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TRIBAL CONSULTATION

WITH

THE UNITED STATES DEPARTMENT OF THE INTERIOR

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Taken at  
BEST WESTERN RAMKOTA HOTEL  
2111 N. Lacrosse Street  
Rapid City, South Dakota  
May 31, 2018

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P R O C E E D I N G S

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MR. JOHN TAHSUDA III: So we'll kick off the consultation here. And I'll start off with just a couple of housekeeping things.

The purpose of this was, really was an exercise for the Department. When new leadership came in last year, we wanted to take a look. And we've been looking at the Department from several different angles, one of which is the administration of our duties and responsibilities and are there better ways to do that.

I think it's incumbent upon every new administration when they come in to take a look at how processes are working and see if there's a better way to do it or at least a different way to do it that might achieve better results. So that's really sort of the root of what this is, to specifically look at (unintelligible) reservation via trust acquisitions.

For us, for the BIE, taking land into trust on reservation is a relatively routine process even if there is a large environmental issue or something that goes with it. But we have a long established and routine process that takes place primarily out

1 in the regions unless it has to do with gaming.

2 Off reservation is a different matter, and it  
3 brings with it additional considerations that are  
4 required under the law and under our regulations. It  
5 also brings with it sort of extra legal  
6 considerations. Sometimes there are political  
7 considerations that weigh in, local communities, all  
8 the way up to governors, et cetera, senators, who  
9 become interested when there's an off-reservation  
10 fee-to-trust acquisition proposed.

11 And so this exercise was to take a look at how  
12 we handle off-reservation acquisitions and see what  
13 are the similarities with on reservation that make  
14 it useful but what is different and what we could do  
15 better to try to deal with these issues. At the  
16 root of it is or at the bottom of it for us was  
17 really looking back over the history,  
18 off-reservation acquisitions, they often take years  
19 to get processed, to get to final decisions. They  
20 cost the tribes and us. But the main concern is the  
21 cost to the tribes. It's sometimes millions of  
22 dollars. Sometimes it takes so long tribes have to  
23 re-do environmental, the environmental statements  
24 that are done, assessments. And sometimes there are  
25 changes in valuation that we have to go through. So

1 in dragging these things out, it creates a lot of,  
2 not just of time but a lot of expense for folks.

3 And so, again, looking at it from the angle of  
4 can we find a better way to handle our  
5 responsibilities in this way, we sent out a "Dear  
6 Tribal Leader" letter. There are several questions  
7 there that were intended to try to kind of guide the  
8 discussion at least, you know, from our mind. And  
9 this is not, you know, an exhaustive list by any  
10 means. You don't have to stick to them. If you  
11 have other questions or issues on off-reservation  
12 fee to trust that you want to raise, you're  
13 absolutely free to raise those.

14 But for us, you know, we wanted to try to make  
15 sure that we had some of the questions that we had.  
16 And hopefully we can get some answers from you or  
17 some discussion and dialogue from the tribes about  
18 those questions and how we could or could not  
19 structure our process better.

20 So with that, I think I'd like to kick off. I  
21 have -- first on my list I have Chairman Gourneau.

22 Come on up, sir.

23 CHAIRMAN BOYD GOURNEAU: First of all, can I  
24 request that maybe Ready lead us in a prayer to kick  
25 this meeting off?

1 MR. JOHN TAHSUDA III: Oh, thank you. Yes.  
2 Completely my bad.

3 (Prayer)

4 CHAIRMAN BOYD GOURNEAU: I guess the first  
5 question would be to keep it simple. On our land  
6 into trust, with the bureaucracy there is now and  
7 instability, I mean, Dani is acting and people get  
8 shuffled around so much, there's no continuity. We  
9 just need to keep it simple. And when it comes to  
10 land into trust, no matter where it's at, you know,  
11 it should work in our favor because it was our land  
12 to begin with. And to help tribes regain land  
13 within the boundaries, it should be even simpler.  
14 It should be at the local level.

15 In an auction last year, you know, a guy got  
16 80 acres for paying a guy's grocery bill. And  
17 that's -- you know, the people back home don't like  
18 debt. And that's what they did. Either that or a  
19 proper burial. So that should be at the local  
20 level. I don't see why off reservation it shouldn't  
21 be, too.

22 And as for Lower Brule and you know our plight  
23 with Oacoma, it took 15 years. And we contested all  
24 along that we would follow NIGA on any gaming, but  
25 through the process Samsonite was there to start 150

1 people working at 12 bucks an hour back in the early  
2 '90s. The mood around Oacoma was so bad that they  
3 went away.

4 You bring up MOUs, MOAs with local and state,  
5 it's going to be pretty tough for South Dakota. I  
6 don't see a -- because they contest every time we  
7 put any land into trust. It's just housekeeping for  
8 them. So every tribe in that avenue is going to get  
9 contested. But, you know, within the boundaries it  
10 should be, you know, a, pardon my language, a  
11 no-brainer. That's where we're at. I just think  
12 the decision should stay, on all of it, with the  
13 regional director, and we need to keep as much  
14 bureaucracy out of it as possible.

15 Thank you.

16 MR. JOHN TAHSUDA III: Thank you, Chairman.  
17 Chairman Cromwell?

18 CHAIRMAN CEDRIC CROMWELL: (Native language).

19 I'm Cedric Cromwell, Chairman of the Mashpee  
20 Wampanoag Tribe, Cape Cod, Massachusetts. It's  
21 C-E-D-R-I-C, last name C-R-O-M-W-E-L-L. I'm  
22 Chairman of the tribal nation.

23 Good morning, my friends and tribal community.  
24 I am Chairman of the Mashpee Wampanoag Tribe, a  
25 federally recognized tribe that has existed in what

1 is now southeastern Massachusetts since time  
2 immemorial. We are the tribe that met and fed the  
3 Pilgrims at the first Thanksgiving. When you hear  
4 about (unintelligible) and the (unintelligible)  
5 tribe, that was the Wampanoag Nation. That was our  
6 people.

7 The United States failed to protect our land  
8 from encroachment in the 19th century despite  
9 federal laws which should have protected our land,  
10 and so we became a landless tribe.

11 The Department finally took land in trust for  
12 Mashpee and proclaimed it our reservation in 2015.  
13 We had strong local support for the re-creation of  
14 our reservation. This ended decades of landlessness  
15 for my tribe.

16 Now the Administration has refused to defend  
17 the original decision to take our land in trust, and  
18 it has withdrawn from the appeal in that litigation.  
19 So our land, we were never moved off our land, but  
20 it became (unintelligible) land, and so it was  
21 reconstructed as a reservation.

22 To us it appears that the Administration is  
23 poised to disestablish our reservation, take our  
24 land out of trust and make us landless again. In  
25 its proposed regulations, the Department includes a

1 provision that references taking land out of trust,  
2 something that Interior has never tried to do  
3 before. We are concerned that our reservation is  
4 the Department's target.

5 This would be the first time since the  
6 termination era that Interior has taken land out of  
7 trust and disestablished a reservation. I hope  
8 everyone in Indian Country sees what is happening to  
9 us.

10 Bipartisan legislation, the Mashpee Wampanoag  
11 Tribe Reservation Reaffirmation Act that is  
12 currently in place with Congress, (unintelligible),  
13 has been introduced in the House and Senate to  
14 reaffirm the status of our reservation.

15 The House bill has strong support from both  
16 Republicans and Democrats, including Rep. Tom Cole,  
17 Rep. Doug LaMalfa (Chairman of the House Indian  
18 Affairs Subcommittee), and Rep. Raul Grijalva.

19 The bill also has significant support  
20 throughout Indian Country. We currently have ten  
21 letters of support from individual tribes and tribal  
22 organizations, including USET and NIGA.

23 We humbly request that tribal leaders present  
24 here consider supporting the legislation. If our  
25 reservation is taken out of trust it will set a bad



1 precedent for all of Indian Country. The  
2 legislation simply protects our existing reservation  
3 so that we can continue to exercise our sovereignty  
4 and provide for our members.

5 I want to make three points today regarding the  
6 proposed changes to the fee-to-trust regulations.

7 Indian Country has not asked for these changes  
8 to the fee-to-trust regulations that you have  
9 suggested. What we have asked for is your help to  
10 relieve some of the serious damage that the Carcieri  
11 decision has wreaked on many of the most needy and  
12 economically disadvantaged tribes in America. It is  
13 incredible to us that the Department's ten questions  
14 do not even acknowledge the Carcieri problem.

15 The current proposals appear to perpetuate the  
16 creation of "second-class tribes," which has  
17 worsened since the Carcieri decision was rendered.

18 We are deeply concerned that this consultation  
19 was scheduled while we still have no Assistant  
20 Secretary for Indian Affairs and no Deputy Solicitor  
21 for Indian Affairs.

22 The onerous burdens the Department wishes to  
23 place on Carcieri tribes are inconsistent with case  
24 law, with the spirit of the Indian Reorganization  
25 Act, with your trust responsibility, and with --

1           sorry about that. The pages are stuck here. A  
2           little Elmer's glue got in the way -- common moral  
3           decency. And of course they are inconsistent with  
4           the President's pledge to reduce regulatory burdens.

5           The Mashpee Tribe urges the Department to cease  
6           this assault on fee to trust, to have more  
7           compassion for landless and land-poor tribes who  
8           have no access to your "on-reservation" rules, and  
9           to do everything you can to avoid being the first  
10          Administration since the termination era to take a  
11          reservation away from a federally recognized tribe.

12          I have "Dear Tribal Leader" letters that I will  
13          be handing out to tribes. I ask for your support in  
14          signing onto these letters and sending them into  
15          Congress. This is my attorney. She'll hand those  
16          out to you.

17                 But I appreciate your time.

18                 MR. JOHN TAHSUDA III: Thank you, Chairman.

19                 So I was reminded that I was remiss as well. I  
20                 assume everybody knows me, but I will formally  
21                 introduce myself. And most of you probably know  
22                 Jeanie, but we'll introduce her as well.

23                 So my name is John Tahsuda. I am the  
24                 Principal Deputy Assistant Secretary for Indian  
25                 Affairs, Department of Interior.

1           And to answer in parts Cedric's question, I am  
2           exercising the authority of the Assistant Secretary,  
3           so in essence we're not without an Assistant  
4           Secretary at this point.

5           So joining me today is Jeannie Hovland. She's  
6           spending a little time with us before she takes on a  
7           new and bigger role with the Administration. So  
8           Jeanie is working as an advisor in our hallway, the  
9           Assistant Secretary for Indian Affairs, and was kind  
10          enough to stay around and assist us with this today.

11          MS. JEANNIE HOVLAND: (Native language)

12          It's great to be home. It's great to see  
13          everybody. Thank you for your comments and I look  
14          forward to hearing more. And yeah, go ahead and  
15          drop off any comments you would like to me and we'll  
16          make sure that it gets back to D.C. and will be part  
17          of the record.

18          So thank you for being here. And it's again  
19          nice to be home.

20          MR. JOHN TAHSUDA III: Thanks, Jeanie.

21          So with that, I have next on my list  
22          Vice-Chairman Douglas Yankton.

23          VICE-CHAIRMAN DOUGLAS YANKTON: Good morning.  
24          Thank you. My name is Doug Yankton, Y-A-N-K-T-O-N.  
25          I am the vice-chairman of the Spirit Lake Nation.

1           And I just came, you know, to see how -- and  
2           make comments in regards to some of the questions at  
3           one of the previous listening sessions in Shakopee.

4           At Spirit Lake we buy back a lot of lands over  
5           the years, lands that was originally given to us in  
6           a reservation setting from the U.S. Government. So  
7           over the past few years we've accumulated a lot of  
8           that land back. When we buy the land back, it's in  
9           fee status and then it gets converted to the trust  
10          responsibility status. So in reality, it's really  
11          not the tribe's land yet still because the  
12          government is now holding it for us in trust, so we  
13          have all of these rules and regulations and  
14          protocols that we still have to follow.

15          I think there needs to be some new regulation  
16          changes in the CFRs to allow the tribes to have more  
17          control and say over those lands that we purchase  
18          back with our dollars, not the government's dollars,  
19          our own tribal dollars, but yet it's still under the  
20          control of the government. So, you know, I'd like  
21          to see those changes.

