

**Tribal/Interior Budget Council
Draft Minutes
May 30-31, 2012**

**Four Points Sheraton
Washington, DC**

Invocation**Changes to the Agenda**

Data Management Committee update moved to Wednesday.
Bureau of Indian Education Update removed from agenda.

Roll Call**Opening Remarks**

Del Laverdure said many things have changed in Central Office. Larry Echo Hawk stepped down from the Assistant Secretary for Indian Affairs position. On April 27, he transferred his authority over. Paul Tsosie stepped down as well. Jodi Gillette moved to the White House in the Domestic Policy Council. Michalyn Steele will be stepping down in about two weeks. Jason Thompson is acting Chief of Staff. They've been serving for five weeks. The White House is looking for replacements for senior level Interior folks. People are still learning how the office works. Larry set a really high standard of being at the TIBC meetings the entire time. Del said wants to be here as much as he humanly can be. He asked for patience as the Bureau staffs back up. He highlighted the streamlining effort, the consultation sessions. Staff are working on a summary of those consultations. Tribal leaders want to know that BIA understands the input that was given. A report will be posted.

BIE consultations are starting. The Subcommittee worked with Indian Affairs on FY 2014 budget formulation. You can direct comments to Tommy Thompson.

Report from Tribal Caucus

Jefferson Keel

We received a legislative and budget update from NCAI and covered the Budget Subcommittee work on FY 2014. Jefferson Keel mentioned that the tribal caucus is firm that Indian programs should be exempt from sequestration. In regards to the Budget Subcommittee, any cuts to our programs in budget formulation is against our desire. We are going to talk more about a resolution dealing with the FIMS and BIE. We will wait and present that later after

Tex Hall said we are hearing concerns about across the board cuts in relation to the ranking process. Del said we have gone through a budget formulation process for FY 2014. We work through different scenarios at different levels. ASIA talks to the directors and talks with all the program managers and they make specific recommendations to meet the scenarios called for by the Department budget planning process.

The Assistant Secretary acknowledges that TIBC recommends no cuts. That is a fact. We ask for the scenarios to be matched as closely as possible.

Robert Tippeconnie asked how the subcommittee can oppose the cuts and still work with ASIA on the 5% and 10% cut scenarios. Also, we need to be sure that the Water Settlement money coming out of BIA budget is honored even though it is recommended to be funded out of the judgment fund instead of impacting the BIA's budget.

Tommy Thompson said the issue comes down to making sure there are the resources to fund the settlements for those tribes.

But for sunseting OST, that would have to come from the trust commission. Mike Black has been working with the trust commission. At some point, they will make a series of recommendations. Jefferson said the point is that if there is funding in the budget for a particular year to allow for settlements, if they are added to the budget and next year they're not there, it's not part of the base. If the settlement money is instead funded out of another place, then would that affect the baseline amount? Robert Tippeconnie said that the offsets offered for reductions, like the settlements and OST sunseting, may not be there. Tommy Thompson said it goes back to the legislative language that put it there to start with. He said we take it as recommendations to look for other resources and then if those other resources are not there, their recommendation is to sunset OST, but we can't look at it now, but maybe for FY 2015.

Joel Moffett said the Affiliated Tribes of Northwest Indians (ATNI) met a few weeks ago and this issue was raised in the general assembly. The main concern is that the settlements are upheld. These judgment awards, totaling \$36 million -- our concern is that those commitments, wherever they are mandated, they need to be upheld, whether it is through the judgment fund or BIA. It's a good tactic to follow whether these can free up resources for BIA.

Tex Hall said there's not enough data on this. Using the solicitor is another issue of upholding the trust responsibility. This doesn't tell enough, those water rights aren't settled.

Gary Hayes said one of the things we've been talking about is why is this coming out of BIA? When these settlements come in, is it new money, and isn't the Bureau of Reclamation (BOR) involved in this? Water settlements are not new. His tribe went through BOR, not BIA. We need to continue this momentum. The secretary should be here.

