We're going to break for lunch now. It's
9 almost noon, and I don't like to stand in the way of
10 hungry folks and their food. So we're going to take a
11 break now.

12 But I do want to just let you know that the
13 comments that we're hearing here today, and we have
14 heard some of them; others, there's -- some of the ones
15 that were regarding the self-government tribes, you
16 know, they're all really valuable. And the more that
17 we have that kind of interaction and dialogue, the
18 better decisions we can make.

19 I also wanted to say that, when I introduced
20 myself, I didn't give you a background of where I'm
21 from. I'm from the Standing Rock Sioux Tribe, but I
22 haven't ever worked for the Federal Government before.
23 I have never been an employee there. I worked as an
24 advocate for my tribe, both as an employee, and I
25 worked for a nonprofit for a number of years.

1 And the only reason that I came to Washington,
2 D.C., is because I saw an opportunity for this
3 administration to really make meaningful change in
4 Indian country. And I don't think that I'm
5 disappointed because I know there's been a long
6 history. I never thought I would be in the Federal
7 Government. I never thought I would be in the
8 Department of Interior. But I have very good
9 relationships established there that give me hope. And
10 I can say that I wouldn't be there if I didn't think
11 that we could do something different than what we've
12 done in the past.

13 And I just applaud you for all of your work as
14 tribal leaders. I know that that is a difficult
15 undertaking in and of itself. And the many, many
16 issues that you work on day in and day out are just,
17 you know, right there on the ground. And you really do
18 have a lot on your plates every day.

19 So I want to thank you for your service as
20 leaders of your people.

21 (Lunch Break at 12:02)

22 MS. SMITH: Hi, everyone. Welcome back.

23 So at this time, I want to open the floor.
24 The microphones are not ideally placed. But you're
25 welcome to come and use either microphone. And tribal

1 leaders, tribal government representatives are also
2 welcome to make additional comments.

3 Please remember to introduce yourself, your
4 name and any affiliation you'd like to share so that we
5 can get that on the record.

6 And just come on up to one of these mics and
7 feel free to share your comments.

8 MR. TIPPECONNIE: My name is Bob Tippeconnie
9 with the Comanche Nation. I'm a want to be Comanche.

10 You know, this is a purchase of those
11 fractionalized interests. And, as you know, we are
12 constantly going through this future trust acquisition
13 process. And I notice that, if you read 25 C.F.R., one
14 of the determinations, when you do this future trust
15 for an individual, there has to be a decision made by
16 the decision-maker that this person has to be in need
17 of assistance as a condition of putting it back in
18 trust.

19 And I think that's unfair. Because I'm sure
20 that, when it was taken out of trust and say the
21 individual asked for removal, the trust did some
22 supervision, that nobody made the determination then
23 that this person is capable of managing their own
24 affairs.

25 But it is a condition under 25 C.F.R. that

1 must be made before you put it back in trust. And I
2 think that's very unfair to have that requirement,
3 because I know that a lot of times the decision-maker,
4 even though they may want to put it back in trust, they
5 cannot satisfy that definition requirement of "in need
6 of assistance."

7 That's all I have for now.

8 MR. JACOBS: My name is Danny Jacobs. I'm
9 Chairman of the Oklahoma Indian Honors Association and
10 a founder of the Oilman Association of Independent
11 (unintelligible)

12 The reason I'm here today is to address some
13 of our individual Indians. This consultation should
14 include our individual Indians. It's their land that's
15 going to be sold, land or minerals to be sold. That's
16 what this land consolidation is all about.

17 I just wondered how many of our people here
18 have read the Claims Resolution Act of 2010. It seems
19 like a lot of our people may not be familiar with that,
20 since, in essence, this is the Cobell Settlement, which
21 was passed by Congress. So our Indian tribal leaders
22 seem to not know that this is the law that was passed.
23 And it was forced down the individual Indian's throat,
24 as well as the tribes that are here, without any
25 comments or anything from the plaintiffs. The

1 plaintiffs' attorney said they talked to all the class
2 members. But that is not so.

3 I tried to contact the class action plaintiff
4 attorney several times by letter and never received a
5 reply on any of those cases.

6 We went to Washington, D.C., for the so-called
7 fairness hearing. We were allotted ten minutes to have
8 our comments. Ten minutes is not ample time to cover
9 the situation that has been ongoing for over a 100
10 years now.

11 The trust that was established came out of the
12 General Allotment Act and the other allotment acts that
13 followed that. For the Five Tribes, it was 1906, was
14 our date for the allotments to be issued.

15 The lack of information to our members seems
16 to be a major problem. I don't know if you can have a
17 fairness hearing and give a person ten minutes to
18 address issues that's over a hundred years. I don't
19 call that a fairness hearing, because we made our
20 ten-minute presentation, and that very same afternoon,
21 about 6:00 that evening, the Judge gave a decision.

22 He had no time to consider those comments that
23 were presented that day, even documentation that was
24 presented that day. He had no time to absorb all that
25 in that short period of time. But, yet, he gave his

1 decision, and that's the reason this case is being
2 appealed right now, because Congress passed an act and
3 imposed it on the judicial system. And land
4 consolidation was never a part of the Cobell class
5 action until this Settlement Agreement came about. And
6 it created a whole other set of class members.

7 I'm astounded that this can happen in our
8 society today that we don't have true separation of
9 powers with our Federal Government. And that's part of
10 the reason that this case is being appealed, because
11 not all class members' situations were the same.

12 You know, there's a recent decision on the
13 Wal-Mart decision where Wal-Mart won a class action
14 lawsuit because of that very fact, that the class
15 members' situations were not so similarly situated.
16 And I feel like this should be the same way.

17 But we're fighting an uphill battle, because
18 Congress has already mandated this Settlement
19 Agreement, and President Obama has signed off on it.

20 So the Courts are going to just rubber stamp
21 this regardless of what we do.

22 And we're going to live with it, the Indian
23 people. The Indian people have always been the losers
24 anytime there's a settlement agreement that's been
25 made. We always lose.

1 The 1.9 billion that is set aside that we were
2 talking about the land consolidation, the 1.6 billion
3 there, this should have been money that went to the
4 individual Indians.

5 There's still strings attached to this 1.9
6 billion dollars. The Government has control over those
7 strings. When you put a limit on how long you have to
8 resolve the issue, ten years, but it takes 10 years to
9 get off high center for the Government to do anything.

10 So a lot of this money may go back to the U.S.
11 Treasury. And who ends up being the loser? But the
12 only way you can participate in this land consolidation
13 for an individual, like myself, is to sell your land or
14 minerals. So you're giving up something in return for
15 a settlement agreement back.