22          And also, we don't really struggle as much as  
23          the South Dakota tribes do when it comes to that  
24          conversion from fee to trust, and I think there  
25          needs to be something done to help other tribal

1 nations with that process. And I know it's a state,  
2 county, tribal relationship issue probably, but  
3 somewhere down the road I'd like to see where the  
4 other tribes of other nations get that same courtesy  
5 that some of us other tribes in other areas get in  
6 the transfer of not having such a long holdup on the  
7 state or the county end to get that conversion done.

8 With that, thank you.

9 MR. JOHN TAHSUDA III: Thank you.

10 All right, that's all I have on my list. So  
11 are there other folks, council members, et cetera?

12 MS. SASHEEN THIN ELK: Yes.

13 MR. JOHN TAHSUDA III: Yes, ma'am.

14 MS. SASHEEN THIN ELK: (Native language)

15 Good morning, my Relatives. I just want to  
16 greet you with a heartfelt handshake. My name is  
17 Sasheen Thin Elk. I'm the realty director for the  
18 Yankton Sioux Tribe. I am standing as proxy for our  
19 Chairman, Robert Flying Hawk. He had some other  
20 things to do with legals and the Corps of Engineers  
21 today.

22 And I have all the documentation on the back  
23 table there. But I just wanted to say that  
24 consultation occurs with the tribes' general council  
25 only, and any informational meeting leading up to

1 consultation is not consultation. The tribes are  
2 considering this meeting as a preliminary  
3 informational session with our consultation at a  
4 later date.

5 The Yankton Sioux Tribe appreciates the  
6 opportunity to comment on the crosses of placing  
7 land into trust with these revisions of the  
8 regulations. The tribe is greatly concerned with  
9 the proposed regulatory changes and the effects that  
10 those changes might have in regard to tribal  
11 autonomy, security and self-governance, among other  
12 things. With that in mind, the tribe submits the  
13 following comments.

14 Federal Trust Responsibility and Tribal  
15 Self-Determination: The proposed revisions to the  
16 fee-to-trust regulations undermine tribal  
17 self-determination and limit tribal economic  
18 development. By giving deference within the  
19 decision-making process to states and local  
20 governments, the Department of Interior is proposing  
21 to put the interest of those states and local  
22 governments before the interest of tribes. As  
23 mentioned above, there is no trust responsibility  
24 owed to state or local governments, and the trust  
25 responsibility owed to tribes is a sacred promise

1 that must be given priority over other interests.  
2 Likewise, by providing for more state and local  
3 government involvement, the proposed revised  
4 regulations have the potential to delay or even halt  
5 tribal opportunities in the areas of economic  
6 development that would lead to tribal prosperity.

7 The fee-to-trust regulations as currently  
8 drafted already afford state and local governments  
9 plenty of deference in the land acquisition process.  
10 The current regulations implement a rigorous  
11 fee-to-trust process that already requires  
12 consideration of state and local government  
13 interests. For on-reservation and off-reservation  
14 land acquisitions, the Secretary is required to  
15 consider the impact that an acquisition of  
16 unrestricted fee land would have on the state and  
17 its political subdivisions resulting from the  
18 removal of the land from tax rolls and consider any  
19 jurisdictional problems and potential conflicts that  
20 may arise.

21 It is a violation of the trust responsibility  
22 for the Federal Government to treat tribes  
23 effectively as political guinea pigs for their  
24 experiments on changing policies. Tribal nations  
25 have had to deal with changing policies towards

1 dealing with native peoples since the beginning of  
2 colonization. These policies have included  
3 allotment, assimilation, termination, and finally  
4 self-determination. There has been stability in the  
5 policy era of self-determination and tribes are  
6 thankful for that. However, to implement the  
7 proposed regulations as revised would subject tribes  
8 to further continuing and uncertain changing  
9 policies, not to mention the regulations would  
10 undermine fundamental goals of tribal  
11 self-determination.

12 The fee-to-trust process is necessary for  
13 reservation restoration. Due to the disastrous  
14 Federal Government policies of allotment,  
15 assimilation and termination, as well as the sale of  
16 reservation lands to non-Indians, the Federal  
17 Government is directly responsible for taking more  
18 than 90 million acres of land from Indians, totaling  
19 nearly two-thirds of all lands that were once tribal  
20 reservations. The Yankton Sioux Reservation is now  
21 a checkerboard reservation due to the history of  
22 these failed policies as applied to the tribe.

23 And as the realty director I guess what we come  
24 into or what I've seen in my experience is fee to  
25 trust, and that's if everything goes smoothly, can



1 take two to three years to go through. Reverse  
2 process going from trust to fee, you're looking at  
3 30 days, maybe a little bit more, but that's going  
4 smoothly. So, I mean, that in itself speaks volumes  
5 and it's telling enough.

6 I know I heard comments earlier from the  
7 gentleman about how we're using our own tribal  
8 dollars to purchase these lands back that we had  
9 occupied first. And I think that these types of  
10 regulations or changing of them already -- our tribe  
11 specifically, we face a lot of hardships against the  
12 county, the state. And it's just unfair. It's  
13 unfair for our peoples. And that's what we're  
14 trying to get back, especially as a checkerboard  
15 reservation, to try to acquire this land back for  
16 our peoples for cultural preservation to use these  
17 lands.

18 Also, the Yankton Sioux Tribe wants to comment  
19 that we do not increase the role of state and local  
20 governments.

21 These proposed revisions, along with others,  
22 give substantial deference to state and local  
23 governments when deciding to approve or deny  
24 applications to get fee land placed into trust. The  
25 tribe is concerned that giving such an amount of

1           deference to state and local governments will make  
2           the fee-to-trust process even more difficult, time  
3           consuming and costly. This amount of deference, if  
4           given to certain states, will make the fee-to-trust  
5           process nearly impossible to implement. Some  
6           states, such as South Dakota where the tribe is  
7           located, consistently challenge any and all  
8           fee-to-trust land acquisitions under the current  
9           regulations, which afford the state substantially  
10          less input and deference in the process than would  
11          the proposed regulations.

12                 The Federal Government has offered no reasoned  
13          explanation as to why state and local government  
14          should be afforded so much deference in the  
15          fee-to-trust process and the tribe sees no  
16          legitimate reason why states and local government  
17          should have so much power in this context. The  
18          fee-to-trust process is a legal mechanism afforded  
19          to tribal nations and tribal individuals for the  
20          benefit of tribal nations and individuals under the  
21          Federal Government's trust responsibility. As  
22          discussed above, the Federal Government owes this  
23          trust responsibility to tribes, not to state and  
24          local governments. State and local government input  
25          should be limited significantly more than would be

1 the case under the proposed revisions because states  
2 and local governments have little at stake compared  
3 to the tribes that apply for fee land to be placed  
4 into trust.

5 So I just want to say thank you.

6 And then also to all the tribes here, you know,  
7 we're, I guess, doing something for our land and  
8 making sure that we can preserve the land that we  
9 have but also obtain it back, and that's something  
10 really powerful in itself.

11 So thank you all for listening and letting me  
12 talk.

13 MR. JOHN TAHSUDA III: Gay Kingman?

14 MS. GAY KINGMAN: Gay Kingman, Executive  
15 Director, Great Plains Tribal Chairman's  
16 Association.

17 And with me is Mark Van Norman, general counsel  
18 for the Great Plains Tribal Chairman's Association.

19 And our chairman, Harold Frazier, is on his  
20 way, and I know he will have some comments.

21 But I wanted to just start with the Great  
22 Plains. We have 16 tribes in the Great Plains, and  
23 they are all treaty tribes and they are all  
24 full-service tribes. And by that I mean they run  
25 entire governments; they have their own tribal

1 courts; they have their own Departments of  
2 Transportation; they have their own departments of  
3 housing, education. And we're the second largest  
4 region with the most Bureau of Indian education  
5 schools. And this is our territory here in the  
6 Black Hills.

7 We welcome you.

8 And we welcome our guests from the tribes out  
9 of our state, (unintelligible) from Connecticut.

10 We're trying to get back our land here in the  
11 Black Hills. And Mark will speak on the effort we  
12 have with Pte Sla.

13 But I wanted to say that this region, more than  
14 any other region, is land based. We have over  
15 10 million acres of land in our region that the  
16 tribes have. And I go to the East Coast or the West  
17 Coast and I see tribes with small acres of land.  
18 And it's not wrong. It's just that we're so  
19 different. And this diversity needs to be  
20 considered.

21 And I agree with what the law states in the  
22 Indian Gaming Regulatory Act that nothing in this  
23 section shall affect or diminish the authority and  
24 responsibility of the Secretary to take land into  
25 trust. And we believe in that. And we work with

1 our regional office any time we do want to get land  
2 into trust.

3 And in meeting with the Secretary last week, we  
4 agree with his stand on putting the authority at the  
5 front lines, which is our tribes. And we would  
6 appreciate that with land into trust as well. So  
7 these revisions should not diminish at all the  
8 authority of the Secretary here or the regional  
9 level or the superintendent's.

10 I guess I just would like to request that there  
11 is no need for these regulations, in that we  
12 testified to this fact in the Minnesota consultation  
13 and we will reiterate that again in writing.

14 So with that, I'd like to ask Mark who's been  
15 the point person in getting our land into trust for  
16 spiritual reasons and return part of our Black Hills  
17 to us in the Pte Sla effort.

18 MR. MARK VAN NORMAN: Thank you, Gay.

19 I don't mean to speak in front of anybody, but  
20 I think we have a little gap in our lineup of tribal  
21 leaders.

22 So just to give you a little bit of historical  
23 background: We're happy that you're here. We're  
24 happy that you're here to consult with the tribes in  
25 the Great Plains Region in Rapid City. And for our

1 region, we always think it's very important that  
2 this is our original territory and our original  
3 homeland. And our Native nations were here for,  
4 from the beginning prior to the United States. And  
5 we're not originally part of the United States.

6 So it goes back to the earliest precedence  
7 among the government to come out and say that they  
8 needed to work with the tribes on a nation-to-nation  
9 basis and we have that background in our treaties.  
10 And the United States came out. Probably the first  
11 treaty among the Sioux Nation tribes is an 1805  
12 treaty, and the United States came out and asked for  
13 the Sioux Nation to recognize the United States'  
14 sovereign authority over their fort at Fort  
15 Snelling.

16 When we entered into treaties, they were  
17 treaties of peace and friendship. And the United  
18 States came out and asked us to enter into treaties  
19 as native nations. And they recognized that our  
20 nations had the power of war and peace, the power of  
21 self-government, the powers of sovereignty over our  
22 people and our territory.

23 The 1851 treaty in particular recognizes the  
24 original territory of the Lakota. And, you know,  
25 it's titled "Treaty with the Sioux Nation and other

1 Indian nations," and it was recognized in our  
2 nation -- on a nation-to-nation basis. And back  
3 then, you know, the land was coming to the United  
4 States from the Louisiana Purchase. And in the  
5 Louisiana Purchase they have a provision that says  
6 that the United States will -- that all of the  
7 existing international treaties, until such time as  
8 they enter their own treaties with the Indian  
9 nations based on mutual consent.

10 And there were territorial acts that were in  
11 place for what was then the western United States  
12 coming up to the Mississippi River, and they  
13 established a precedent that the United States  
14 pledged that the utmost good faith would always be  
15 observed towards the Indians, in our liberty and  
16 property we would never be invaded. And when we're  
17 talking about liberty, that's the same liberty that  
18 the United States talked about in the Declaration of  
19 Independence, life, liberty and the pursuit of  
20 happiness. And those rights come from the Creator  
21 and they're enjoyed equally by all men. So -- and  
22 all men meaning all people.

23 So when we have our treaties, we exercised our  
24 liberty to have our own nation and our own  
25 self-government, and so in our land our liberty is

1 about our self-government, our sovereignty, our  
2 treaty rights. And that's the basis that our Indian  
3 nations came into the United States. We did not  
4 immigrate into the United States. The United States  
5 immigrated to our lands.

6 So that background comes forward through the  
7 different territorial acts. And one of the  
8 territorial acts that's significant is the 1854  
9 Kansas/Nebraska Act. And in that act it says the  
10 treaties will be rigidly adhered to, that the  
11 territory of the Indian nations shall not be  
12 included under the territorial government, that it  
13 will remain Indian country, and that the rights of  
14 persons and property of the Indian nations would  
15 continue to be respected by the United States. And  
16 when they say persons and property, that's coming  
17 forward, that's referring to liberty and  
18 self-government and our lands. So that's just three  
19 years after the 1851 treaty, and that's affirming  
20 the 1851 treaty. And that's in the understanding of  
21 the committee on territories and the committee on  
22 Indian affairs as they do that legislation.