Del Laverdure said, first and foremost, the secretary called him to stay on at Indian Affairs. He doesn't take it lightly. He met with Salazar at least 20 times. The relationship has continued. He remembers the Badlands and Southern Ute. He wants tribes to tell their story of their homelands. Fort Peck got 62 bison. There is a secretarial directive to make sure tribes have access to the bison. We look for other tribes to get bison from Yellowstone. He shares a commitment to minimizing the cuts, the HPPG initiative. Water is a trust resource. We view it as that.

Departmental Budget Update

Pam Haze

Some of this update will sound a lot like the last update because not much has changed. She is Deputy Assistant Secretary for Budget, Finance, and Acquisition. She works with Denise Flanagan in formulating the budget in working with the Secretary.

She addressed FY 2013 in the House and Senate. The House is on their way back from recess. The Senate is on recess. They are working through appropriations action slowly. They don't have a whole

lot of time left on their schedule coming into the August recess. She doesn't think they will complete action on appropriations, specifically on the Interior bill. There has been a great deal of work on the Energy Water bill. Interior has more controversial issues in it. We expect in October 1, we will have a continuing resolution (CR). Likely, that CR will be at the 2012 level with an across the board cut to reach the Budget Control Act. That's the outlook.

After the elections, Congress will take up the larger issues: taxes, the Farm Bill, as well as appropriations. A good possibility is an omnibus, or a full year CR. Nobody knows for sure.

The big issue of contention is the potential sequester that would go into effect. The BCA, the super committee failed to meet its charge. If congress doesn't change this, the sequester will happen. The WH is asking agencies to not do contingency planning. Several legislative vehicles have been proposed. We have yet to see any of those be enacted. There is a lot of fragmentation of that. That is the 2013 outlook. Our interest is to keep things moving ahead as much as possible. We will be working closely preparing for a CR and working with Congress as they deliberate on appropriations.

For FY 2014, there was Office of Management and Budget (OMB) policy guidance. They directed that agencies including Interior plan for 5% below FY 2013, 10%, and a freeze budget. We are working on preparing for decisions on 14. The bureaus will be submitting these soon. We will be working with the secretary. OMB's guidance was pretty heavy impressing management reforms and evaluation. There are likely no low priority programs. There will also be a report on duplicative and overlapping programs identified by the GAO. There's also emphasis on consolidation.

We are trying to work on conference spending and travel.

Are there questions?

Tex Hall: can you forecast transportation and MAP-21? The senate version includes \$1.4 billion for land and water conservation fund and PILT. They have named the conferees. We know that the staffs are meeting and talking. There's a big divergence. She wouldn't speculate. They could pass another short term extension or pass a compromise.

Pam said there is interest in looking at some of the other programs in Interior that provide funding to Indian communities. TIBC informs the office of the secretary on BIA and the OST budget. That process doesn't currently include a broader role. She has talked to other bureaus. Clearly, we want to have a dialogue, but how do we construct that and how would it be constructive so we understand what the expectations are. The kinds of programs she was considering: National Park Service (NPS) for tribal preservation officers, Fish and Wildlife Service (FWS) allocates state and tribal wildlife accounts. The predominant amount is in Indian Affairs and OST. One would be to invite other Interior reps to come and present what those programs are, what they do, their results, how much money, and the process for the funds. We could hear about performance results.

Perhaps, looking at the effectiveness of programs. What are the criteria and what tribes are being reached.

How do these programs leverage Indian affairs programs?

Gary Hayes said the Department of Health and Human Services (HHS) is already doing that. We review the Indian Health Service (IHS) budget but also the Substance Abuse and Mental Health Service Administration (SAMHSA) and Centers for Disease Control (CDC). When you talk about

cutting programs, you're talking about the other programs that affect Indian Country and what are they doing? That type of information would be great for us.

Pam Haze said on cultural preservation, you would want to look at programs in concert. We could share components of those.

Joel Moffett said we need these people in the room. They need to understand the priorities of Indian Country. We receive a significant amount of funding from FWS. Haze said there are fisheries programs. She'd like to work with TIBC and Indian Affairs to see how we could organize that for the next meeting.