16 I plan on writing up written comments to
17 submit, but I just wanted to address that concern
18 today.

19 Thank you.

20 MR. BLACK: Thank you.

21 Is there anybody else?

22 MS. DeROSIER: My name is Brenda DeRosier.
23 I'm from the Kickapoo Tribe of Oklahoma.

24 Some tribal members believe that this land
25 consolidation -- they believe they can sell their land

1 and still live on it. Is that true? Or is that a
2 misconception? Especially, if the land goes back to
3 the Tribe.

4 MR. BLACK: I guess I don't have a firm answer
5 for you on that, other than it'd be kind on a case-by-
6 case basis. It would take working with the tribe on
7 that to do so. You're probably talking about a home
8 site lease or some other arrangement at that point,
9 because the ownership of the land would be reverted
10 over to the Tribe at that point.

11 MS. DeROSIER: On that, the ownership of the
12 land being reverted back to the tribe, I thought the
13 reason allotments were made was to assimilate the
14 Tribes. And here you are trying to put it back in. Is
15 it because that action was such a failure?

16 MR. BLACK: The fractionation that happened
17 was a direct result of the Allotment Act, and then the
18 probate and further addition fractionation of the land
19 through continuous probate, it's at a point where a lot
20 of these lands, we may have a 40-acre parcel of land
21 with over a thousand owners on it. No one person
22 really has ownership of that land. Everybody owns a
23 small piece.

24 So through this process, you know, and being
25 able to buy up fractionated interests and get it into a

1 position where the Tribe actually has majority interest
2 in a piece of land, hopefully, or a hundred percent
3 interest, they're able to actually use that land. And
4 that land can be used for economic development or home
5 site leases or other purpose.

6 But as it stands right now, so much of what
7 we're talking about when we say "highly fractionated,"
8 it's just that. No one person really has any ownership
9 or control of that land.

10 MS. DeROSIER: I'm a one-eighth Sac and Fox.
11 And I have an interest, 1/6 interest in 160 acres. And
12 there were probably 10 to 12 people. And nothing can
13 be done with that. To me, that's not highly rational.
14 But we can't do anything with the land except lease it
15 and then get a portion of the lease.

16 MR. BLACK: There, again, it takes a majority
17 consent or, depending on where you are and what the
18 threshold is for consent in order to be able to do
19 certain things with that land.

20 MS. DeROSIER: Well, it was leased, and I was
21 never -- no one ever came to me asking whether or not I
22 agreed to that lease.

23 MR. BLACK: It may be a case of they had a
24 majority interest or majority consent from the other
25 owners. So, at that point, they had enough consents to

1 be able to go forward with the lease. I don't know the
2 exact circumstances of that lease.

3 MR. TIPPECONNIE: Bob Tippeconnie, Comanche
4 Nation.

5 I still have a question on the administrative
6 there. You know, if the Nation, the Indian Nation
7 takes it on, as I stated we would like to do, which we
8 are attempting to do as a nation, the administrative
9 costs, we need that. So that administrative cost needs
10 to be part of the actions that we're going to undertake
11 at the Nations.

12 Now, I just have a question: Is the
13 administrative costs going to be in the hands of the
14 DOI and case by case, or if we bring forward all these
15 tracts that we would like to acquire and you advise,
16 well, here's this amount of administrative for that?

17 So what I'm saying, I'm not going to ask a
18 question. I just want to say that we're doing it, we
19 want the appropriate administrative costs.

20 MR. BLACK: Is there anyone else in the
21 audience that has any comments or anyone at the table,
22 for that matter?

23 MR. CASIAS: Yes. I'd like to say a little
24 bit about serving.

25 I'm Bob Casias, Chief of BLM for this region

1 and for New Mexico, Texas, and Kansas, as well.

2 I guess, Mr. Black, I would just like to say
3 that the administrative trust model was, I think, very
4 successful in the way of addressing boundaries for
5 Indian Country. And the BLM is the only Federal Agency
6 that's authorized to do, on Federal lands, to identify
7 them, has played a pretty major role in that reform.
8 And I think it's been pretty successful. We have also
9 BLM Indian land surveyors in each of the BIA Regional
10 Offices. And I think that has been successful.

11 And as someone here at the table said earlier,
12 before you get an appraisal done, you actually have to
13 have a survey, as well. And if the survey is going to
14 be expected to be a land survey, then I would hope that
15 the Department would give some consideration to what
16 BLM's capacities and abilities are in this regard.
17 Because with the shortfall last year in the program,
18 offices, like mine, had to decrease in personnel.

19 And so there may not be enough of us around to
20 do this work for the department. But I would hope
21 that, you know, consideration is given for not only the
22 appraisals, but also for the work that's going to have
23 to happen on the survey site when it comes to BLM.

24 MS. SMITH: Thanks.

25 If I could just also remind you, the goal here

1 is to hear as much from the public and the stakeholders
2 as possible. I'm going to ask for department employees
3 to -- there's other mechanisms for input. So we're
4 going to try to be in a listening mode here today.

5 Are there any other comments, questions,
6 input?

7 MR. TIPPECONNIE: Tippeconnie again, Comanche
8 Nation.

9 I have one question on this one. I can see
10 the Nation identifying with what you're attempting to
11 do, get all this under our areas of influence and
12 jurisdiction.

13 But is there something forthcoming as further
14 advisory to the individual landowners?

15 MR. BLACK: In regards to?

16 MR. TIPPECONNIE: In regards to this action.

17 MS. GILLETTE: The land consolidation?

18 MR. TIPPECONNIE: Yes. We will do that, of
19 course. But it seems to me that these questions on the
20 whole of the Cobell matter that, at some point, there
21 needs to be some conveyance, some assurance that this
22 is, you know, proceeding. And it seems to me it has to
23 come from the level, you know --

24 MR. BLACK: And James can, possibly,
25 elaborate. But as it stands right now, we still have

1 the no contact orders with the class plaintiffs. And
2 we're very, very limited in our scope in what we're
3 able to communicate.

4 Unfortunately, there is a lot of information
5 that needs to get out that we just can't really share
6 or discuss at this point.

7 MR. FERGUSON: Mike summed it up exactly.
8 Again, we had to get permission for Mike and Jodi to
9 come out and have this conversation. And so the points
10 you made are very, very valid and it will be very, very
11 helpful.

12 But until the Court grants that permission, we
13 cannot do that.

14 MS. NIGHTWALKER: My name is Jane Nightwalker.
15 I'm with the Cheyenne Arapaho Tribes.

16 Sir, you keep talking about administrative
17 costs. I thought administrative costs were going to be
18 coming out of the 1.9 million. Are we wrong, or is
19 that going to be achieved by when we buy these lands
20 back from (inaudible).