23 Well, that's Nebraska territory. As the states  
24 move forward to be organized into states, then the  
25 territory changed in 1860 to Dakota territory. And



1 that again includes the (unintelligible) clause that  
2 says that the territories shall not interfere with  
3 the rights of persons and property among the Indian  
4 nations. And that's the understanding from the  
5 formation of Dakota territory.

6 And as Dakota territory was split into two  
7 states in 1889 for statehood, they had provisions in  
8 there in their enabling act and in their statehood  
9 act where in the state constitution they were  
10 required to agree that we the people of South Dakota  
11 forever disclaim all right and title  
12 (unintelligible) held by Indians or Indian tribes  
13 and that they would recognize continuing  
14 congressional jurisdiction over Indian affairs.

15 So as we come to statehood, the state does not  
16 acquire authority or jurisdiction over Indian lands.  
17 So all this idea about consulting with the state  
18 over reservation lands is somewhat misplaced because  
19 it doesn't recognize this historical background. So  
20 we feel like these lands should always have been  
21 Indian country and reservation lands and lands that  
22 the tribe has jurisdiction and ownership of.

23 And we never consented to the loss of any of  
24 our lands. So when we look at the Black Hills, we  
25 think back to the 1868 treaty and we consider that

1 on reservation.

2 When we look at the 1889 act and the taking of  
3 11 million acres between our six reservations in  
4 western South Dakota and Crow Creek across the  
5 river, we think of those lands as being our original  
6 treaty lands. So as those come back into trust for  
7 our tribes, there should be an automatic process to  
8 take those in trust because the original agreement  
9 with the United States was that these are Indian  
10 lands.

11 This is our permanent home. And that's what  
12 the treaty says, it says "Permanent Home". So how  
13 long was it supposed to last? It was supposed to  
14 last up through today and for our future  
15 generations. The treaty also says "Or shall forever  
16 cease." How long is that supposed to last?  
17 Forever.

18 So today when we think more of the rights of  
19 people and we don't think that, you know, wars  
20 against people within the United States are  
21 appropriate, we think there should be a process for  
22 the United States to make things right. So we feel  
23 like the Secretary of Interior should be cataloging  
24 unoccupied federal lands and returning those federal  
25 lands to the tribes and that you should be working

1 with the Department of Agriculture to return those  
2 unoccupied federal lands to the tribes. And that's  
3 a longstanding position of our tribes.

4 You know, it came up more recently in the  
5 Dakota Access Pipeline Case. And, you know, our  
6 tribes have never received our treaty rights up  
7 there. Those were treaty lands for us. And it's  
8 going to impact our water rights. The BIA did tell  
9 the Army Corps that they should be consulting on  
10 those water rights, that they should be consulting  
11 on the potential damage to the tribes. And the Army  
12 Corps ignored the BIA. So the Department of  
13 Interior has to do more to carry forward that trust  
14 responsibility.

15 And we have many of those similar issues that  
16 are arising where there are proposals for uranium  
17 mining, for gold mining, for various different  
18 impacts to our sacred lands, and these lands have  
19 never been properly addressed or resolved by the  
20 United States since the Supreme Court's decision in  
21 1980 that it was unconstitutional taking of the  
22 Black Hills.

23 So we feel like the Secretary should be, when  
24 you consider trust lands, should be considering all  
25 of those lands reservation lands and should be

1 automatically taking lands that we reacquire into  
2 trust.

3 Now, we did work very hard up at a sacred site  
4 that we call Pte Sla in the center of the Hills to  
5 reacquire lands that were private fee lands and  
6 going to be sold, and we talked to the county about  
7 what their issues might be and worked those out and  
8 they did not object to us recovering the sacred  
9 site.

10 But we don't feel like the county authority  
11 should be written into the regulations or into the  
12 law because our relationship is a nation-to-nation  
13 relationship with the United States, and we can deal  
14 cooperatively with our neighbors on our own.

15 And there's a requisition in the Indian  
16 Reorganization Act that tribes have authority to  
17 negotiate with the Federal Government, the state or  
18 local governments. But when you say "negotiate,"  
19 that suggests a voluntary imposition taken by the  
20 tribe, not a mandate from the Federal Government.

21 So the character and the nature and the timing  
22 of those negotiations is up to our Indian nations,  
23 and it shouldn't be something that's included in the  
24 regulation as we seek to reacquire our homelands.

25 So we have, you know, a number of those

1 concerns. We do think that there ought to be a  
2 categorical exclusion under NEPA. And we understand  
3 you're taking a separate process on that for  
4 on-reservation acquisitions, and we feel like the  
5 reservation was set up clearly to be a permanent  
6 home for the purposes of providing, you know, a  
7 place for us on our original territory. And we feel  
8 like all the NEPA issues are really for federal  
9 lands where the Federal Government owns title  
10 outright or federal projects that are funded by the  
11 Federal Government, but it shouldn't be piggybacked  
12 on a treaty and trust relationship with the tribes.

13 So as to the gaming issue, we feel like under  
14 2719 Title 25-UFC-2719, that that process is already  
15 there and the issues regarding off-reservation  
16 gaming ought to be dealt with directly through those  
17 processes.

18 So we appreciate whatever you all can undertake  
19 during your watch here of Interior to help us deal  
20 with some of these longstanding issues and to help  
21 us protect our homelands, and I think that's what  
22 people are really looking for. And they're really  
23 looking for, you know, with what the Secretary has  
24 talked about, about honoring treaties and honoring  
25 federal trust responsibility.

1           So thank you very much for that.

2           MR. JOHN TAHSUDA III: Thank you, Mark.

3           MR. DAVID POURIER: Good morning. My name is  
4 David Pourier, tribal council representative for the  
5 Oglala Sioux Tribe.

6           My question is to you, to start off: Are you  
7 here representing the state or the county? Because  
8 most of the time our fights with the Oglala Sioux  
9 Tribe are with the counties that surround us and  
10 even the state.

11           At present we're going to -- we fight with  
12 Jackson County to put land into trust with all of  
13 those within the boundaries of the reservation. We  
14 fight with Bennett County to put land into trust.

15           Some of these lands we're trying to put into  
16 trust are the forestry patent lands that happened  
17 years ago, and them minerals, the subsurface is  
18 still in our tribal members' name but yet the county  
19 commissioners will not let us put it back into  
20 trust.

21           Today we're fighting with Fall River County.  
22 As some of you know, we have 1,200 plus acres up  
23 there by Hot Springs. The county is requiring us to  
24 build fences just to put it into trust and name it  
25 Oglala Sioux Tribe.

1           You know, it's always a battle for the tribes  
2           to put land into trust. The Federal Government is  
3           never behind us, which they have a trust  
4           responsibility to all of us to support us. But  
5           we're out there on a limb doing these things.

6           I don't know if you've heard the news, but they  
7           did research here in Rapid City. 1,200 acres was  
8           tribal ground at one time. Where did it all go? It  
9           was given to the National Guard and the City of  
10          Rapid City. The Federal Government didn't step in  
11          to help. Is the Federal Government going to step in  
12          and help us now? I think there needs to be  
13          something done to assist the tribes.

14          You know, instead of making it easier for us,  
15          it makes it harder. Because, granted, us South  
16          Dakota tribes, if we have to go through the  
17          counties, we're not going to get nothing back into  
18          trust. We can't even get roads fixed that lead into  
19          the reservation from the counties. You know, it's  
20          sad to say, but that's a reality that we live with  
21          out here.

22          I thank you for coming, but it's about time  
23          that you come. But I do have one question for you  
24          and I would like an answer: Why was Great Plains  
25          left out on the reorganization? There's nothing

1 scheduled for the Great Plains area tribes. I think  
2 we deserve to be heard on this rather than traveling  
3 to Billings, Minneapolis or the South or wherever.  
4 But there's nothing in the Great Plains area. We  
5 would appreciate consultation here. When we went  
6 all the way to Minneapolis, the Great Plains was not  
7 scheduled for this type of consultation either. Why  
8 is Great Plains -- are you scared to come see us or  
9 are we just pushing away? We don't know what's  
10 going on.

11 It gets frustrating for tribal governments to  
12 have to deal with this. That's why I ask -- it's  
13 like the government is representing the state, not  
14 the tribes. I would just like to know because I'm  
15 at a loss why the Great Plains area tribes is not  
16 being considered on the consultation on the  
17 reorganization.

18 Thank you very much.

19 MR. JOHN TAHSUDA III: Thank you.

20 (Applause)

21 MR. JOHN TAHSUDA III: To answer your specific  
22 question, we will be coming out here. Part of it is  
23 I anticipate that we'll do probably several rounds  
24 of consultation on the reorganization. My  
25 assumption is that the tribes, you know, after



1 they've been through one, will probably want to  
2 digest the information, have some thoughts. And it  
3 will be helpful to us all to have sort of follow-up  
4 consultations, and obviously we would like to have  
5 those in different locations than the first round  
6 were in. The Secretary committed last week to, that  
7 we would do one here in the Great Plains as well.

8 So the original thought with the original  
9 locations for the first round of consultations was  
10 to kind of take a test run at the new maps and what  
11 the new regions would look like and do consultations  
12 in those regions just so we could get a sense and  
13 the tribes could get a sense of what we're talking  
14 about.

15 So the -- so the current joint regions under  
16 the reorganization would put Montana in with the  
17 Dakotas in a common region. So that was the reason  
18 for us doing it in Billings. And there was no  
19 thought process of excluding anybody. Again, we'll  
20 come here and do it. So we'll be reaching out to  
21 you later, probably early summer as we get through  
22 this first round of consultations and start planning  
23 out the next round as well. And I presume you guys  
24 will be happy if we can talk to Gay and she can  
25 communicate with you where would be a good place to

1 do it.

2 But I'm never scared to come out here and I'm  
3 happy to come out. I'm from Oklahoma, the western  
4 part of the state which looks a lot like this, so I  
5 actually feel very comfortable and happy in the  
6 Great Plains.

7 So thank you.

8 Go ahead, sir.

9 MR. LAWRENCE WALKER, JR.: (Native language).

10 I am Lawrence Walker, Jr.

11 Relatives, I'd like to say good morning to each  
12 and every one of you. It's good to see you all here  
13 this morning. I greet each and every one of you.  
14 And thank you for allowing us to come on over to  
15 your lands to partake of the consultation that's  
16 going on today.

17 My name is Lawrence Walker, Jr. I'm a  
18 legislator with the Ho-Chunk Nation in Wisconsin.  
19 We had the opportunity to go to some of the other  
20 consultations throughout the country. And when this  
21 one came up, it's just right around the corner from  
22 us, so we made our way over here. It's good to be  
23 back in Rapid City.

24 And thank you to the government, the government  
25 representatives in listening to the words that we

1 all have to say.

2 At some of the other consultations, even out on  
3 the East Coast we had people from the West Coast and  
4 from all different areas. So it's good to see  
5 representation from not only the area where they're  
6 having that but people from outside, because then we  
7 could compare the reasons why we, our people, hold  
8 the positions that they do in regards to these  
9 proposed changes.

10 Just to give a little background, our Ho-Chunk  
11 people in Wisconsin, at one time we numbered in the  
12 millions, just like all of us did somewhere along  
13 the way. And the large lands that we were on  
14 through a lot of the history, when white people,  
15 when they came here and through everything that  
16 happened to all of us, our numbers slowly dwindled.  
17 Right now we're at right around 7,767 Ho-Chunk  
18 people in creation right now. And through a lot of  
19 that time, through a lot of that history we were  
20 removed 11 times from Wisconsin and the different  
21 places that we came. And we even came amongst our  
22 Sioux relatives at one time way back some years ago.

23 And when we would be removed, we continued to  
24 go back home where we come from. And the different  
25 villages that we had there, those families, they

1 returned back to those villages where they came  
2 from. Some of them were up north around the Wausau  
3 area and all the way down to Wisconsin and around  
4 the Madison area. And through all of those  
5 different villages there, we continued to return.  
6 And then we were removed again.

7 And so when we started -- when we kept going  
8 back, they kept removing us. 11 times that happened  
9 before they got tired of moving us around. And by  
10 that time what was stated was that wherever it was  
11 that our Ho-Chunk people, wherever they were  
12 residing, they were allowed to stay in that area.  
13 So those villages began to flourish again. And then  
14 our relatives, they came out of hiding.