Robert Tippeconnie said one point he'd like to make: DOI can identify their relationships with tribes and with the consultation process.

Joel Moffett said another question on sequestration. We had some conversations on this in the tribal caucus. It looks like there is not much planning. It goes back to discretionary programs versus non-discretionary programs. Tribes are consistent in saying that the programs provided to Indian Country are based on treaty agreements, executive orders, solemn agreements – we don't believe those are discretionary. Who gets to make that determination? We feel that these services are carrying out obligations from treaties and trust obligations.

Pam Haze said it is up to Congress which funds are mandatory and which are discretionary. They pass the mandatory funding sources. Cobell was mandatory. Congress authorizes programs and then enacts appropriations. It is ultimately up to Congress. She understands that they meet tremendous needs.

She said on sequestration: the BCA didn't make distinctions about the urgency of the need in Indian Health, it made no distinction – if congress can't find controls on spending, then this will cause this automatic reduction in spending. This is the very disruptive and bad outcome like a sequester and an across the board cut. The President and the comptroller oppose the sequester. They are hopeful that the sequester will be replaced.

Joel Moffett said he's glad we have some OMB folks in attendance. There are exemptions and special rules. But also things that our tribal members rely on: Temporary Assistance for Needy Families (TANF), the Children's Health Insurance Program (CHIP) and others. We looked at those and saw they were affecting our populations and those who needed the most. Many BIA programs do the same thing. The question is to you and OMB and how we can look at the exemption language and incorporating all Indian programs under that exemption in the BCA. Our reservations and tribes are some of the poorest areas, unemployment and education opportunities and due to historical underfunding. Is there a way that we can work to address this?

Haze said some of those exemptions are specified in the law: she didn't believe they could cover our discretionary funds. She's happy to go back and talk to OMB and see the degree to which those exemptions apply.

Craig Crutchfield said most exemptions were codified in the statute and they will be working with Pam Haze's office, but he wouldn't be sure about what is exempt unless there was a change in law.

Robert Tippeconnie said he understands that these are statutory. Treaties are statutory. He doesn't think those are given enough consideration. At some point there needs to be some attention to that.

There are some that have primacy. Pam Haze said the budgetary laws – they are very detailed and arcane and don't speak to the treaties very well.

Del Laverdure: he knows treaties are the supreme law of the land, but there is another doctrine that later laws supersede treaties. Actually in appropriations law was the origin of the end of treaty making. The House was frustrated that they had to fund the treaties and ended the treaty making days. Once you understand all of that, you can see the difficulty. Treaties that have been superseded – that triggered the international movement. If anyone else can sort that out that goes to the supreme law of the land with the regard to the treaties and the Budget Control Act, that would be good.

Data Management Update

Tom John, Chickasaw Nation, Tribal Representative on the Data Management Committee

Three issues related to our work. They don't need feedback today, but will need future guidance: 1) organizational, 2) policy issues, and 3) funding.

1) The organizational issue is in regard to the updated charter of the DMC. The original charter was signed in 2007 and since that time, some of the effort and players involved have changed. A couple of quarters back the TIBC authorized a configuration control board, which will oversee the Tribal Data Exchange (TDE). Part of this revised charter incorporates that body, the control board. The other piece, one of the charges was to make recommendations for a structure within Indian Affairs itself. At that time a proposal was presented for an Office of Program Data Quality. That proposal never went anywhere but is still incorporated as one of the charges, and we would like to know if that is still relevant or should there be something else. We hope to have formal approval of the revised charter document at the next meeting.

2) Policy issues: another charge was to assess data collection and analysis in Indian Affairs and make recommendations on a management policy. That was done and submitted but didn't go anywhere. We are bringing it up now because the TDE raises some issues. There are discrepancies in the way data is collected. It has to do with time frames of when data is collected affecting the validity and accuracy of the data. The reason we wanted the DMS was to improve our data for budget justifications. Some discussion has been to move some timeframes to ensure there is adequate time to validate and enter data. There is a discrepancy between federal fiscal years and calendar fiscal years. We need to incorporate the entire fiscal year of data for tribes when it comes to budget. Some tribes only report three quarters of a fiscal year if they are on the calendar fiscal year. That may not be an issue just for program data on a quarterly basis. However, if we want to relate it back to budget by fiscal year then it may be worthwhile to match up and capture the final quarter worth of data. At some point, this will require a higher level decision to approve this adjustment in reporting time frames.