21 Also, another question I have, when I first
22 read the Cobell suit, I was under the understanding
23 that Cobell was going to provide the scholarship money
24 as part of the settlement. I did not, in any way, know
25 that we, as Tribes, were going to have to create our

1 own scholarship funds through this program of acquiring
2 these lands back.

3 That kind of seems like another way of the
4 Government getting out of its responsibility to provide
5 these services through our past treaties.

6 Also, I wanted to ask, we were talking about
7 the minerals. Are we also talking about water rights?
8 Are we also talking about all the rights that these
9 individuals have to these lands? Are these going to
10 be -- is the tribe going to be able to retain all of
11 those?

12 And, also, I had another question -- with that
13 in mind, it kind of sounds -- I don't know. It sounds
14 like really bad faith that we're dealing with, with the
15 possibility of putting a lien on land that they gave us
16 through a settlement to acquire our land back on behalf
17 of Tribes.

18 My dad used to say that's another way of
19 getting in the back door again, you know. And we're
20 all the losers. It seems like we're always the loser.

21 You have to excuse me. I've just been in a
22 government position, a Tribal Government position the
23 last two years. Before this, I was a Comanche member.
24 So this is all new to me.

25 So I'm really looking at it from a prospective

1 of being an individual Indian landowner, too, because
2 we have fractionated lands, because there's so many of
3 us on there. And I'm kind of concerned, just like when
4 are you going to take the individual allottee's land?
5 What if they choose not to, what if my tribe says, no,
6 we don't want to? Then, you know, how are you going to
7 deal with that? Because that might not happen.

8 Some of us don't feel like it's a good deal.
9 It's always, like, I hate to say this, we're always
10 getting left out. We just invited you out to visit and
11 we didn't see us being conquered and divided, you know.
12 We asked you to come and share with us. And we're
13 always getting left out again.

14 But those are just some of the questions I
15 have.

16 Thank you.

17 MR. BLACK: Thank you very much.

18 First off, let me say you're analysis of the
19 lien issue is one of the best ones I think I've heard
20 in the way you described that, framed that. I think
21 that's exactly right. And that's why I say it's not
22 the intent of the Act, the way we see it, either, that
23 we put liens on this property. This is a settlement.

24 And a couple of these real quick. The admin
25 costs, yes, they do come out of the 1.9 billion

1 dollars. It's not anything that the tribes have to
2 come up with to cover the admin costs on this program.

3 The scholarship fund, there, again, that also
4 comes out of the 1.9 billion. It does come out of the
5 settlement. It does not come out of anybody's
6 payments, but it is -- it comes out of that 1.9
7 billion, a percentage equivalent to the payment somehow
8 based on some sliding scales. And different things
9 that are in the settlement will contribute to the
10 scholarship fund.

11 So I hope that answers those questions.

12 And, oh. The other thing is this is purely
13 voluntary. If someone does not want to sell their
14 fractional interest, they do not have to. This is a
15 willing seller program.

16 MR. JACOBS: Jay Jacobs again.

17 I'm very appreciative of the BLM gentleman
18 making his comments about the surveys that will have to
19 be done. Because in the past, I've requested surveys,
20 and I know it takes a lengthy time to get a survey. So
21 if they don't have the staff to do these surveys, how
22 are we going to get our appraisals on these small
23 tracts of land that are going to be sold? If you have
24 a thousand requests to sell property in one region, or
25 more, then how -- is the staff going to be able to

1 cover these? And then is that going to be part of the
2 administrative costs that we're talking about, as well,
3 goes to them?

4 MR. BLACK: Basically, anything associated
5 with the implementation of the Indian Land
6 Consolidation Program, including appraisals, surveys,
7 those aspects of it, will come out of the
8 administrative costs.

9 MR. TIPPECONNIE: Bob Tippeconnie, Comanche
10 Nation.

11 Going back to that point made there, the
12 administrative costs. So if a nation decided that they
13 would, with certified appraisers, certified surveyors,
14 do the whole package, they could do it that way.
15 That's what I would suggest. I think that's a very
16 strong option to some Indian Nations to contract that
17 if they don't have the capability in-house. But I
18 think it makes it easier for the matter to be
19 expedited.

20 MS. GILLETTE: Also, I just wanted to address
21 the issue that my husband brought up couple of times
22 with the surveys. We do have regular communications
23 with BLM, Marshal Burke and Bob Abbey. And we know
24 that there's concern there from the BLM on the side.
25 But there's an appropriate time and place to discuss

1 that, and this is for the public and tribal leaders to
2 have this discussion.

3 MS. NIGHTWALKER: Jane Nightwalker again.

4 I have -- on your gold screen, Strategy 9, it
5 says tribal consolidation (inaudible) identified and
6 target those facts that would be considered as having
7 economic development potential for the tribes.

8 You know, tribal people, we necessarily don't
9 always look at economic development. We've always held
10 that only land is one of the greatest things you can
11 own. It's the only think that no one can ever take
12 away from you, until now.

13 But because of that, as a tribe, will we be
14 able to determine, through sovereignty, the best route
15 that we see if it's not economic development? If it's
16 just land acquired just to have a bigger land base for
17 the future, is that something that we will have a say
18 on as a tribe?

19 MS. GILLETTE: I think, for the land
20 consolidation piece, the first and foremost the Indian
21 Land Consolidation Act requires the Department to
22 consult with the tribes on is the prioritization of the
23 tracts, you know, even without the Cobell Settlement.
24 So that's one of that places we are by law required.
25 Mr. Tippeconnie and myself work on different parts of

1 the consolidation. There's only some pieces that are
2 required by law that we have to consult on.

3 And it is absolutely the prioritization of
4 which tracts should be consolidated. And then how that
5 gets translated into the bigger plan, you know. I see
6 that part myself as being woven throughout all of the
7 different things that we're doing. So it's not going
8 to be a "yes" or "no" question of whether or not tribes
9 are going to be consulted on that piece.

10 And the other thing is that I know that we did
11 a lot of shortening of our language to make the goals
12 really simplistic and very straightforward. But I know
13 that, when we -- and we've always discussed this goal
14 of ordered prioritization by tribes. It doesn't
15 necessarily just mean only economic development,
16 because it says up there "economic development."

17 What you're saying about the inherent value of
18 the land because of, like Mike said, historic or
19 cultural reasons, those are things that the tribes can
20 put forward. They can put forward. Like some tribes
21 talk about camp areas. Some people talk about ancient
22 dwellings or some sacred part that is some sacred lands
23 they value very highly and would prioritize at the top
24 of the list to keep consolidated or to consolidate and
25 put into tribal control.

1 So those are all things that, you know, by you
2 bringing them up, it is a really good reminder that we,
3 you know, in our haste to make things really concise,
4 we do need to put back those principles that originally
5 we started out with. And we need to be explicit about
6 that.