15 For some of the areas that we have in Wisconsin  
16 there, they have large swamps. And some of our  
17 relatives would even go into the inside of those  
18 swamps and they would stay in there. We even had  
19 stories where they were in there for years before  
20 they even came out. And so those relatives there,  
21 they never left. And the people that they come  
22 from, those are our relatives today.

23 And so the places where we're at now, we had  
24 the opportunity to turn those into those federal  
25 lands to utilize the fee-to-trust process that had

1           existed up until now. And for that, even the, what  
2           you would consider off reservation, it was still a  
3           tedious process for us but we still continue to  
4           utilize it and have those people that were  
5           completely dedicated to that fee-to-trust process  
6           like other tribes, too, in that they would take care  
7           of those for us in the hopes of navigating the least  
8           resistance, the best way to get through all the  
9           requirements that are there so that we would obtain  
10          that trust status on those lands that we reacquired,  
11          just like our other relatives were saying.

12                 When we came to the point where we're at today,  
13           in looking at the proposed changes to the  
14           fee-to-trust process, specifically addressing off  
15           reservation, we are not contiguous. We are  
16           checkerboard. There are a large number of counties  
17           within the state of Wisconsin where we have our  
18           villages, where we have our communities, where we  
19           have land bases there. And because they are not  
20           contiguous, then we work with each and every one of  
21           those counties where we're in. And those of our  
22           representatives, other peoples here, you know how  
23           that goes when you start working with counties.  
24           That kind of dictates the relationship that you have  
25           and the resistance that you're going to go through

1 to obtain that final part.

2           Depending on how that relationship goes with  
3 the people in the county there will dictate whether  
4 or not those lands actually do get into trust  
5 status. And so we continue to foster those  
6 relationships along with each and every county that  
7 we're in. And that, again, is another tedious  
8 process for us. But through that, then we obtain  
9 neighborly relations with them, with some of them  
10 but not all of them.

11           And we also -- we also get caught with some of  
12 those ones where they have their own policy,  
13 strictly against any fee to trust, and we also work  
14 with them as well.

15           So those are long processes for us, but we  
16 still continue to look at that and finding  
17 experience in the process in being able to navigate  
18 that so we get to that part where we'll have land  
19 for our people to live on; we'll have land for, to  
20 be able to build businesses so we're able to support  
21 the different services that we provide to our  
22 people.

23           It isn't any different for us than it is for  
24 any of our relatives sitting here. Those are the  
25 things that we look at is to help our people along.

1 It isn't any more than that. We're not looking for  
2 something above and beyond what the Creator would  
3 want for us to be able to take care of us. We can  
4 eat; we can sleep; we can be self-sustaining, those  
5 are the things that we look for. And the process  
6 that has been put up today will not help us in that.

7 The process that is being proposed makes it  
8 even more difficult to obtain that final part that  
9 we want to help our people along, regardless of what  
10 we're going to be doing on that land. It's always  
11 to better ourselves along. That's all, plain and  
12 simple.

13 And so that was the reasons why our  
14 representatives made the effort to go to other  
15 consultations that were around the country. And I  
16 believe we were at four or five of the consultations  
17 that were out there. And we -- again, we appreciate  
18 that opportunity.

19 We did submit our position paper. We did  
20 submit supporting documentation in regards to that  
21 that the Ho-Chunk Nation does not support any  
22 changes in the existing fee-to-trust process.

23 So I just want to be able to listen to some  
24 more of the people, representatives of the people  
25 here to make some expressions because that helps us

1 along as well in fine tuning our position on the  
2 opposition to the proposed changes.

3 Thank you for your attention.

4 MR. JOHN TAHSUDA III: Thank you, Mr. Walker.

5 Anybody else?

6 Why don't we take a short break. Maybe  
7 Chairman Frazier will be here by then or we can have  
8 some more discussion. So we'll take a  
9 five-minute -- ten-minute break, ten minutes.

10 (Recess taken from 10:33 a.m. to 11:02 a.m.)

11 MR. JOHN TAHSUDA III: We'll get started again  
12 here. We have a couple of new arrivals, and I'd  
13 like to recognize them.

14 Chairman Weston, we're closer to home to you.  
15 I've give you the privilege of either going first or  
16 turn it over to Chairman Frazier.

17 PRESIDENT TROY (SCOTT) WESTON: I believe it's  
18 still morning. Good morning, everyone. And good  
19 morning to my people, the people that have been  
20 assimilated to the government process.

21 And I apologize to the other Native Americans  
22 in this process because you have no choice but to do  
23 what the government tells you because you become  
24 that puppet, P-U-P-P-E-T.

25 THE COURT REPORTER: What is your name?



1           PRESIDENT TROY (SCOTT) WESTON: My name is Troy  
2 Weston. Everybody calls me Scott. I am the  
3 president of the Oglala Sioux Tribe.

4           First of all, because of our treaties, we  
5 should not have to be doing this process at all. We  
6 have 60 million acres of 1851 treaty lands. That  
7 established who we are. And why is the government  
8 trying to impose more rules?

9           Because our treaties, the 1851 and the 1868  
10 treaties, Fort Laramie treaties, are verbiaged in  
11 Article VI of the Constitution of the United States  
12 of America, which is supreme law of the land. And  
13 so if you're going to impose and change our  
14 processes for us, then you should change the  
15 Constitution of the United States of America.

16           We didn't ask to be here. You are afraid of  
17 us, so they wanted us to sign these treaties because  
18 they got tired of us killing white people. And I  
19 don't say that as a racist remark. I say that as a  
20 historical event that happened. Because we were  
21 just taking care of our own. You imposed IRA on us.

22           We had a traditional form of government that  
23 kept us lasting for centuries. We didn't have that.  
24 But we were imposed through IRA to be getting the  
25 money to do what we have to do. And little by

1 little, every president, every form of government is  
2 whitling away at treaties, letting policy, statute,  
3 regulation dictate what we have to live by. But we  
4 need to go back to the treaties.

5 This reorganization process, let's go back to  
6 the treaties and go back to what it really, really  
7 meant. Number one in the first place, that was  
8 going to take care of us. And that's what we need  
9 to start doing.

10 If you want to start fighting, hey, remember  
11 Custer. We won. Remember? That's the only reason  
12 why they signed the treaties. And I told that to  
13 the forest service about the gold mining process.

14 You know, the DAPL situation, that was a  
15 peaceful, prayerful protest. That's all it was. It  
16 was anywhere from 10- to 20,000 Native Americans in  
17 one place at one time and, ooh, it was a bad thing.  
18 That's why people are afraid of us because we're not  
19 afraid to fight. Our veterans per capita by  
20 ethnicity, they call it, is the largest people that  
21 served in the military. What's wrong with that  
22 picture? You didn't want to fight us but we still  
23 fight for you. We do things out of respect for  
24 everyone because we take care of our own.

25 And I'm sorry you don't want to look at me no

1 more, Mr. Tahsuda. I know you don't want to  
2 because -- if you would, please. I see you looking  
3 up that way and down there. I say that to everybody  
4 because you are that person that needs to hear us to  
5 make those above you understand that we oppose  
6 everything that's happening and that when -- if we  
7 have a consultation and not a listening session, we  
8 should be heard. We should be consulted with. We  
9 should be given that chance to be able to tell you  
10 or be a part of a change for a process that's  
11 perfect, or try to be. So that's why I'm asking you  
12 to please turn around and look at us and watch us  
13 when we speak because we're tired of having this  
14 process.

15 I'll give you an example. We had the DAPL.  
16 When I first got into office back a year ago  
17 December, we had the DAPL consultation with the Army  
18 Corps down here at the Holiday Inn. There was eight  
19 of them sitting there, eight government people  
20 sitting there. One was playing something on the  
21 phone. One was looking at Facebook. One was  
22 drawing pictures. And I had to slam on the podium  
23 for them to pay attention.

24 Because if we give you that attention all day  
25 long -- I mean, my attorney just basically fired me

1 up just a little bit ago, and that's why I'm talking  
2 like this. He said it jokingly, he said, "If you  
3 two chairmen don't split apart, they're going to  
4 stop the consultation." That's our cynicism. But  
5 those are the things that we fight for every day.

6 You know, we talk about fee to trust. Where  
7 did that come from? Whose idea was that in the  
8 first place? Why are we doing it now? I will  
9 remind you that through our treaties all of this  
10 should have already just been an automatic process.  
11 We created so many programs or departments to  
12 prevent you from doing your jobs. It just used to  
13 be the BIA superintendent and that was it. Well now  
14 you got the BIA superintendent; now you got a deputy  
15 for this, a deputy for that, and then you've got  
16 this over here. Then you move to, BIA to Office of  
17 Special Trust. Then you come over here and you got  
18 something else started.

19 What are we doing? Why aren't tribes consulted  
20 more often? Why aren't tribes involved in the  
21 change of the process? Because this is about us.  
22 This is about our people. Everything I say is on  
23 behalf of our tribal nations, not just my tribe but  
24 all of the tribal nations, especially our treaty  
25 tribes. We signed treaties because that was the

1           only way that they could stop us from being who we  
2           are.

3           But I'm getting kind of wound up here. I'm  
4           getting away from my topic here. I've got some  
5           notes here that I want you to really, really pay  
6           attention to. It says: The goal of the land into  
7           trust program should be restoration of our Indian  
8           nation homelands in order to promote Indian  
9           self-determination, tribal self-government,  
10          revitalization of our tribal economies, government  
11          programs and services, including education,  
12          healthcare, housing, transportation, police, fire,  
13          sewer and sanitation, water services, cultural  
14          preservation, including the recovery of Sacred  
15          Sites. Because these are all of the fights that  
16          we're fighting right now. And making our  
17          reservations true homelands to our reservations,  
18          that's what we need to be looking at.

19          You know, and I made that point earlier that we  
20          should be -- they should be automatically returned  
21          into trust because it was trust originally. It was  
22          originally true trust land.

23          And now we have to have a process. We have to  
24          create somebody a job that wasn't on our tribes and  
25          let them decide whether or not they could be trust

1 lands.

2 And then you talk about the buy-back process,  
3 buying back some of this land, there's some seeded  
4 deeded land that was appraised. There's a chunk,  
5 some seeded land in Jackson County, 160 acres.  
6 Inside of that quarter section of ground was ten  
7 acres that was allotted land. That land outside got  
8 appraised at 1,500 bucks apiece an acre. That  
9 tribal land was appraised at \$145 an acre. It was  
10 the same land that was farmed that produced, yielded  
11 the same crop as that seeded land which was  
12 originally treaty land, trust land. Now what's  
13 wrong with that picture? You tell me what's wrong  
14 with that picture.

15 And that's why we fight every day. We butt  
16 heads every day, even between ourselves about trying  
17 to figure out what we have to do. Because we're  
18 getting nickels and dimes and half of a penny  
19 anymore and we're fighting for scraps. The meanest  
20 dog is going to get the scrap. Why? Why is that?

21 The lands should be able to be given  
22 automatically back to our own people so that we can  
23 create our own destiny. Because if we don't, I  
24 shouldn't be here; I shouldn't be fighting for my  
25 people. Because you are trying to keep us down

1 here.

2 Remember, we're this third world country in the  
3 United States Government's backyard. And we let you  
4 live here. We let you come here. Every day we  
5 think about that. We used our own respect, the way  
6 we were taught through our traditional ways to let  
7 the government come here, to let the white man come  
8 here, open our arms up like we do. We still do that  
9 historically, traditionally, because we're a loving  
10 people.

11 We're not killers. We're savages by white  
12 man's standards. But we did it to survive. And if  
13 we can't survive, there's going to be a war. There  
14 will be a war.

15 Just like this gold mining process up here. I  
16 go back to that DAPL process, that was a peaceful  
17 prayerful protest. If they let gold come into this  
18 country, you're not going to have 10- or 20,000  
19 Indians. You're going to have a million pissed off  
20 Native Americans, the first nation's people. And  
21 they're not going to go to jail. I was told this,  
22 "They will not go to jail. They will die." That's  
23 what we have to deal with every day.

24 And you get to go home and be ignorant to our  
25 fight, to our everyday dealings. You get to go home

1 to your nice warm houses. And you don't have -- you  
2 close the door, turn on the TV or whatever. You  
3 don't have to deal with that. We hear it every day  
4 as tribal leaders. All of us in this room, we hear  
5 it every day. We see it every day. That's why I  
6 was late because I was dealing with my tribal  
7 people's issues because they're my priority.