3) Funding: the TDE and the Data Management Committee needs funding for in person meetings. \$500,000 was allocated to implement the TDE system. The TDE is in a pilot testing phase. Ten tribes are using the system and it is functional. A few years ago, \$220,000 was approved for ongoing operations. We need another \$220,000 to continue operating the system. Second piece of the ask is for the DMC itself for the meetings. We haven't had face to face meetings. The funding will need to be decided at least at the next meeting. It has been funded out of year end funds recently.

Comments

Ron Allen said this is an important project for showing how well we are using our funding. He'd like to make sure we have an updated charter. Mike Black said many programs are reported annually and some are reported quarterly. We could look at that, but people from audit and evaluation may need to speak to this. Brenda Cannon is the acting head of this division. Ron said we need to make sure the system is funded for FY 2013.

Robert asked about what is being collected by Indian Affairs? Mike Black said it is being collected under FBMS. We are collecting on strategic measures and DMS is collecting additional measures. Tom John said the performance measures are the same and the GPRA transfers over to IAPMS. The additional capacity is on the programmatic level. The system has the capacity to develop customizable data elements so tribes can track their own program data and analyze their own programs. That is unique.

There are trainings. The next one is scheduled for July in Sacramento and the in person trainings, those have only been restricted by funding, but there are also web-x trainings.

Robert gets concerned about the budget. If the department is handling it, does that make it duplicative? Tom said this system was focused on the self-governance and contracting tribes. With the advent of self-governance, they're not required to report their data for budget justifications. There was a gap in program data for self-governance tribes. So yes, the system was focused on the tribal side to have a mechanism to report their programmatic data. Ron Allen said that was the biggest gap. We got questions from OMB, what kind of quantification can you show us as a result of our spending in self-governance and 638? This Data Management system was created to address this data gap on self-governance and contracting tribes. When we wrote the law, we tried to eliminate unnecessary reporting but we ended up needing to report on some data to show the effectiveness of our federally funded tribal programs. The positive side of this system is that the tribes own the data and not the government.

Update of Budget Activities

Thomas Thompson

When was the last time a CR was not enacted and all the appropriations bill were passed? FY 1954.

- Background
- Under the U.S. Constitution and federal law, no funds may be drawn from the U.S. Treasury or obligated by federal officials unless appropriated by law.
- History and Recent Trends
 - Continuing resolutions date from at least the late 1870s, and have been a regular part of the annual appropriations process for over 50 years.
- Types of Continuing Resolutions
 - *Interim (or partial) continuing resolutions*
 - *Full-year continuing resolutions*
- Substantive Legislative Provisions
 - Included comprehensive measures that establish major new policies and amend permanent provisions of law
- Funding Gaps
 - Only excepted activities include
 - Those involving the orderly termination of agency functions:

- Emergencies involving the safety of human life or the protection of property;
- Activities authorized by law.

In the first quarter of a fiscal year, we distribute 2,000 lines. We have to start planning for that. The downside of a CR is that there are 50 some program increases. We are shifting from the administrative programs to TPA programs.

Ron Allen: going to the 255 exemption. We contend that the BIA are our trust functions to the tribes. Set aside the trust funds. But these obligations to the tribes, from governmental to natural resources are trust.

Trust Commission Update

Brief background on the trust commission. Chief of Staff to DOI. DFO for the Secretarial Commission on Indian Trust Administration and Reform

President Barack Obama's commitment to American Indians and Alaska Natives includes treating the sovereign tribal nations with respect and dignity, as well as ensuring that the federal government addresses long-neglected problems in Indian Country.

The President and Interior Secretary Ken Salazar firmly believe that consultation with tribal nations must focus on meaningful engagement and results, so that solutions can be found to help build safer, stronger, healthier, and more prosperous tribal communities across the United States.