7 MR. HORSE: Ricky Horse with the Kiowa Tribe.
8 We've been talking about this land
9 consolidation. But, also, there was some talk about a
10 lien on these lands. What kind of guarantee is there
11 that there won't be any liens put on this. You say so,
12 it won't.

13 But, as we know, the Government can do
14 whatever they want to do. And that's to take away our
15 lands. And that's all we've got. You know, I think
16 that's why these lands are so fractionated, is because
17 that's all we have. Like this man said, here, that
18 ties us back to our families, from generation to
19 generation.

20 I talked with Mr. Tippeconnie. We lost some
21 lands that's valuable over there, sold them for
22 nothing. How do we get them back?

23 And are we going to lose our lands because of
24 a lien that was put on? And how are they going to do
25 that when this is trust property? You go through a

1 bank and try to get a home, buy a car and you mention
2 land, is it trust property? Well, they're going to
3 back up and say, well, I'm sorry, we can't help you.
4 And, yet, we're talking about liens put on our lands.

5 Is there a guarantee that that won't happen
6 after all this is said and done, because a lot of our
7 Tribes ain't got the money to pay back that loan. Our
8 Tribe has got a million dollars. How are we going to
9 pay that debt? Do we lose our lands?

10 MR. BLACK: That message, like I said before,
11 has come across loud and clear from all of the tribes.
12 And, as I stated, it's not the intent of the Act or our
13 intent to be placing liens.

14 And as far as the payback, you know, we have
15 current processes in the Indian Land Consolidation.
16 And the payback is purely based from the property. And
17 that's one of the issues with the current Indian Land
18 Consolidation Program is that some of the parcels,
19 quite honestly, don't generate any income. So those
20 liens, basically, are just going to sit there for -- it
21 could be 100 years. And it's still tribe land. We're
22 not going to take it back because it's got a lien on
23 it.

24 So that's another issue for, really, maybe
25 another argument for not having a lien put on some of

1 these properties. If it's a religious or a cultural
2 property, that's of great value to the tribe, yet it
3 probably doesn't generate any income. So what's the
4 point of having a lien on it? It's not going to pay
5 itself off.

6 MR. HORSE: I think there has to be some kind
7 of guarantee. I mean, we can say this. We can say it
8 now, but what's to say tomorrow, when it goes back to
9 somebody else? You know, I believe this: Not
10 everything is free. You have to earn it some way or
11 another, whether you work for it, or whatever. But
12 nothing is free.

13 So I'd still like to go back to this: What
14 kind of guarantee is it that's going to say that this
15 land is not going to be held up, that there's going to
16 be a lien put on it? Because if that's so, then I
17 don't want no part of it because we might lose it.

18 MR. BLACK: I wish I was, but I'm not in a
19 position to give you that guarantee today. I can
20 promise you we do have our Solicitor's Office and the
21 people that really need to be involved in this looking
22 at what our options are. And as soon as those options
23 are developed, we'll be bringing those out (inaudible)
24 consultation as a part of the implementation plan of
25 the Indian Land Consolidation Program.

1 MR. HORSE: Will that type of information go
2 out to all our tribes on what's going to take place?
3 And that's not something that's going to happen
4 tomorrow, and then they expect it the next day?

5 MR. BLACK: This will all go out, it will all
6 be generated as part of the implementation plan.

7 MS. GILLETTE: And I think that -- but you do
8 make a really important point that we want to have your
9 continued involvement and feedback. This is the first
10 stage. We want to give you a plan, and then we'd like
11 to have your feedback on that plan.

12 And knowing that we're up against a ten-year
13 time frame, somebody said it takes a long time for the
14 Government to move. Well, it does. And that's why we
15 are trying our best to move quickly.

16 But we are also respectfully requesting that
17 the tribes also move quickly with us so that it's not
18 eating into the ten-year time frame when the judge
19 issues that as final.

20 I'm hopeful that he will resolve the appeals
21 in a short period of time.

22 And so we're on a time frame where we think
23 this is going to happen next year, you know, like,
24 early in the year. So we need to have a really good
25 communication with you all so that, when we do put this

1 plan out there, you can look for the issue about the
2 liens, and you can comment on it as soon as you see it
3 and, you know, give us feedback as quickly and as fast
4 as possible so that we can make modifications before we
5 go into the implementation, the actual implementation
6 phase.

7 MR. PASEKO (ph): A.J. Paseko.

8 I have one more comment. Mr. Black said it
9 would be strictly on a one-to-one basis on who wanted
10 to sell their land on a voluntary basis. And now I
11 hear you talk about economic development and all that.

12 So this individual wants to sell their land.
13 So the Government is going to buy something like what's
14 the old saying, "I buy an opinion of both." You don't
15 know what you're buying until the appraisal is done and
16 all that.

17 If someone wants to sell their lands to the
18 tribes that want it, are they still going to be able to
19 sell their land in this part of it?

20 MR. BLACK: I think that's something probably
21 that still has to be decided through consultation with
22 the tribes and the priorities. The tribes may still
23 look at that as options and alternatives for individual
24 members to be able to sell that if that's what their
25 desire is. But, there again, we have a lot of those

1 kinds of questions that still have to be answered,
2 including the consultation and implementation process.

3 MR. PASEKO: So, in essence, just because you
4 want to sell your land, you may not be able to sell it?

5 MR. BLACK: It's possible. I can't say that
6 that's the case. Until we get further into the
7 program, I can't really answer that one.

8 MS. GILLETTE: Right. And I think that it's
9 fair to say that there's a limit on how much funding we
10 have. So are we able to buy all the fractionated
11 interest in the United States of 1.6 billion dollars?
12 Probably not.

13 So is there a chance that we are going to be
14 able to buy some land and we're going to have to not be
15 able to buy some land? It could possibly be the case.

16 MR. PASAKO: Well, our Indian people aren't
17 dumb. They're not going to sell that land if it's
18 available.

19 MS. GILLETTE: Right. And they don't have to.
20 There has to be a willing seller.

21 And that's something that we know. We know
22 that we have a -- I always say that these are our
23 constraints that we're working under. We have a finite
24 set of money. We have a finite set of landholders. We
25 have a finite set of willing sellers. We don't know

1 what that is. We've never done anything like this, so
2 we don't know who would be willing to sell and who
3 wouldn't be willing to sell.

4 So it's very difficult to say that we would be
5 able to take all of the willing sellers and be able to
6 buy land. But it's also very difficult, say -- with
7 those kinds of variables that we don't really know yet,
8 it's hard to say, you know, how all of that will play
9 out.

10 And that's why we're coming to you guys to try
11 to get the best strategies that will make the most
12 sense for tribes and for the communities. Because at
13 the end of day, the individual landowners are part of
14 the community.