8 So I want you to understand that I'm not  
9 talking to you and being loud and being  
10 disrespectful. I applaud what you do because you  
11 are taking it like a man and like a woman, over  
12 there, both of you, but that's your job. You get  
13 paid to sit here. You get paid to sit here and  
14 listen to the most negative things in the world.  
15 And then you get to go home and say, Geez, why do I  
16 always want to be like this? Now you know. Because  
17 we hear it every day. We fight the same fight every  
18 day on each tribe. It doesn't matter what the -- it  
19 doesn't matter the magnitude, the fight is there  
20 because we created enough -- we were given just  
21 enough to have to fight over what we have left.

22 So I want to thank you for giving me this time.  
23 I have this piece of paper that I'm going to submit.  
24 I want to get even more time. We will be scheduling  
25 more meetings. The Great Plains Tribal Chairman's



1 Association and my tribe will be passing more  
2 resolutions that we want more consultation before  
3 this is even thought of. Because my first part of  
4 this deal was the reorg process needed to stop and  
5 go back to our treaties.

6 So thank you for your time.

7 (Applause)

8 MR. JOHN TAHSUDA III: Thank you, President  
9 Weston. So I feel compelled to say this: I  
10 appreciate your desire to make a statement. And I  
11 understand in normal course people look each other  
12 in the eye. That's not how I was raised. In my  
13 tribe, to stare an elder in the eye when they're  
14 speaking to you is disrespectful and aggressive, and  
15 so that's why I don't stare at you while you're  
16 speaking. But you asked me to do that. I learned  
17 how to do that. I was spanked as a child in school  
18 and told to look people in the eye. I can do it.

19 UNIDENTIFIED SPEAKER: Was it a government  
20 school?

21 MR. JOHN TAHSUDA III: It was a state school.  
22 It was a government school.

23 So I just wanted to say that. Thank you.  
24 Thank you for your words.

25 Chairman?

1           CHAIRMAN HAROLD FRAZIER: Harold Frazier,  
2 Chairman of the Cheyenne River Sioux Tribe.

3           I'm going to play a song.

4           (Native language song played.)

5           And that's the way I feel. That's the way our  
6 people feel. I'm just tired of it.

7           You know, I don't know, I've done this several  
8 years. You guys like to pout, go home, don't do  
9 anything for us, don't help us, don't even want to  
10 come to see us. I don't even know why we're here,  
11 because you guys are going to do it anyway, you  
12 know. And I'm just tired of it.

13           You know, these ain't for us, these  
14 regulations. They shouldn't be pulled on the Great  
15 Sioux Nation. If the government truly wants to help  
16 us, the Sioux tribes, then take all of your people  
17 west of the Rockies and east of the Great Lakes and  
18 leave us alone. That's what needs to happen if you  
19 want us to have economic development, if you even  
20 want us just to survive.

21           Ain't you guys tired of living like this? Man,  
22 these ain't our ways. Where in the world do you  
23 have to ask to be an Indian? Only in America. And  
24 this is how bad the government treats our people:  
25 "you don't have that card, you ain't an Indian. You

1 don't have that status, you're not who you are."

2 Only God and your father and mother dictate who you  
3 will be as a race. But yet that's how they control  
4 us. And I've learned that's all they're here for is  
5 to control, control the Indian. They're not here to  
6 help us.

7 How -- by you being here, how are you going to  
8 help us? You're penalizing us for others. One size  
9 does not fit all. Someone wants to build a casino,  
10 that's their business. I don't care. I wasn't  
11 raised to be jealous, greedy. But that's how  
12 America is. They don't want Indians to prosper.  
13 And you guys will not fight for us. It's a fact.

14 Jim Cason will tell you, "This is what I want,"  
15 and you guys gotta do it, don't you? Like President  
16 Weston said, "puppets". I heard that as a young boy  
17 growing up, but now I can really see it. When you  
18 got politicians and bureaucrats leading, it's never  
19 going to work. We need leaders.

20 You gotta be a leader. No one can take your  
21 dignity away. Only you can give it away. Stand up  
22 for us Indians.

23 I'd rather walk away like famous Dave did than  
24 to be a bureaucrat. Do you remember him? Dave  
25 Anderson couldn't make that change so he walked

1 away. I have a lot of respect for him for doing  
2 that. He's a man. He's an Indian man.

3 I've been to Washington, been all over.  
4 Nothing. People in high offices come to the  
5 reservations, nothing. They are afraid of us. They  
6 really are.

7 Guilt, this country was built on guilt and it's  
8 run by guilt, guilty of what they've done to our  
9 people, to our lands, used their God to lay claim to  
10 our lands. You know what I'm talking about. And  
11 yet they claim to be the most self-righteous people  
12 in the world.

13 So I think there should be no regulations. How  
14 come you don't tell that white man what he can and  
15 can't do on his land? But you guys are just here to  
16 control the Indians. It is really bad.

17 I've never -- I was chairman before, and it  
18 wasn't as bad as it is today. And nobody is  
19 standing up for us, nobody. Our congressionals are  
20 failing us, everybody. It's a fact. It's just a  
21 waste of resources being here, operating. When are  
22 we Indians going to be free? There's still that,  
23 subtle laws, gotta get permission to leave the  
24 reservation. It's there.

25 This is just a waste of time. You guys are

1 going to impose more regulations. White is right,  
2 Indians down here. And all you educated people, ask  
3 yourself, Do Indians really have rights here in this  
4 country? And the answer is no. The Indian Civil  
5 Rights Act don't protect us from the state or  
6 federal governments. I seen it firsthand with that  
7 Dakota Access Pipeline. Is it right for a man to  
8 hurt a woman? There's a cop, I gotta picture and I  
9 sent it to some of you guys, that cop, his weight,  
10 his knee on the lady's head pushing it into the  
11 ground. Nothing will happen to that cop, but that  
12 lady is probably going to spend time in jail. For  
13 what?

14 All I know is South Dakota better gear up  
15 because I ain't taking this shit no more. And I  
16 know our people ain't. But if you want to help the  
17 Indians, get rid of these regulations. I don't even  
18 know why -- that's our land. You guys pay taxes to  
19 us. I like to say our titles of our lands were way  
20 before treaties. There's proof from the Big Horns  
21 to the Great Lakes, that's Sioux Nation country.

22 So I guess just leave. I mean, there's nothing  
23 else to say. No matter what I say, you guys ain't  
24 going to listen. You already got marching orders.

25 Thank you.

1 (Applause)

2 MR. JOHN TAHSUDA III: Thank you, Chairman.

3 MR. MARIO GONZALES: I'm Mario Gonzales from  
4 OST, an attorney.

5 I would like to give you a little background on  
6 these 151 regs as they apply to the Sioux people.  
7 And I think you already heard that we started out in  
8 terms of land recognition with the 1851 Fort Laramie  
9 Treaty. So the Oglala Sioux Tribe, as well as the  
10 other Teton and Yankton tribes have a claim to  
11 60 million acres of land under that 1851 treaty and  
12 also 14 million acres of non-treaty land east of the  
13 Missouri River between the James and the Missouri  
14 River.

15 And then we come to the 1868 treaty, and the  
16 1868 treaty created a permanent homeland here in  
17 western South Dakota. And it's stated in Article 16  
18 that all the land north of the North Platte River  
19 would be unseeded territory and that the Sioux  
20 people would have a right to hunt and exercise  
21 fishing rights, hunting rights, right of passage  
22 over that unseeded territory and then western South  
23 Dakota would become a permanent homeland. Well,  
24 that didn't happen very long.

25 I just want to give you a little background on

1 the 1868 treaty and the 1851 treaty because they go  
2 together. When they went to the Indian Claims  
3 Commission, the Indian Claims Commission looked at  
4 the 1868 treaty and they said, "Well, look, under  
5 Article II it created the Great Sioux Reservation  
6 but it said there's relinquishment language; you  
7 relinquish all the land around western South Dakota.  
8 (Unintelligible).

9 You go to Article 16, and Article 16 says that  
10 that's unseeded territory. And Article 11 says that  
11 if you remain unseeded, you have the right to hunt  
12 out there as long as there's buffalo out there to  
13 justify a chase.

14 So then when it gets to the Indian Plains  
15 Commission and you go to treaty processes, you go to  
16 ownership, 1851 treaty, ownership. Evaluation, they  
17 valued that at \$20 million.

18 And then you go to the offsets. It's a  
19 three-step process. When it got to the offsets, the  
20 Indian Claims Commission, later the claims court --  
21 when the Indian Claims Commission's life expired in  
22 1978, it went to the claims court. And the claims  
23 court, the Indian Commission's Claims Court said,  
24 "Well, the evidence shows here that General Sanborn  
25 said that you're not giving up any land. In the

1 1868 treaty, all of that land out there, unseeded  
2 territory, not giving that up. When Red Cloud  
3 signed he was assured he wasn't giving up any land.

4 The other treaty said that we will fight to the  
5 death before we give up any of that land out there.  
6 And there was all kinds of testimony like that. But  
7 then the claims court said that nevertheless, even  
8 though it never was the intention of the Sioux  
9 Indians to give up any land, because somebody snuck  
10 that language in there, it amounted to a  
11 (unintelligible) of land, 34 million acres of land.

12 So what happened? We intervened. In that case  
13 the Oglala Sioux Tribe intervened. And we took that  
14 up to the federal circuit. And we pointed out that,  
15 Hey, (unintelligible). We want out of this case.  
16 We've got two resolutions passed by the Oglala Sioux  
17 Tribal Council to withdraw from that case because we  
18 didn't want to be part of that fraud perpetuated on  
19 us from the courts.

20 And of course they wouldn't let us out. They  
21 came up with excuses like, "Well, it's not fair to  
22 these other Sioux tribes." And we said, "Well, you  
23 just let the Yankton Sioux out of Docket 74. Let us  
24 out. What's the difference?" But they hung on and  
25 they wouldn't let us out. They wouldn't honor our



1 resolutions from the Oglala Sioux Tribal Council.

2 And so the federal circuit then made a  
3 decision. They agreed with us. We asked for a  
4 (unintelligible), a reversal. And they agreed.  
5 They reversed it. But the federal circuit put a  
6 language in their decision and then stated that,  
7 There's a way you claims attorneys can resolve this  
8 case for all that 34 million acres. You don't have  
9 to meet with your clients. You can go behind closed  
10 doors with the government attorneys and stipulate to  
11 offsets and consent decree and resolve it.

12 Well, even though we got a reversal, the Oglala  
13 Sioux Tribe appealed it to the supreme court. We  
14 made a record. We said that this is repugnant to  
15 everything we stand for to (unintelligible) that  
16 territory. It's right in the supreme court brief we  
17 stuck in there. And we don't acquiesce to what's  
18 happening here. The purpose was we wanted to make a  
19 historical record of our position in a supreme court  
20 petition (unintelligible). Because we knew it would  
21 probably be denied. And it was.

22 So it comes back down. And then behind our  
23 backs without our consent, our claims attorneys,  
24 three of them, met with the government attorneys and  
25 they stipulated away 34 million acres of our land

1 for \$40 million. That's the land that we see all  
2 that coal going out of from Gillette, Wyoming. They  
3 seized all that land up there. Where they are  
4 putting like those oil wells, that's our land. We  
5 didn't give it up. It's the land up there where  
6 DAPL is located to the Heart River, that's our land.  
7 We did not seed that. But we had it crammed on.

8 So what we did is we went back into court.  
9 When it came back down and the judge basically  
10 implemented a government settlement offer as its  
11 final decision, we took that up again to the federal  
12 circuit on a Motion for Relief from Judgment. And  
13 when we got back to the federal circuit, of course  
14 it was denied, but we got one single opinion which  
15 agreed with our position of Judge Newman. And  
16 that's the way that case stands today.

17 So we had it crammed on us of taking our land,  
18 34 million acres, it's crammed down our throats, but  
19 that doesn't mean it's over with because there still  
20 has to be a political solution to resolving those  
21 claims.

22 Okay, I want to say right now that the Oglala  
23 Sioux Tribe has never seeded one acre of land in our  
24 history, not one acre through all the treaty  
25 processes.