On December 8, 2009, Secretary Salazar signed Secretarial Order No. 3292 establishing the Secretarial Commission on Indian Trust Administration and Reform. The Commission's Charter, which expands upon the duties of the Commission as outlined in the Secretarial Order, was signed in the Fall of 2011.

The Secretarial Commission on Indian Trust Administration and Reform marks another important step in the Administration's ongoing efforts to reform, restructure, and rebuild the United States' relations with Indian Country. It will play a key role in the Department's ongoing efforts to empower Indian nations and strengthen the government-to-government relationship.

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The Commission members are:

Fawn R. Sharp (Quinault), serves as the Commission Chairperson, currently the president of the Quinault Indian Nation in Washington State as well as the current president of the Affiliated Tribes of Northwest Indians (ATNI).

Dr. Peterson Zah (Navajo), former and first elected president of the Navajo Nation, former chairman of the Navajo Nation Tribal Council, and an established leader in tribal government and education circles.

Stacy Leeds (Cherokee Nation), dean and a Professor of Law at the University of Arkansas School of Law. She also is the former director of the University of Kansas School of Law's Tribal Law and Government Center.

Tex G. Hall (Mandan-Hidatsa-Arikara), currently the chairman of the Three Affiliated Tribes in North Dakota and is a past president of the National Congress of American Indians (NCAI). Bob Anderson (Boise Forte Band/Minnesota Chippewa Tribe), currently a Professor of Law and director of the Native American Law Center at the University of Washington who also holds a long-term appointment as the Oneida Nation (New York) Visiting Professor of Law at Harvard Law School.

Recommend options to the Secretary:

- To improve the DOI management and administration of the trust administration systems based on the information obtained from the above activities. Recommendations should include whether any legislative or regulatory changes are necessary to permanently implement such improvements. (*paragraph 4E links to 4A-C*)
- On the need for and scope of audits on the effectiveness of all management reforms implemented as a result of Secretarial Order 3292. The Department shall consider these recommendations in performing an audit of the effectiveness of such reforms. (*paragraph 4F links to 4D*)

The Commission duties as outlined in its charter are to:

- Conduct a comprehensive evaluation of DOI's management and administration of the trust administration system including a review of the report of a management consultant hired in accordance with Secretarial Order 3292 (*paragraph 4A*)
- Review the DOI provision of services to trust beneficiaries (*paragraph 4B*)
- Review input from the public, interested parties and trust beneficiaries, which should involve conducting a number of regional listening sessions (*paragraph 4C*)

The Commission duties as outlined in its charter are to:

- Consider the nature and scope of necessary audits of the Department's trust administration systems (*paragraph 4D*)
- Consider the provisions of the American Indian Trust Fund Management Reform Act of 1994 providing for the termination of the Office of Special Trustee for American Indians (*paragraph 4G*)

Recommend options to the Secretary:

- Consider the provisions of the American Indian Trust Fund Management Reform Act of 1994 providing for the termination of the Office of Special Trustee for American Indians, and making recommendations to the Secretary regarding any such termination (*paragraph 4G*)

The Commission has formed four subcommittees:

A **Trust Relationship Subcommittee**, led by Chair Sharp and Commissioner Anderson, to explore the definitions and foundation of the trust relationship and how it can be integrated as part of the Commission's work.

A **Research Subcommittee**, led by Commissioners Anderson and Leeds, to review reports and various documents that relate to the Commission's work.

A **Trust Models Subcommittee**, led by Commissioners Zah and Leeds, to explore other trust models used by federal, tribal and other governments and the private sector.

An **Audit Subcommittee**, led by Commissioners Anderson and Leeds, to address the nature and scope of necessary audits.

The commissioners have reaffirmed that the trust relationship itself is an important aspect of their work, and recognize that it goes beyond, and is deeper than, the systems used to manage and administer federal Indian trust assets.

The Commission's 2012 meeting schedule is:

March 1-2, Washington, D.C.