15 And I think this came up in the last
16 consultation that the -- I think it was in Phoenix.
17 One of the tribal leaders had stated, you know, I go
18 back to my voters. That's who I answer to. So I need
19 more information to better inform the individual
20 landowners. If we can't communicate with them directly
21 as the Federal Government, the tribes certainly can.

22 MS. SMITH: Any other comments?

23 Yes, sir.

24 MR. MAYNAHONAH: You mentioned at the end of
25 the day, there's going to be a lot of disappointment

1 among a lot of individual landowners who will not be
2 able to sell their land when you reach that capital of
3 1.4 million dollars.

4 So now this purported board is going to work
5 around that. I know it's not up to you people. It's
6 going to be up to the board, right?

7 MS. GILLETTE: No.

8 MR. MAYNAHONAH: It's going to be up to the
9 Government?

10 MS. GILLETTE: We're the Government. We
11 represent the Government.

12 MR. MAYNAHONAH: Well, they're the ones that
13 got the money.

14 MR. BLACK: I'm not 100 sure how to answer
15 that. What we're talking about is the 1.4 billion for
16 fractionation. And I think Jodi probably said it best,
17 is we really don't know what our universe is out there
18 of willing sellers. I mean, there, again, on the same
19 hand, there's a lot of people out there that would
20 probably like to sell their fractionated interests.
21 And I think we can all have personal stories of people
22 that have some very small interests, but they're not
23 about to sell, because it is their one tie back to that
24 land. And they're not about to let go of it.

25 I mean, I, personally, have some family

1 members that are in that position. And they're not
2 going to sell.

3 So it's really hard to judge just what our
4 environment is.

5 1.4 billion is a lot of money. If we were to
6 go out and buy every fractionated interest out there,
7 that's not going to be enough. And every day, lands
8 still get fractionated through probate (inaudible).

9 This is, hopefully, a step in the right
10 direction. But it's not going to eliminate fractions.

11 Ma'am?

12 MS. DeROSIER: My name is Brenda DeRosier. I
13 am the sole owner of 40 acres of Kickapoo land. And I
14 do have a Will. Okay, will my heirs inherit my land as
15 I have proposed in my Will, or will that go through
16 probate as if I didn't have a Will and return it to the
17 trust?

18 MR. FERGUSON: Unfortunately, ma'am, we cannot
19 answer that question. We really have constraints put
20 on us by the communication ban that says they we are
21 only allowed to speak about fractionation and land
22 consolidation related to the Cobell settlement. So,
23 unfortunately, I have to ask him not to answer that.

24 MS. DeROSIER: Okay. Well, it wasn't until I
25 looked at this fractionation when all this was brought

1 up that I started to realize what could happen with a
2 sole owner's property once they're deceased, whether
3 they have a Will or not.

4 And then the other thing is as Kickapoo,
5 currently, the BIA handles our realty. And my tribe is
6 looking at taking over that realty. Currently, within
7 the tribe, they don't have the capability to do that.
8 Handling land is very complex. And there is no way
9 they can do that.

10 And I don't know if this is the proper forum
11 to make that statement or not.

12 MR. BLACK: Honestly, it probably isn't. But
13 we do have the Regional Director here from the Southern
14 Plains. If you'd like to raise that issue with him
15 after we get done today, I'm sure he'll be able to
16 visit with you a little bit about the process of that.

17 And you're talking about the 638 in the
18 program, self-government.

19 MS. SMITH: Anyone else?

20 MS. GILLETTE: I just want to say this is
21 really, by far, one of the most engaging consultations
22 that we've had, and, you know, just the questions and
23 the thoughtfulness and the comments that have been put
24 forward today have been really helpful for me in trying
25 to think through what our next steps should be. Some

1 new ideas, we've heard today, and new things that I
2 haven't thought about before has just been really been
3 great.

4 I know that we have other people in the
5 audience. We want to give everyone a full opportunity
6 to talk if they'd like to. And if they feel like it's
7 appropriate, we can keep going as long as you all want.

8 We're here, it's says, until 4:00. And, you
9 know, we do request that we stay on tract with what the
10 topic of the classification is.

11 MS. DEERE: I just have some more comments.

12 Kathy Deere with the Absentee Shawnee Tribe.
13 I'm the Treasurer there.

14 Listening to all of this, different ones
15 speaking, if all of these consultations that you've
16 had, and you've had, what, six, five, so far?

17 MS. GILLETTE: This is the sixth.

18 MS. DEERE: This is the sixth.

19 After all of these, have you gotten an idea?
20 Is that where this goals and stuff has come about, is
21 by listening to these prior consultations?

22 MS. GILLETTE: No.

23 MR. BLACK: These were some things that we
24 developed during internal discussions to, hopefully,
25 invoke some of the comments and some of the issues, you

1 know, to at least bring some things out that gave the
2 tribes opportunities to think about and provide
3 comments back.

4 MS. DEERE: In my situation, our tribe's
5 situation, we're real close to the Potawatomie Tribe.
6 The Federal Government gave us the same land,
7 basically, you know. And it's -- we've had Court cases
8 against each other on this type of thing. And it's
9 just real burdensome, you know, to know that the
10 Federal Government can do this to tribes, you know,
11 give the same lands, just about, you know. In order to
12 get any lands in trust, we have to go and ask another
13 Tribe, you know. Anyway.

14 But a lot of our lands that we have in our
15 Tribe, these are sacred lands to us. We do perform our
16 traditional dances. We bury a lot of our loved ones on
17 our lands. And so it's a real cultural preservation
18 thing for us.

19 Being a small tribe, we have a little over
20 3,400 tribal members now. We lowered our bloodlines.
21 But, you know, being a small tribe, we want to
22 economically grow. But it's kind of difficult at times
23 when we can't get the land that we need, because it's
24 so fractionated.

25 And a lot of it is fee land, you know, and

1 it's really difficult for us to -- we want to be able
2 to survive on our own because we're self-governed,
3 we're self-determined, you know. We want to be self-
4 sufficient, eventually. We don't want to depend on the
5 Federal Government for everything, you know. We want
6 to be able to take care of our own tribal members.

7 And this is what my goal is from my tribal
8 members, is to try to bring in economic development.
9 But then, again, be sure and keep our culture alive,
10 too.

11 Our Governor, he's real dedicated in the
12 cultural preservation part. He's one of our affluent
13 speakers. He teaches our language to the other Shawnee
14 Tribes and to our absentee members, too. So I know
15 he's really concerned about, you know, this
16 fractionated land, you know. Like some people may not
17 want to sell, but some people want to because they just
18 have, like, a 1/16th of a piece of land, you know.
19 It's really not worth anything.