1           So then we get up to -- I want to point this  
2 out. You get up to the Black Hills Act, which was a  
3 unilateral act. It wasn't bilateral. And in  
4 Article 1 it says no more -- Article 1 says that  
5 they're confiscating the Black Hills in violation of  
6 Article 12 and treaty. But it also states in  
7 Article 1 that Section 16 of the 1868 treaty is  
8 abrogated. In other words, they're confiscating all  
9 of that land that I just mentioned and  
10 (unintelligible).

11           So then you go to the Black Hills Act, again  
12 you go to Article 5 and it says, In consideration  
13 for all the land we just stole from you basically,  
14 confiscated, we're going to provide all aid  
15 necessary for civilization, which hasn't occurred.  
16 There's been no (unintelligible). They're still  
17 taking all of that coal out. You know, they're  
18 draining all of our resources and we're not really  
19 getting adequate consideration from the state.

20           There's still some benefits in the Black Hills  
21 Act, continuing benefits, but they're totally  
22 inadequate. And we had those (unintelligible)  
23 appropriations throughout the years. Where  
24 implementing Article 5 of the 1877 act and the  
25 treaty, they always refer to those as

1 (unintelligible) appropriations. The Snyder Act  
2 ended that. All of a sudden the government said,  
3 "Oh, we're tired of these (unintelligible)  
4 appropriations, so we'll just lump sum it to the BIA  
5 and let the BIA distribute it." So that's what they  
6 do now, tribal priority allocations. Those are  
7 totally inadequate for all that land they took. Of  
8 course it's priority. They say, "Okay, you get  
9 \$6 million for social services. Now prioritize it."  
10 So all of a sudden say, "Well, you know, we're going  
11 to prioritize let's say subsistence rations, BIA  
12 subsistence rations," so we prioritize a little  
13 higher than maybe some other tribe. Some other  
14 tribe like Standing Rock prioritizes within their  
15 budget so their people are getting more subsistence  
16 rations than we are. So it's not priority at all.  
17 It's not tribal priority allocations because they're  
18 inadequate. We're just prioritizing what little  
19 money we get from the government the BIA doles out  
20 to us in violation of treaties. We're not getting  
21 adequate consideration. And, you know, that's what  
22 we have to live with. And there's not enough money  
23 coming in to provide to the people.

24 But let me get on a little further. Now we go  
25 to the 89 Act and the 89 Act creates the Pine Ridge

1 Indian Reservation. What is it? 3 million acres,  
2 more or less? And in that act, Article 8 -- excuse  
3 me, Sections 8 to 12 provides for allotments on our  
4 reservation, but it says that these allotments shall  
5 not be mandatory without the consent of the adult  
6 population, men and women on our reservation.

7 So we didn't want allotments. We fought  
8 allotments. From 1889 to 1904 we fought allotments.  
9 We didn't want them. We want to be like Red Lake,  
10 no allotments, tribal land assigned to our people in  
11 terms of use, you know, assignments, use for us.

12 You know what happened? We had Charlie Bates,  
13 our allotting agent, appointed to come to Pine  
14 Ridge. The Secretary of the Interior sends him a  
15 letter and that says, "Allot the Pine Ridge  
16 Reservation," in violation of Article 9 I think it  
17 was which requires our consent.

18 So Charlie Bates gets that letter. Says,  
19 "Reserve the land for the government," which is not  
20 the agency, and he allots our reservation up in  
21 violation of the 89 Act.

22 And I should also mention that the 89 Act in  
23 Article -- Section 28 says that this act will not be  
24 valid without three-fourths adult males, just like  
25 the 68 treaty. They never got three-fourths. It's

1 an invalid act. It never really was implemented  
2 like Congress intended. What happened was we had  
3 white men sign that 89 Act. I can't remember, 200  
4 or so. And it got allotted as Indians on all these  
5 reservations. And not only that, they were under  
6 the age of (unintelligible). Supposed to be 18. We  
7 documented that there were a lot of under 18 year  
8 olds that signed this. So they never got  
9 three-fourths signatures on the 89 Act. It  
10 shouldn't even be a valid act right now that  
11 allotted our reservation out. And even assuming  
12 that it is valid, it still never complied with  
13 Sections (unintelligible).

14 So here we stand now, once it was allotted out,  
15 then all of a sudden we have the Burke Act in 1906  
16 saying, We'll go ahead and issue these three patents  
17 for these Indians. And a lot of land was lost  
18 through fraud, through fraudulent sales, to tax  
19 foreclosures. Some people in Europe during World  
20 War I lost their allotments. They had to pay taxes  
21 on it (unintelligible) and sold it. So all of a  
22 sudden we see a chipping away of our reservation  
23 land base in violation of the 89 Act.

24 So then what happens is that later Congress  
25 passes the IRA, the Indian Reorganization Act. And

1 Section 4 says all land transactions are frozen.  
2 And Section 5 says the Secretary can purchase land  
3 back for the tribe and put it back in trust. That's  
4 where the 151 regulations come in. They were  
5 basically a result of Section 5 of the IRA.

6 You say, "Well, all the tribes aren't IRA  
7 tribes." Yes, they are. There was two elections  
8 under the IRA. The first election was, a  
9 referendum, was to adopt the benefits of the IRA.  
10 And every Sioux tribe did that. So you hear some of  
11 these tribes, "We're not an IRA tribe." That stuff  
12 is false. Every single Sioux tribe adopted the IRA  
13 benefits. And that included putting the land,  
14 keeping the trust, the land behind the trust in  
15 trust under Section 2 indefinitely and  
16 (unintelligible) and Sioux benefits for the Sioux  
17 were continued. So there were benefits in the IRA  
18 that enticed all the Sioux tribes to adopt the IRA.

19 Then the second go-around was to adopt an IRA  
20 constitution. Three tribes elected not to do so,  
21 Standing Rock, Crow Creek and Yankton. The rest of  
22 the Sioux tribes are constitutional tribes.

23 So then what we have now is a situation where  
24 we're sitting here. We never agreed to allot our  
25 reservation out. The government came in. They

1 started chipping away, allowing first of all under  
2 the Burke Act forestry patents, later supervised  
3 sales under the 1948 Act, and then they allowed a  
4 lot of land to be transferred primarily under the 48  
5 act. I guess it would be the Supervised Sale Act.

6 So now we have a situation, Well, let's all be  
7 fractionated. Whose fault is that? Is it our fault  
8 that all of that land is being fractionated on those  
9 reservations? No, it isn't. It's the government's  
10 fault. They should have never allowed it at all.

11 Now, why do we have 151 regs? Because we also  
12 had under that 89 Act allotments. And once the land  
13 goes into fee, there is the illegal counties within  
14 our reservation trying to tax it. And why do I say  
15 it's illegal? Because under the 1868 treaty and  
16 Article 8 of the Black Hills Act, it says that we  
17 guarantee you Sioux Indians, you know, basically  
18 Sioux Indians an orderly government. What does an  
19 orderly government mean? Does that mean you have  
20 another government come in and compete with us? You  
21 have two general purpose governments trying to do  
22 the same functions within the same territory?  
23 That's not an orderly government. Those counties  
24 have no business on our reservations. Why are they  
25 allowed to come in and start performing the same



1 functions as our tribal governments and start taxing  
2 our land belonging to fee?

3 So that's the problem with the 151 regs because  
4 they're looking at the counties. That's the  
5 message, "Well, that's our tax base, so we have to  
6 find some way to, you know, protect the tax base and  
7 so we have these 151 regs." The question is should  
8 they be retroactive? Prospective? Well, I think it  
9 would be unfair if you made them retroactive in  
10 existing applications. Assuming that you keep the  
11 regulations, they're shown to be prospective, not  
12 retroactive in terms of compliance with new regs.

13 But the 151 regs are there. I think on our  
14 reservation we don't think that they really have,  
15 they should really have advocacy. We should be  
16 able to buy back fee land on the reservation and it  
17 should automatically go back into trust. This can't  
18 be a one-way street. When people apply for their  
19 fee patent, (unintelligible), but it also  
20 automatically goes into fee. "Put it back into  
21 trust." "No. You gotta get this permission of the  
22 counties to put it back in fee." Why is that? Why  
23 can't we just put the land back in trust when it's  
24 automatically purchased in fee by a tribe on the  
25 reservation? It seems like it should be a two-way

1 street, not a one-way street. But that's the way it  
2 is right now.

3 And off-reservation acquisitions, that might be  
4 a little bit different. Although like our president  
5 said, the 1251 treaty (unintelligible) should really  
6 be (unintelligible) by the Sioux Nation. We didn't  
7 see a single acre of land during the course of our  
8 history, the Oglala Sioux Tribe and the other Sioux  
9 tribes probably likewise.

10 Do you have any questions? You're just here to  
11 listen?

12 (Laughter)

13 MR. JOHN TAHSUDA III: Thank you, Mario. Do  
14 you have any questions of me?

15 MR. MARIO GONZALES: It reminds me of  
16 (unintelligible), somebody from Cheyenne River said,  
17 "All we want is a Leave-Us-Alone law." Remember  
18 that.

19 Thank you.

20 (Applause)

21 MR. JOHN TAHSUDA III: Thank you, Mario.

22 Anybody else?

23 (No response.)

24 MR. JOHN TAHSUDA III: Well, I'll offer a  
25 couple of thoughts. I don't want to be perceived as

1 the frog on the log here not saying anything. I'll  
2 offer a few comments. And then if you guys have  
3 something or if what I say sparks another comment or  
4 suggestion from you, come on up.

5 So I'm glad you gave a little bit of history on  
6 the 151 regs, Mario.

7 So -- and I think sort of as a foundation  
8 thought, we kind of have to remember first off, we  
9 have responsibilities as federal officials to abide  
10 by laws. There are constitutional issues. The  
11 government that we work for, the Federal Government  
12 has these requirements, constitution statutes, et  
13 cetera. And part of that is that the actions that  
14 we take, and I know you guys know this, but the  
15 action that we take can't be arbitrary. We have to  
16 explain why we're doing this, and there has to be  
17 some reasonable reason why we're doing it.

18 So the IRA -- you know, the 151 regs didn't  
19 come into place until the '70s, I think it was.

20 You might remember it more.

21 UNIDENTIFIED SPEAKER: What's that now?

22 MR. JOHN TAHSUDA III: The 151 regs were  
23 actually not adopted I believe until the '70s, I  
24 think it was. So before that Interior just used the  
25 mere authority of the act to take land into trust

1 for tribes. We know during that time period after  
2 the IRA, the government wasn't doing a lot of taking  
3 land into trust. So -- but starting in the '60s and  
4 '70s there was a renewed interest in restoring the  
5 reservations, et cetera, self-determinations coming  
6 around.

7 There was also a historic sort of change in the  
8 way the Federal Government operates as we get into  
9 the latter part of the 20th Century and dictated, in  
10 part, by the supreme court and dictated by further  
11 interest in the further creation of the bureaucracy  
12 of the Federal Government is to say that there  
13 needed to be regulations for things that the  
14 government does. And this is one of those  
15 processes. Didn't have a regulation before,  
16 followed up by the desire to have some. There were  
17 court cases challenging the government's action.  
18 These regulations, you know, are put into place to  
19 show that there is a reasonable process that the  
20 government is using in taking this action called,  
21 taking land into trust for a tribe under the  
22 statutory authority of the Indian Reorganization  
23 Act.

24 And then since then the regs have been changed  
25 several times, more often because of litigation,

1 because of cases that have been filed. And the  
2 Department, the Federal Government has tried to  
3 amend the regulations to both protect the statute  
4 and to try to further, you know, so that the statute  
5 does not become useless and can continue to use the  
6 authority of the statute. So it provides more  
7 guidance, more explanation basically through the  
8 regulations of why the government is taking this  
9 action. The unfortunate part of that is that it  
10 creates more regulation, right? And it becomes a  
11 bigger and bigger process, and we get to kind of  
12 where we are today.

13 I would say that some of the -- probably the  
14 provisions, other than environmental, the  
15 environmental provisions which are required by other  
16 statutes, particularly NEPA, but some of the other  
17 provisions that are in our regulations now that have  
18 to do with public notice, getting comment from local  
19 governments, dates, et cetera, are in the  
20 regulations because of litigation. They sued the  
21 Federal Government. And the courts, federal courts  
22 agreed that the Federal Government wasn't doing a  
23 good job of explaining to these other outside  
24 parties who have an interest in the final action,  
25 they weren't explaining what they were doing in

1 getting to the decision to take this action.