May 16, Public Webinar Meeting
June 11-12, Albuquerque, N.M.
September 13-14, Bismarck, N.D.
December 6-7, Seattle, WA

For more information:

<http://www.doi.gov/cobell/commission/index.cfm>

To Send Information:

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Rodney Bordeaux: need for staff at the local agency level. There's not enough to go around. We have several hundred acres. The acres are lying idle. The states are given a lot of latitude.

Kitcke Carol: he said this was focused on trust assets, but more now about system trust reform. That's a good thing, but in a recent report, Salazar gave guidance to the commission to produce something by the end of the Administration. It's almost unrealistic. There's \$100,000 that was spent to do this. It's important that tribes and regional orgs involve themselves in this process. Tribes across the country have different ideas what trust reform means. While he's thrilled about this effort, he's worried about the timeline.

What the Secretary wants is true reform. The deadline was to dig down and begin the work.

Streamlining Consultation Update

Jason Thompson, Acting Chief of Staff

Mike Black provided the update.

They just completed the seven consultations. BIA is grouping the tribal comments. Nobody wants budgets to be cut or staff to be cut. We don't know if the President's budget will be enacted, but this gives us an opportunity to look at streamlining.

Joel Moffett said there is a lot of panic in a lot of reservations about agencies cutting back. The selling point is streamlining, but the bottom line is it is a reduction of services. We need more information as soon as possible. We've had an excellent relationship with Portland and our local agency, and we can improve the services – but this is just a severe reduction. What is the timetable?

Mike Black doesn't have a concrete timeline yet. He said there will be a lot of angst. We did put agencies on the board. 10 or less staffing. The input in the NW is that they didn't want to lose their agencies. Some of those agencies still serve a key function that can't be moved somewhere else. Nobody is on the chopping block. Other regions said it is an option to consolidate agencies. Ideas are out there, but we need to communicate that nothing is set yet.

Jason Thompson said the comment period is open until the 1st.

Kitcke Carroll said we talk about the structure of BIA and streamlining. We are talking about how BIA doesn't get the appropriate level of funding and we are trying to streamline. If we reduce the funding level overall for BIA through efficiency, the savings will not go to programs.

We are looking for efficiencies – how do we get the biggest bang for the little dollar that we do get.

Scott Russell asked about the Indian Land Consolidation Program. There's not much money in there. All these people need to consolidate their land. What can he tell his people back home?

Great Plains Tribal Chairman's Association shared documents on this effort. The bottom line is we need more staffing at the local level.

Tribal Caucus

May 31, 2012

Rodney Bordeaux reviewed the resolution on FIMS. He is working with NCAI to get all the data together.

Mike Black said at one point, everyone had access to the FIMS.

Review of the Bronner Report

Mike Black

The purpose is to raise the level of input and accountability.

Finding: The Indian Affairs Budget Formulation Process is Reactive

These are the draft comments from Bronner to the Assistant Secretary. Mike Black reviewed the section on budget formulation.

One recommendation is for BIA to have specific budget execution officers for program areas, similar to OMB examiners. They would have a better understanding by budget staff about programs.

Another recommendation is to move budget out of the OCIO to DASM and performance management under budget. The "budget smackdown" would be eliminated.

Robert Tippeconnie said he appreciates this work because tribal leaders have been frustrated. When you put these three divisions, how does this link with the tribal leaders here? It will be that the budget officer will be able to work with TIBC. The budget formulation, execution, and performance management will interface with TIBC.

Robert said TIBC should speak to this. The Bronner report said the career employees had a lot of offer when it comes to streamlining. How many times have they gone through this? They have a lot to offer.

Rodney Bordeaux said the HHS budget process involved the tribes more at the area offices. If we work through this, we could use the regional offices in budget development. A lot of the hard work can be done at that level.

Mike Black said this process is to engage the tribes early in the process. We don't always have the guidance in place by then. We could start later in the fall.

Rodney said in the 80s and 90s, there was zero based budgeting. If we look at how we did it before, that could help inform.