20 But I'm sure the money that will come down to
21 all these tribes is not going to be enough. You've
22 already said it's not going to be enough for all of us
23 to be able to get, to pay everybody who wants to sell,
24 you know.

25 I was reading some of the transcripts, and I'm

1 one of those people that gets like six cents from that,
2 for my IM account, you know. And, I guess, if there's
3 other people on that same tract, they're getting the
4 same amount as me, you know. So maybe we can just sell
5 it back to the tribe. And that way, the tribe can take
6 care of it.

7 But then, again, it comes back to the cultural
8 thing, because most of the land that I'm part owner of
9 is culturally preserved. We do our traditional dances
10 there. We hunt there. A lot of our burial, our elders
11 are buried there.

12 And I just want to make sure that the Federal
13 Government understands that it's really up to the
14 tribes, especially, if we're self-governed and self-
15 determined, you know, that we have the most say about
16 what happens to our lands, you know, what's going to be
17 done with it, you know. We want to make sure that we
18 have our voices in that and not be left out because,
19 you know, just like one person said, you know, we
20 didn't intend for all these foreigners to come over
21 here and stay. You know, we were just being friendly,
22 helpful. We didn't want them to die because we're that
23 type of people.

24 And it's just so hard to, you know, say, okay,
25 we'll sell this land. It really needs to come to our

1 tribal members that deserve it, you know. Because a
2 lot of our tribal members have passed on, and it's all
3 trickled down to me.

4 I remember one time my elders said, that
5 BIA -- this is a pun for BIA. They're just called Boss
6 Indians Around, you know. And it just seems it's
7 always been that way.

8 It's just like we don't have the opportunity
9 to take care of our own business. And, you know, the
10 reason why my tribe is self-governed is because we want
11 to try to take care of ourselves. We want to take care
12 of our tribal members and our future children and our
13 grandchildren. And that's why I really believe that a
14 lot of this land consolidation needs to come back to
15 these tribes that are self-governing.

16 And it's something that, you know, only we
17 know what is good for our tribal people, because they
18 let us know, you know. We're the elected officials.
19 They tell us what's wrong, you know, what they want.
20 And, in order to explain, like someone said, explain to
21 our tribal members, we've got to put it in easy terms,
22 draw pictures, you know, that they will understand.

23 And I just want to be able to go back to my
24 tribal members and tell them, okay, this is what is
25 going to come about. But, hopefully, I would like to

1 tell them that, since we're self-governed, that we can
2 decide what to do with our land ourselves, you know.

3 You can provide us the guidelines, give us
4 your thoughts and bring it to us, but, you know, let us
5 take care of what we know, because the Federal
6 Government doesn't know every situation that happens
7 within our tribe and our tribal members and the land
8 situations.

9 So I just wanted to say that comment.

10 Thank you.

11 MR. BLACK: Thank you.

12 MS. GILLETTE: That's really helpful in the
13 context of understanding what lands mean to people and
14 the value, not just the economic or the monetary value
15 of things, but all of the things that are tied to the
16 land as Indian people.

17 And I just want to say that I've had the
18 fortune to work with the head of the boss of the boss,
19 and it just reminds me that, you know, working with
20 Mike and the people that are (inaudible), because I'm
21 new to the Federal Government, it really is -- we hired
22 people, we put people in place to make sure that we are
23 attuned to the fact that tribes really want to be in
24 charge and control of their resources and in control of
25 the decisions for the future. And I can't think of

1 anybody better to work with than Mike in this respect.

2 And it reminded me of a joke that Joe Medicine
3 Crow said at the last Tribal Nations Conference. He
4 said it's no longer bossing the Indians around. It's
5 bring Indians around.

6 MS. SMITH: Anyone else?

7 MR. FIELDS: Jim Fields, Pawnee.

8 I know we're probably nearing the end of this.
9 But I'm just wondering how do you view the next step in
10 this process? Are you talking about trying to design
11 or come up with a schedule? And then you said further
12 consultation with the tribes in hope that -- you know,
13 historically, when the Government consults with the
14 tribes, it was through the Federal Register. That
15 wasn't very accurate or with any appropriate responses.

16 So I'm hoping that it's something more than
17 that, because -- and that's probably why you don't see
18 a lot of tribal leaders here. I've been to meetings --
19 I think I went to one in Nashville of couple of months
20 ago on Indian Health Service. And I think there were
21 three tribes represented out of 273.

22 And I think the reason for that is,
23 historically, you have these meetings. And we come and
24 give you comments, heartfelt comments, statements that
25 we really believe in. And then you go back to

1 Washington and the decision is made, and it's like you
2 never even paid at any attention to us.

3 So a lot of the tribal leaders' position here
4 is that, so what? You're going to do what you want to
5 do anyway.

6 And then the response has always been, you
7 know, it's in the Federal Register.

8 So I know that President Obama, to his credit,
9 when he came on, he redefined the consultation process.
10 In fact, he gave an executive order and ordered all
11 executive departments to consult with Indian Tribes.

12 I know for those around the table here, we
13 were getting invitation to consultations that we hadn't
14 even heard before, the Defense Department, others that
15 have never sought to consult with us. But now they're
16 consulting with us, because of that executive order.

17 So I hope that what comes out of these
18 meetings is something more than just, you know, given
19 this voice support, that it really means something to
20 the leaders. What we say here really means something.

21 And when you, you know, historically, I think
22 the Federal Government has always taken a divide and
23 conquer concept. I heard that initial speaker that
24 said something like this is not, you know -- this is
25 not -- we're not here to argue with each other.

1 Because you know, I've always said this in all
2 my presentations, that, you know, historically, you
3 know, we fought with each other. The Sioux and you and
4 I are traditional enemies. So I'm not going to talk to
5 you no more.

6 But I also understand that there's a need for
7 that, is that, you know -- and I've always said this.
8 I said, you came in, the Government, you know, and
9 Pawnees, as you know, we sided with the soldiers. We
10 were scouts along with the Crows and others that we
11 were aligned to. Because we, at that time, we thought
12 our enemies were the Sioux or the Cheyenne. So we
13 fought to defeat the Sioux and defeat Cheyenne. So
14 we'd just work with them against our enemies.

15 But you know what? Our real enemy was the
16 soldiers and the White people. We conquered
17 ourselves.

18 After the Indian wars were over and these
19 tribes started to begin to be relocated, guess what?
20 We were out in front again in Nebraska.

21 So I think that's one reason we don't give all
22 that tribal skepticism on the part of tribal leaders.
23 And they're just meaning (inaudible).

24 So I know it's still yet to be seen. And so I
25 hope that Jodi and these others when it comes out, that

1 you won't penalize us Pawnees because we were your
2 enemies and we defeated you.

3 But, you know, when Indians can tease each
4 other, as you know, that means they like you. We don't
5 tease people we don't like, like these Comanches over
6 here.