2 And so there was Chairman Gourneau, I believe  
3 it was one of Lower Brule's cases, I think was a  
4 serious challenge to the authority of the Secretary  
5 under the IRA to take land into trust, just the very  
6 basic authority. And so the regulations were  
7 substantially changed following that case to try to  
8 bulk up what you call the constitutional sufficiency  
9 of the statute, because otherwise the court was  
10 questioning, the federal courts were questioning  
11 whether the statute was too vague to be applied in a  
12 reasonable manner, and so the department bulked up  
13 the regs again, provided more process for the people  
14 who are interested in the decision. And that kind  
15 of gets us to where we are today with all of these  
16 notices to local governments, they get an  
17 opportunity to comment, et cetera.

18 The courts also get us kind of back to where we  
19 are talking about the off-reservation provisions of  
20 the 151 regulations. The courts have also said that  
21 basically there's no real, there's no distinction in  
22 the IRA between on reservation or off reservation,  
23 so simple authority for the Secretary to do this.  
24 But the federal court said that, We think there is a  
25 historical difference between a tribe getting lands

1 on its reservation, that's part of the fundamental  
2 purposes of the IRA is restoring reservations, et  
3 cetera, but then they questioned that if it's off  
4 reservation now and there's no limitation that says  
5 the Secretary can't do it, so the court's question,  
6 "What is the limitation?" There must be some  
7 limitation, right? And so that came into being the  
8 provisions that deal specifically with off  
9 reservation and putting a few more nuts and bolts  
10 into the process so that we, Interior, can represent  
11 essentially to courts that when we make a decision  
12 for you, for the tribe to take land into trust, that  
13 no, this is a carefully reasoned, not an arbitrary  
14 decision; we have a good basis for doing it.

15 And in this case when it's off reservation, we  
16 have listened to and we have mitigated or addressed  
17 or determined not to import the interests that the  
18 other communities outside of the reservation have  
19 put forward either in opposition or just in  
20 questioning that. So those off-reservation  
21 provisions, the additional requirements for  
22 off-reservation acquisitions come out of that.

23 And, again, this has all been part of the  
24 Department's attempts to protect the statue, to  
25 protect the ongoing authority of the Secretary to

1 exercise the ability to take land into trust. So  
2 that's kind of where we are now.

3 And I understand oftentimes for folks looking  
4 at changing something, it may not be a great  
5 process, but at least you know what it is now. And  
6 looking at changing it always raises the question,  
7 "You're changing the status quo. What is it going  
8 to be after that?" So it's understandable that  
9 people may be opposed to it, question it, whatever.

10 MR. MARIO GONZALES: I know that Section 5 of  
11 the IRA, if I recall correctly, states that the  
12 Secretary has the discretion, the Secretary can put  
13 fee land back in trust on the reservation and near  
14 the reservation, off the reservation near the  
15 reservation. What is near the reservation? Because  
16 Cheyenne has put land in trust in Bear Butte. How  
17 far away is that? Is that near their reservation?  
18 So we need to look at those kind of things, too. If  
19 they can put land in trust at Bear Butte which is,  
20 what, 150, 200 miles from the reservation, then why  
21 can't we do it within our original territory?

22 MR. JOHN TAHSUDA III: I think that's a  
23 perfectly legitimate question to ask. Again, the  
24 distinction between on reservation, off reservation,  
25 near a reservation, you know, larger than fleshed



1 out in court cases in a sense, and at least --  
2 there's certainly at least a logical, you know, a  
3 logical explanation of taking an action if it wasn't  
4 part of a historic reservation, right? I can see  
5 that. So that's part of what we'd like to hear.  
6 Right now it's not really treated that way. You  
7 know, is that a reason to do it? And there are  
8 those and other reasons, right? There are obviously  
9 religious and cultural sites that are very  
10 important.

11 I mean, right now we don't distinguish between  
12 the purposes of an off-reservation acquisition, so  
13 whether it's for gaming or some other business, a  
14 gas station or something, or is it just to acquire  
15 the site because the tribe thinks it's really  
16 important to protect it from being destroyed or  
17 whatever. So we don't distinguish that.

18 And so one of the questions that I think is,  
19 would be good to ask and good to consider, if we go  
20 down the road of changing the regulations, and that  
21 that decision is not made, but if we did, you know,  
22 would it be good to have some distinction? Now, if  
23 we say that, then we're going to have to build in  
24 something to say that we have a reasonable basis for  
25 making those distinctions of course. But I think

1 it's worth a discussion anyways to see if we can do  
2 that.

3 And Mark referenced earlier, you know,  
4 categorical exclusions. And I think if we, you  
5 know, have some distinctions between the anticipated  
6 uses of the off-reservation acquisition, then we can  
7 also bring into play things like categorical  
8 exclusions, et cetera, NEPA. It can also help us  
9 speed up the process that way as well.

10 So that's all part of what's been rolling  
11 around in our heads. Again, with the fundamental  
12 question being, Can we actually improve the process.  
13 And the whole intent of this is to improve the  
14 process.

15 So -- and let me jump to, because I think it's  
16 related, I know there's -- a lot of people at every  
17 one of the consultations we've held, people have  
18 raised concern about the question of whether there  
19 should be, we should have a provision to allow MOUs  
20 with local governments. And so -- and the thought  
21 process of that -- it already happens, right? A lot  
22 of tribes are doing that. And so in our minds it  
23 was never intended to be a requirement. It would be  
24 sort of a plus up to get faster action on the  
25 process, right?

1           So we have to, by the regulations -- again,  
2           this was all part of trying to protect the  
3           statute -- you know, we have to hear from local  
4           governments and hear what the impacts will be on  
5           them, if there are any, et cetera, right? Well, if  
6           you already have an MOU with this local government  
7           that says we've considered the impacts and we've  
8           already agreed on how they're going to be handled or  
9           that there are no impacts, then we can kind of move  
10          through that part of the process faster as well. So  
11          that was the only idea with that.

12           And if you can't -- some tribes have good  
13          relationships with local governments and some don't.  
14          Historically sometimes it's difficult. So if you  
15          don't want to ask for an MOU or go down that road,  
16          you don't have to. If you go down it and it doesn't  
17          work out, we still would do our normal process of  
18          considering, you know, what --

19           UNIDENTIFIED SPEAKER: I think the MOU would be  
20          beneficial for off-reservation acquisitions. But  
21          you should also have the alternative in case you  
22          can't get an MOU (unintelligible).

23           I think on the reservation, you know, 151.10 I  
24          think it is, the criteria I think really needs to be  
25          modified to be (unintelligible). It makes it too

1 hard for on-reservation acquisitions to occur. I  
2 think some of those criteria could be eliminated.  
3 Like I said, I think that when the tribe, when the  
4 government itself, the tribal government buys fee  
5 land and acquires it, they should have a right to  
6 put that back into trust automatically  
7 (unintelligible). And I think it's 151.10, you  
8 know, the criteria, it's just too much, what do they  
9 call it, red tape, too much bureaucracy there, and  
10 it should be simplified.

11 And also somebody mentioned an appraisal  
12 process. I think OST. I think that appraisal  
13 process, I don't know if it's been refined yet, but  
14 that should really be simplified also. The tribes  
15 maybe should be allowed to do their own appraisals  
16 or governments should find a way to expedite  
17 appraisals. It just slows everything down. There's  
18 a backlog of trying to put land into trust. I think  
19 that's really an issue. I don't know if OST will  
20 still be here in the future.

21 And then we have a separate agency doing  
22 appraisals on minerals. Why? Why two different  
23 agencies doing appraisals? Why can't they be under  
24 one agency and simplify it?

25 MR. JOHN TAHSUDA III: We've proposed that, but

1 we're getting some opposition from Congress on doing  
2 that.

3 President?

4 PRESIDENT TROY (SCOTT) WESTON: So you talked  
5 about MOAs, MOUs and peas and carrots and apples and  
6 oranges. You know, the ILCA process already  
7 purchased land for us. Where is that process? I  
8 was just told by our councilman and land committee  
9 chairman that.

10 According to Secretary Zinke and Cason, the  
11 ball is in your court to finish that process to turn  
12 it back into trust and to get the money back that  
13 was supposed to be coming back to us. Where is that  
14 process and when is that going to be done? Because  
15 we've been sitting here waiting.

16 For how long, Dave?

17 UNIDENTIFIED SPEAKER: Two years.

18 PRESIDENT TROY (SCOTT) WESTON: Two years. And  
19 it's been a ten-year process. So where is that?  
20 Can you tell us that so we can start planning?  
21 Because we have been planning, the money that's  
22 coming back that's generated off the interest, the  
23 tribes buy more land back. But we haven't heard  
24 anything. So can you let my tribal nation, our  
25 council know what's going on?

1 MR. JOHN TAHSUDA III: Yes. You're  
2 specifically talking about the waiver of the  
3 (unintelligible) liens?

4 PRESIDENT TROY (SCOTT) WESTON: Yes.

5 MR. JOHN TAHSUDA III: So I'll be hopeful  
6 that -- so next week is the National Congress of  
7 American Indians. I know that some people think  
8 that's a dirty word. But anyway, we're going to be  
9 there and we're planning to be able to make an  
10 announcement there that we've got the process done,  
11 the secretarial order will be implemented and we can  
12 start the process and the liens will be waived and  
13 then we can start the process of giving the tribes  
14 those funds to use for acquisitions, fractionated  
15 acquisitions.

16 PRESIDENT TROY (SCOTT) WESTON: Do you have a  
17 timeline for that when you make that announcement?

18 MR. JOHN TAHSUDA III: I'm sorry, what do you  
19 mean? A timeline --

20 PRESIDENT TROY (SCOTT) WESTON: When we're  
21 going to get the actual --

22 MR. JOHN TAHSUDA III: The money in your hands?  
23 The money in your account?

24 PRESIDENT TROY (SCOTT) WESTON: The money in  
25 the bank, not so much my hand but in the bank so

1 that we can start making them purchases. Because we  
2 have willing sellers that are sitting there waiting  
3 because of the processes.

4 And even like Mario just related, too, was the  
5 appraisal processes. They were trying to use them  
6 through that buy-back process because there was a  
7 pile of -- all of the lands were appraised, all of  
8 those willing sellers. Well, those are no longer  
9 any good. Prior to that an appraisal lasted six  
10 years. Since this buy-back process stopped, and  
11 we're trying to get back into it, because we spent  
12 \$115 million purchasing back land in that buy-back  
13 process, those appraisals are now -- they're done.  
14 They're too old, they say, because of the land has  
15 gone up in value. But I've looked at some of them  
16 and that land has gone down.

17 And there are people that have been sitting on  
18 this process when we created this, when we agreed  
19 around the hallway, down the hall here in this  
20 buy-back process that everything was going to work  
21 like clockwork, and that's the only reason why we  
22 went with it. To this day we have heard nothing; we  
23 have seen nothing; we have done nothing, all because  
24 of the government.

25 We want something done. And that's why I ask

1 for time lines. So if you would, let us know  
2 immediately.

3 MR. JOHN TAHSUDA III: So I don't want to  
4 overpromise. So we'll make the announcement.

5 PRESIDENT TROY (SCOTT) WESTON: Just give me a  
6 date.

7 MR. JOHN TAHSUDA III: We'll make the  
8 announcement next week. So I believe the process is  
9 the waivers will be sent out. The notification --  
10 you'll get a notification of the waiver of the  
11 liens. I don't know, I mean, what the timeline will  
12 be on that for you to get that in your hand.

13 The funds, I also don't know -- this gets into  
14 a bureaucracy I know nothing about, which is the  
15 handling of funds between OST and then into your BIA  
16 accounts, et cetera. But part of the -- part of the  
17 delay for us in the last couple months was trying to  
18 clarify how that would work. And so I'm told that  
19 we have that worked out. And so I just don't have a  
20 timeline for you of when the money would be  
21 available for you.

22 I know that -- so we have coming up pretty  
23 quickly a second round of reservations that, where  
24 the buy-back program is coming back to here in the  
25 Great Plains. And we certainly, you know, we will



1 have those funds available for you before that  
2 program comes back to the reservation. So you can  
3 use the mass valuations that we do, et cetera, if  
4 you want and to use those funds to purchase through  
5 that.

6 So that's been one of the goals all along is to  
7 get it done, to get this, the Secretarial order done  
8 and to get the funds available for you to use in  
9 companionship with the regular buy-back program  
10 going on.