Jefferson Keel commented on the process itself. It has to deal with tribal leaders allowing the process to get away from us. We haven't been engaged. When we sit back and allow someone to tell us what we are doing and should do, we can't complain. He said the comment about the HHS system is correct. The regional offices are responsible for preparing budgets and getting them out to the tribes. It's more engaging. There is another aspect with self-governance tribes. They have compacts that are negotiated. They have AFAs. They become disengaged in the overall budget formulation process and focus on the AFA. When we want to improve overall budget formulation, it is a process where everyone needs to be engaged. The IHS system works. The access to funding from tribes, the IHS is huge. The operating divisions, CDC, or NIH, if they lose \$1 million, they don't notice it.

Robert Tippeconnie said looking at Southern Plains, we are supposed to have information to bring forward recommendations. It has to be in this too. When he reads this, we hope that the process gets down to the region and involves the tribes.

Robert made a motion to accept the three divisions, earlier engagement on the dialogue, engages in the local and regional level, and acknowledges the value of career employees.

Planning session

Kitcke Carroll said this body can be more effective. We don't always dig into the numbers like we should. We need to be more action oriented and solution oriented after these meetings. We will continue to have these discussions, because we are dealing with the consequence of a flawed system.

Ron Allen said we need to be structured, more issue oriented. Who is doing something on specific issues? It's important for Indian Affairs to know what tribal leaders are working on too. Right now we're talking through it. What do we need to do? Do we need to be more collaborative? The current team has been more effective than any of the past administrations. The land into trust process is a great example. You can complain about this meeting, but how do we make it more constructive? Maybe we should create a committee. We need someone to put pencil to paper and put forward ideas. We can make some recommendations. Yesterday Pam made a comment about TIBC engaging non-BIA agencies: BLM, BOR, FWS. We have an interest in those. This forum is about BIA, but our scope should be bigger than BIA.

Joel Moffett: he appreciates this work on self-assessment. There is some missing engagement at the regional level. ATNI reviewed the TIBC protocol. NW is involving ATNI now. The rep will be selected at the ATNI meeting. We selected Joel Moffett and Michael Finley and Ron Allen. The meetings have been held at the regional office. Tribal leaders need to see what happens to their budget recommendations.

We need a committee to come forward with recommendations for August.

Jackie recommended a time for a teleconference that people can self-select into.

Del said we had a retreat a year and a half ago. We generated a list. We wanted a list of 7. Instead, we came up with 33. Del said he set his own 5 priorities. We need to identify 3-4 most important things to do.

Roads Update

Leroy Gishi

- Reauthorization of the Highway Act
- Consultation Meetings on IRR Program
 - Access Roads/Proposed Roads
 - Q10 Update
 - Streamlining the IRR Program
- Information Mtgs (in conjunction with Consultation Mtgs)
 - Reauthorization of Highway Act (FHWA)
- SAFETEA-LU expired in Sept 2009
- Extended 9 times
 - Currently extended until June 30, 2012
 - Allocation of 75% of the funding
- Senate
 - Passed MAP-21 in March 2012
- House
 - Passed a 90 extension from June to Sept 2012
- SENATE – S. 1813 (MAP-21)
 - 2-year authorization bill
 - Passed in March by a vote of 74-22
- \$450m/year –Does not include 6% takedown for Administrative expenses.
- Among the changes in the Tribal Transportation Program is a new statutory formula for distributing funds among tribes based on road mileage and tribal population. This would replace the current needs-based IRR formula.
- HOUSE – H.R. 4348, H.R. 7
 - Passed H.R. 4348: 90-day extension through September, 2012. (Considered for Conference purposes)
 - Reported H.R. 7: 5-year authorization bill (not passed House)
- FY12: \$450 m IRR + \$14m IRR Bridge
- FY13 – FY16: \$465m for the Tribal Transportation Program
- Provides 5% takedown for Administrative expenses

Planned consultations

Consultation on:

- Proposed Roads
- Access Roads
- Q10 Update
- Streamlining BIA Transportation Functions

Dates: June 5 – June 28, 2012

Locations:

- | | | |
|-------------------------|--------------------------|-------------------------|
| ◦ Anchorage AK-June 5 | Spokane WA-June 7 | |
| ◦ Albuquerque NM-June12 | Phoenix AZ-June 13 | Sacramento CA-June 14 |
| ◦ Nashville TN-June19 | Oklahoma City OK-June 20 | |
| ◦ Billings MT-June26 | Rapid City SD-June27 | Mt. Pleasant MI-June 28 |

Planned Consultation Meetings on IRR

Topic: Proposed and Access Roads

- Proposed Roads and Access Roads contribute to the calculation of the formula for IRR Program funds.
- This is significant because it clarifies the criteria required for certain transportation facilities to generate funding and may affect the allocation of IRR Program funding among tribes.
- Proposed roads are defined by 25 CFR 170.5 as, “a road which does not currently exist and needs to be constructed.”
- A primary access route is the shortest feasible route connecting two points, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal termini, such as airports, harbors, or boat landings. *See 23 U.S.C. 202(d)(2)(G).*

Topic: Streamlining the IRR Program

- Changes enacted in the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users, Public Law 109–59 (SAFETEA–LU), expanded options for tribes to carry out the IRR program, including entering into agreements directly with FHWA.
- Recently, BIA has developed an additional method for tribes to carry out the IRR program that is similar to FHWA’s agreements. These changes have affected certain aspects of how the Federal functions of the IRR program are carried out by BIA. As a result, BIA has begun considering options for changing its IRR program management structure and oversight, as well as how technical assistance is provided to tribal transportation Entities.
- BIA and FHWA is requesting comments and recommendations on how it can streamline its delivery and efficiency of transportation program services provided to tribal governments.

Topic: Question 10 update

This update refers to the implementation of “Question 10” from appendix C to subpart C of 25 CFR part 170. This question addresses the weight assigned a transportation facility’s costs to construct (CTC) and vehicle miles traveled (VMT) in calculating the tribal formula share.

In 2010, BIA and FHWA presented a joint recommendation on how tribal shares should be calculated under Question 10 and consulted with tribes over three months at ten locations across the country on this subject.

Question 10 states, in part:

- 10. Do All IRR Transportation Facilities in the IRR Inventory Count at 100 Percent of their CTC and VMT?
- No. The CTC and VMT must be computed at the non-Federal share requirement for matching funds for any transportation facility that is added to the IRR inventory and is eligible for funding for construction or reconstruction with Federal funds, other than Federal Lands Highway Program funds.

After consulting with tribes, BIA and FHWA began clarification of Question 10, including a review of the IRR inventory and its compatibility with the Federal-aid highways functional classification system.

This update will include discussion about implementation of the Question 10 recommendation since 2010, and BIA and FHWA will invite additional input from tribal leaders and the public about their views on its effectiveness.

Nine extensions of the highway act. We have another extension.

Robert Tippeconnie said the issue with question 10 is that it pits tribes against each other. Where do they get the population from. The population being used comes from HUD, the NAHASDA database, which we don't have a way of addressing whether that is correct or incorrect.

Resolutions Action

1. Resolution supporting the budget formulation recommendations in the Bronner Report: Motion was made by Rodney Bordeaux, seconded by CITC to approve the resolution. Motion carries.
2. A motion was made by Rodney Bordeaux and seconded by Greg Pitcher to accept the BIE resolution. Motion carried.
3. Robert Tippeconnie made a motion that under section 255 of the Balanced Budget and Emergency Deficit Control Act (BBEDCA), as amended, most of the services provided to tribes "fund prior legal obligations of the Government" and they are also "established pursuant to Acts of Congress regarding Federal management of tribal real property or other fiduciary responsibilities" and should be exempt from the sequestration called for in the Budget Control Act of 2011. Rodney Bordeaux moved, and Charles Head seconded. Motion carried.

New Business

Agenda Items for August

1. To evaluate structure and format of the TIBC
2. Update on Cobell and land consolidation
3. BIE Report, follow up on the FIMS resolution, budget update on 52% constraintment on schools, improving academic achievement

Closing prayer