7 When I meet with Bob, I have to talk slow, you
8 know, because he's Comanche. If I talk too fast, let
9 me know. If I need to draw a picture, let me know.
10 But that's teasing each other. We're really united in
11 what we're saying here.

12 I think you heard us all express a common
13 voice and common concerns. And I hope that you take
14 this message back with you when you develop your
15 procedures, or whatever you do to get this thing off
16 the ground, and that you'll keep us in the loop, so to
17 speak.

18 Thank you.

19 MS. GILLETTE: Thank you.

20 And I do want to clarify that I am Lakota, but
21 I married an Arikara so my kids are half Lakota and
22 half Arikara. I did manage to capture one of your
23 greatest basketball players.

24 MR. FIELDS: Well, did you good. I guess you
25 know the Arikara, they speak Pawnee.

1 MS. GILLETTE: Yes, I understand that. That's
2 why I wanted to relate to you that in that way.

3 MR. FIELDS: You raised up about two points.

4 MS. GILLETTE: Because he was captured.

5 Anything else? Are there any closing comments
6 that tribal leaders want to make before we wrap up?

7 MR. TIPPECONNIE: Bob Tippeconnie, Comanche
8 Nation.

9 I want to say one thing: I hear my brother
10 speaking, you know, that sometimes we don't participate
11 as tribes and tribal leaders because we've had some
12 question whether that's going to be followed through
13 for us.

14 But the thing that I've learned in the past
15 few years, you know, it's a grand opportunity for
16 Indian Nations to participate and to speak up and be
17 present. And, you know, Jodi, the last time we were
18 together in D.C., we had an issue, the Comanche Nation
19 did. We had access to the Solicitor. And that was
20 terrific, you know.

21 So I think that times are grand right now.
22 And we need to spread that among our tribal leaders
23 that, you know, it's our time to make a difference,
24 because we're being heard as tribal leaders, as
25 governments.

1 So I want to extend my appreciation to you
2 all, because I know we have this tendency to say that
3 the BIA, whatever. But to me, I throw those out of my
4 mind anymore, because it's in our hands more. And if
5 it doesn't happen, it's because we're not participating
6 and we're not asserting ourselves, because it is a
7 grand opportunity right now.

8 And I just wanted to say that from the
9 Comanche Nation. And I'm sure some of the other tribal
10 leaders may have something to say.

11 Thank you.

12 MS. GILLETTE: Thank you.

13 MS. DEERE: Kathy Deere, Absentee Shawnee.

14 I just want to thank you all for giving us
15 this opportunity to express our thoughts and ideas and
16 comments, because before, you know, we seem like we
17 never had that chance. And now, it's different. We've
18 got the chance now, and I appreciate that very much.

19 And I thank you for what you can tell us. We
20 know there's a lot of things that we want to know, but
21 you can't tell us right now. And I just hope that,
22 once you get your strategy, your goals, whatever you're
23 going to do, that it happens quick, and that, you know,
24 we can start working quick on it, too. Because, you
25 know, this concerns a lot of us, you know.

1 So we want this done, you know, pretty quickly
2 on this appeal thing. So you know, this Notice of
3 Appeal, you said, it has passed. October 4th was the
4 last deadline, right? So they can't appeal no more
5 after that, or can they?

6 MS. GILLETTE: No.

7 MS. DEERE: So they probably -- the judge may
8 hear it. Hopefully, you said, early 2012 we may be
9 able to start working toward this goal?

10 MS. GILLETTE: Yes.

11 MS. DEERE: That would be great.

12 MS. GILLETTE: If we're lucky.

13 MS. DEERE: If we're lucky. I know it always
14 depends on that.

15 Again, I thank all of you for coming, and I
16 appreciate you letting us talk.

17 MR. GOVER: Marshall Gover, Pawnee Nation.

18 You know, I participate in a lot of
19 consultations of different things. Sometimes we do get
20 frustrated because it seems like so many times we're
21 told what the consultation is going to consist of. And
22 it bothers us sometimes because the consultation is
23 supposed to be with the tribal leaders and what the
24 tribes want. And sometimes it doesn't always work out
25 that way.

1 But I do want to thank you for coming.

2 And in my lifetime, I have seen a switch in
3 the BIA from the way it used to be to the way it is now
4 and the ways of the mother-in-law Bureau. We've been
5 dictated to, now being helpful and trying to help us be
6 self-determined when it comes to discussing shares,
7 this is your share and not trying to hold back things
8 and trying to justify helping us.

9 But I do want to go on the record for sure
10 about that education. I do believe that that should be
11 administered by the tribes that comes down to the ones
12 that are fractionated, that should be administered by
13 us. Because a lot of us have tribal colleges, a lot of
14 us may have trade schools.

15 I want to go on the record that that should be
16 for us to decide.

17 Thank you.

18 MS. GILLETTE: Thank you.

19 SPEAKER: (Inaudible), again.

20 I appreciate you coming and letting the public
21 have a voice in this. And our individual Indians had
22 stood along in this Cobell deal with the plaintiffs'
23 attorneys with little support from our tribal leaders
24 in the past. Now the tribal leaders are getting a gift
25 from the Federal Government at the expense of the

1 individual Indians.

2 Thank you.

3 MS. NIGHTWALKER: Jane Nightwalker from the
4 Cheyenne Arapaho Tribes.

5 I know we have a lot of pros and cons. But
6 one of our traditions is to own our own land. And we,
7 the Cheyenne Arapaho Tribe had started out with a
8 program, and we're hoping to acquire our lands.

9 I know that we lost over 50,000 acres of land
10 in the northwest part of Oklahoma. And even though
11 some people may say that I don't know what I'm talking
12 about, I look at this as one way of having control to
13 acquire our lands from those individuals that may
14 someday sell to a nontribal member. And this land will
15 be taken from us.

16 So I'm the kind of person that tries to take
17 the good with the bad and always look on how our
18 people, especially our younger generation, in the end,
19 because when we're gone, they'll still have the land
20 base.

21 And provided through the settlement, it may
22 not be the best, but at least we're going to have the
23 ability to acquire these lands where tribes don't have
24 money to acquire lands.

25 I totally didn't agree with the Cobell case,

1 but it is here. And as my father used to say, you have
2 to make the best of it. And now that we are here to
3 serve our tribal members, I don't agree with a lot of
4 these things.

5 I didn't sign with Cobell, because I didn't
6 agree with it. But, as a tribal leader, we have to
7 look out for the benefit of our people. And that's
8 building our land base, always having that land base so
9 that our children who may not have a home one day we
10 can provide those homes as a tribe because of the land
11 base. Because I see our tribe lose thousands of acres
12 out of trust that's gone out of trust and will never be
13 gotten back.

14 And I may be wrong, but I think this is good
15 and bad. I can stand here and say I don't like this.
16 I stand here and say we can acquire our land back.
17 It's one way we are assured of getting land back from
18 our people on behalf of them so that they can utilize
19 it again, through benefits, through programs that, you
20 know, we may derive from these things.

21 So I'll probably catch it when I get home, but
22 that's just an opinion I wanted to express.

23 Thank you.

24 MS. SMITH: Do we have any other closing from
25 tribal leaders?

1 Do we have any closing from the members?

2 MR. FIELDS: Yes, I too, want to thank you all
3 for coming. And I think that there's another term,
4 "the proof is in the pudding." So we did see that
5 pudding.

6 I know that you all are doing your best. I
7 congratulate you. I know your task is not easy. It's
8 a hard task. We know that we can't satisfy everybody
9 because every tribe has its own priorities. We've
10 probably got 500-and-some-odd priorities that you have
11 to deal with. So it's -- I don't envy the task that
12 you have before you.

13 I would just encourage you all to be fair to
14 all the tribes and to know that -- I really, sincerely,
15 say this, that you're first an American Indian and,
16 second, you're a United State citizen. But put your
17 tribe first, because if you grew up in the White man's
18 world, you know -- my dad was always telling me, he was
19 Pawnee and Chairman of the Tribe, and he was always
20 telling me, I'm not going to teach you Pawnee, because
21 we live in a White man's world. And I think I found
22 that a whole generation down here, our parents didn't
23 teach us, because they saw that he was one of those who
24 (inaudible) -- spoke the English language. So, myself,
25 growing up, that's what he always said to me was to

1 learn to live in the White man's world.

2 So I would just encourage you all to keep this
3 in the forefront when you start formulating your ideas
4 in this program. I know you've got a lot of decisions
5 to make. You have different ways of doing the same
6 thing.

7 And so I think if we just encourage you to
8 look at it through our eyes and do what's best.

9 So, really, without even saying, you know, you
10 should have these tribal comments lead the way. And I
11 know as Federal employees, you're not always, you don't
12 have that privilege sometimes.

13 I heard your Assistant Secretary say, yes,
14 he's Pawnee. But I heard him say at the BCI conference
15 that he went to deposition with a lot of good ideas.
16 But he found out that he can't implement those good
17 ideas because you have congressional mandates,
18 presidential mandates. So his parameter is somewhat
19 restricted in what he can do.

20 And so you all -- and I heard that word
21 "parameters." I don't know which one stated it. But
22 you have those parameters that you have to also work
23 with.

24 And I think it's very difficult to do that.
25 Because maybe sometimes your heart is in another

1 direction. But because you're Federal employees, you
2 have to follow the wishes of the Government.

3 But I do appreciate this effort. I know
4 sometimes I'm real voiceful in criticizing the
5 Government, because, actually, I spent almost 39 years
6 in the Federal Government. And I know where -- there's
7 an old expression, you know where the skeletons are.
8 And I know where the skeletons are.

9 So I told one person here I got tired of
10 sitting out here in the audience (inaudible) because I
11 can't say anything, and I couldn't say anything either.
12 So now I'm in a position where I can express those
13 feelings.

14 I do encourage you all to keep us in the loop
15 as you go through this process.

16 Thank you.

17 MR. BLACK: Let me just say I appreciate
18 everybody taking time out of your schedules to come
19 visit with us and share your thoughts and comments
20 today.

21 We do take this serious, and it's really us
22 that should be thanking you. You came here to visit
23 with us today and you took that risk. I've heard it a
24 number of times today, the trust and past experiences
25 with consultations. You came here, taking that risk

1 that maybe we'll actually listen to you this time. And
2 I can honestly say for myself and Jodi -- I think I can
3 say it for Jodi -- that we are serious about listening
4 and taking these comments and formulating and
5 implementing this plan in accordance within, you know,
6 within the parameters that we have to operate in, but
7 also in consultation with the tribes.

8 So, again, thank you very much. I really
9 appreciate it. It's been a good day for all of us, I
10 hope. And we've had some great comments and things
11 that give us a lot to think about.

12 So thank you very much.

13 MS. GILLETTE: I just want to thank you again
14 for the thoughts and the comments.

15 I think there was a key word that folks kept
16 coming back to time and time again, and, for me, it's a
17 partnership. It's not necessarily that we're, you
18 know, working to tell you what you should do, but
19 really to listen to what you have to say and partner
20 with you in getting things done.

21 Anyway, I want to commend Mr. Tippeconnie for
22 the work that he's done with the Department on the
23 consultation policies and with a tremendous amount from
24 people like him and others that participate in that
25 process, we really tried to incorporate, even though

1 that consultation isn't final, we tried to incorporate
2 as much of that as we can into the places where we are
3 actively working on consultation, like Cobell.

4 And I also just wanted to say that we take
5 seriously the nations, government-to-government
6 responsibility in a way that is beyond what it was
7 before. And the best way that I feel that I can really
8 make that a reality is to make every interaction a
9 meaningful one. And I think that's what keeps coming
10 up time and time again. We don't want to just come
11 here and talk to the government officials, so that you
12 can say that you talked to us. We want to have some
13 meaningful input into the policies and the decision-
14 making that's occurring on our behalves.

15 So, you know, that's something that -- it's
16 something that I'm privy to. I know President Obama is
17 committed to it, Secretary Salazar, you know, everybody
18 that I work with take that very seriously. And I know
19 that it's going to take a while to get the proof that
20 we are here in a good way.

21 So the only thing that you can take away from
22 this is we'll see what happens now. So we hope that
23 the issues about fairness, the issues about however we
24 can address the things that you brought up in terms of
25 better communication with individual landowners, you

1 know, how to maximize tribal control, all of those
2 things are very important to me as I go forward in
3 participating in the implementation of the Land
4 Consolidation Program.

5 I do want to say that, at the end of the day,
6 I think the people that are -- we're all here for our
7 grandchildren and the future. I believe that we, as
8 both a tribal member, but also as somebody who is
9 trying to make a better day for my kids and my
10 grandkids. I don't have any grandkids yet, but I will
11 have grandkids.

12 All we can do is have that positive outlook.
13 I can only have that positive outlook and to think
14 that, if I try my best now, things are going to be
15 better for them. We all have that shared
16 understanding.

17 So that's what I leave you with. If there's
18 somebody that wants to say a closing prayer -- I don't
19 know if Robert, if you'd like to close it up for us,
20 we'd like you to.

21 Would you like to?

22 (Unidentified speaker) Marshall.

23 MS. GILLETTE: Marshall? Okay. I really
24 appreciate that. Thanks.

25 (Closing prayer)