11 I don't have a hard date for you unfortunately.  
12 Again, I don't want to overpromise, but that's  
13 the -- that's what we're shooting for.

14 PRESIDENT TROY (SCOTT) WESTON: So to clarify,  
15 on top of the money -- because we are in that  
16 buy-back process. We are one of the tribes that are  
17 back in it. So that money that is originally that  
18 we've (unintelligible) is going to be allocated to  
19 us to be able to start our program.

20 What did John Long say? 250,000?

21 UNIDENTIFIED SPEAKER: Yeah.

22 PRESIDENT TROY (SCOTT) WESTON: 250,000 to  
23 start our process. And then there's going to be an  
24 allocation of money to purchase the land.

25 MR. JOHN TAHSUDA III: Right.

1           PRESIDENT TROY (SCOTT) WESTON: Or are you  
2 going to give us our ILCA mony back to purchase the  
3 land? Are we going to have two pots?

4           MR. JOHN TAHSUDA III: Well, we'll have a pot  
5 for the buy-back program to buy the smaller  
6 fractionated interest. You will have your pot of  
7 money to buy the interest that you want to buy.

8           So we have restrictions on what we use the big  
9 buy-back program pot for, right? Trying to mainly  
10 get smaller interests and clear them out of the way,  
11 right?

12           You don't have those restrictions for your  
13 fund. You can use your funds to buy one big  
14 interest if you wanted to, right?

15           So -- but the goal is so when we come through  
16 with the program again, the mass valuations will pop  
17 out, we'll have all that set and you'll be able to  
18 see those and be able to use those for the purchases  
19 that you want to do with your pot of money. Does  
20 that make sense?

21           PRESIDENT TROY (SCOTT) WESTON: Yep. Okay,  
22 thank you.

23           MR. JOHN TAHSUDA III: That's the goal.

24           UNIDENTIFIED SPEAKER: Just one question to  
25 clarify then. When the chair people are notified of

1 this, of the release of, on the liens and stuff,  
2 will the stipulations come with them what we can and  
3 cannot use those dollars for? Because the reason  
4 I'm asking is there's been rumor, because there's  
5 all kinds of rumors that come out of D.C. --

6 MR. JOHN TAHSUDA III: Really? I've never  
7 heard anything untrue ever come out of D.C.

8 (Laughter)

9 UNIDENTIFIED SPEAKER: The reason I'm asking is  
10 because we were told that we can't buy from single  
11 owners; we can't buy fee lands that are on the  
12 reservation; it had to run similar to the buy-back  
13 program. That's why I'm asking, are them  
14 stipulations going to come out when the chairman or  
15 those participating tribes in the ILCA when they're  
16 notified, are them stipulations going to come later  
17 or at the same time?

18 MR. JOHN TAHSUDA III: So the only stipulation  
19 is the stipulation required by ILCA itself that they  
20 be, you know, restricted or trust fractionated  
21 interests. You can't use them for fee land or fee  
22 interests, right.

23 UNIDENTIFIED SPEAKER: See, that's the problem.  
24 See, the government is telling us what to do again  
25 with our tribal money.

1 MR. JOHN TAHSUDA III: Well --

2 UNIDENTIFIED SPEAKER: We should be able to  
3 spend tribal money on fee land or buying a piece of  
4 the moon or whatever we want.

5 MR. JOHN TAHSUDA III: I would agree with you,  
6 absolutely, except these funds were part of this  
7 specific statutory structure, and so I don't have  
8 the ability to waive statutory requirement.

9 UNIDENTIFIED SPEAKER: I'm going to tell you  
10 something. I'm sitting here thinking we have, on  
11 Pine Ridge we have non-Indians owning in trust  
12 property that's allotted trust where there's several  
13 owners, so they have no particular piece. Follow  
14 me?

15 MR. JOHN TAHSUDA III: Yep.

16 UNIDENTIFIED SPEAKER: But we cannot buy that  
17 fee land because there's really kind of  
18 no (unintelligible). We want to be a sole owner but  
19 we can't buy that fee person out. The only thing,  
20 we'd have to take it out of the general fund. But  
21 this pot, this pot of money would help the tribe  
22 purchase these. So, you know --

23 MR. JOHN TAHSUDA III: I agree.

24 UNIDENTIFIED SPEAKER: -- it's really catching  
25 us.

1 MR. JOHN TAHSUDA III: Yeah, I understand.  
2 You said buying a solitary interest, or if  
3 there's a tract that only has one interest, one  
4 owner.

5 UNIDENTIFIED SPEAKER: Yeah.

6 MR. JOHN TAHSUDA III: That's a good question.  
7 I actually don't know off the top of my head. And  
8 here's why: Because I don't know -- I don't know  
9 that we put those into the list of properties that  
10 we do valuations, et cetera, for. Because there's  
11 only one owner, so it's not fractionated.

12 Because I think when our guys go out and do the  
13 mass valuation, we get the property map and how many  
14 owners, et cetera, and they do those fractionated  
15 parcels. I don't know that we do ones that are not  
16 fractionated, so I think they may not get a  
17 valuation. So I'm not sure how to answer that,  
18 unfortunately. I'll try to get an answer though and  
19 get back to you.

20 MR. MARK VAN NORMAN: I just want to respond a  
21 little bit to the discussion of the Lower Brule case  
22 and just say that we think it is important to  
23 understand our lands in the context of history and  
24 what's gone before. And from our point of view, our  
25 original lands are, for the Dakota, over in

1 Minnesota and Iowa and coming this way to eastern  
2 South Dakota, and the Yanktons were over that way.  
3 And our folks were from, our Lakota tribes were on  
4 both sides of the Missouri River.

5 And when you think of these territorial acts  
6 and the Indian country statutory provisions that  
7 were in place, non-Indians were not allowed to come  
8 out and settle. Non-Indians were not allowed to  
9 acquire title historically until you came up to  
10 these various territorial acts. And the treaties  
11 reserved a lot of lands as permanent home. And also  
12 other lands were reserved by the Secretary along the  
13 east bank as kind of a buffer zone to keep the  
14 non-Indian settlers away from our treaty lands and  
15 to reduce conflict, et cetera.

16 Those lands over there that the Lower Brule  
17 Sioux Tribe was looking forward to, they had a  
18 strong connection to those lands. It was a  
19 historical burial place of one of their leading  
20 chiefs, and it was also a place where there was an  
21 original BIA agency, Indian agency, you know, prior  
22 to the agency coming across the river. So the case  
23 was completely wrong as a matter of fact and also as  
24 a matter of law because the court didn't bother to  
25 understand the historical connection that the tribe

1 had to that land. So there was some crazy  
2 statements in there about acquiring that land in  
3 trust would be similar to acquiring the Empire State  
4 Building in trust for a chief on his, as a wedding  
5 present.

6 Well, I don't think the supreme court was  
7 countenancing that decision, and so what they did is  
8 they vacated that decision and they granted, vacated  
9 and remanded. So we can't really look to that  
10 decision for guidance about what the meaning of the  
11 act is or what Section 5 is.

12 But one of the flaws in the decision was they  
13 read Section 5 in isolation from the rest of the  
14 statute and from the statutory purposes. And the  
15 statutory purposes are very broad, which is to  
16 restore Indian homelands and to revitalize economic  
17 development and for education. And it refers back  
18 to our agriculture and Sioux benefits, tribal  
19 self-government. And many of us have constitutions  
20 that are related to the Indian Reorganization Act.

21 It also provides for corporations. The Great  
22 Plains Tribal Chairman's Association is now set up  
23 as a Section 17 corporation to achieve the  
24 intertribal business of the Indian nations in the  
25 region.

1           So we feel like when you read the act together,  
2           that Section 5 is not really subject to  
3           constitutional challenge and that that 8th Circuit  
4           decision was a bad decision.

5           The supreme court has since cited Section 5  
6           with approval. And, you know, we feel like we're  
7           not in constitutional jeopardy with Section 5 at  
8           this point.

9           And what we're really talking about is looking  
10          at things in history when we have our treaties, and  
11          our treaties are still the law of the land. As  
12          we're trying to implement those treaty  
13          responsibilities of the United States, then we'd  
14          like to have those read in context with these  
15          remedial statutes like the IRA which is intended to  
16          recognize that the Allotment Act did too much damage  
17          to Indian tribes by taking too much land and that  
18          surplus federal lands ought to be restored and that  
19          land ought to be taken in trust so that people can  
20          have a viable homeland.

21          Now, obviously the objectives of the act  
22          haven't really been realized fully over this past,  
23          you know, I don't know how many years. It's a lot  
24          of years. 80 years maybe, 80 plus years. So it's a  
25          lot of years. But if we have the poorest counties



1 in the country, and we have Oglala Lakota County and  
2 Ziebach County and Todd County are among the five  
3 poorest counties in the country on an ongoing basis,  
4 obviously we need more economic development.

5 Obviously we need more action under the Indian  
6 Reorganization Act to recover our lands.

7 And the problem for us is getting into the  
8 bureaucracy. And we know there are good people  
9 working over at Interior trying to do something  
10 worthwhile with your time over there, but we also  
11 run into a lot of this bureaucratic stuff. Like,  
12 you know, just recently we've been hearing from the  
13 Solicitor's Office at Interior that maybe there's  
14 some problem with the BIA leasing tribal facilities.  
15 And, you know, we've been over to the BIA and the  
16 BIA has been telling us, "Why don't you take out a  
17 loan? Why don't you build your own facility and why  
18 don't you lease it back to us and we can pay you  
19 rent and that will help you pay for your mortgage on  
20 that facility?" And then we do, and there's some  
21 new administration, they hire someone new at general  
22 law at Interior and they say, "Oh, we can't lease  
23 those buildings." And it's like, "Really? Is that  
24 just crazy if you've been doing it for so many years  
25 that all of a sudden you're going to have a new

1 legal opinion on that?"

2 So that's where we have a lot of concern that  
3 when you're going to try and take action to improve  
4 something, that sometimes it doesn't work out that  
5 way. And there's a lot of concern that we already  
6 have a very difficult process and we don't want to  
7 make it more difficult. We don't want to give the  
8 implications to the county that there's a  
9 government-to-government relationship between our  
10 Indian nations and the county because our  
11 government-to-government relationship is with the  
12 United States and it goes back to those treaties.  
13 And so those are the difficulties that we face.

14 So I think if you could keep that in mind that  
15 that Lower Brule case has been vacated and that the  
16 regulations have been updated since then, you know,  
17 I think that we feel like we're in good standing  
18 with the constitutionality of the Indian  
19 Reorganization Act.

20 So I just wanted to add that to the record.

21 Thank you.

22 MR. JOHN TAHSUDA III: Thank you, Mark.

23 Anybody else?

24 MR. ROGER WHITE OWL: Good afternoon. (Native  
25 language).

1 My name is Roger White Owl. I am the  
2 Intergovernmental Affairs Officer for the MHA  
3 Nation, Three Affiliated Tribes, here on behalf of  
4 Chairman Mark Fox.

5 On November 30th we did send a letter to your  
6 office on action for the Figure Four Ranch  
7 fee-to-trust application that we put in.

8 The Mandan Hidatsa and Arikara Nation (MHA  
9 Nation) respectfully requests that you direct the  
10 Bureau of Indian Affairs (BIA) Director to refer  
11 approval of our Figure Four Ranch Fee-to-Trust  
12 Application back to the BIA Great Plains Regional  
13 Director. The 9,303-acre property is adjacent and  
14 contiguous to our Fort Berthold Indian Reservation,  
15 was included in the lands set aside for us in an  
16 1870 Executive Order and within our original  
17 reserved area in our 1851 Treaty of Fort Laramie.  
18 We purchased the fee property in 1999 and have been  
19 working since 2011 to have it taken into trust.

20 Action on the application has been pending for  
21 more than a year following BIA's issuance, which in  
22 this time frame would be two years now, issuance of  
23 an Environmental Assessment or the EA and Finding of  
24 No Significant Impact (FONSI) in the fall of 2016.  
25 Comments received from the surrounding counties and

1 the state were considered in this process. Please  
2 find attached to this letter the FONSI and a map  
3 showing the property in relation to our reservation,  
4 in which we will submit that.

5 We understand that the BIA regional and agency  
6 offices are prepared and ready to address our  
7 pending application. However, because of potential  
8 environmental liability from existing oil and gas  
9 development, the application was referred to the BIA  
10 director on May 27, 2017. We ask that the director  
11 refer the application and review process back to the  
12 regional office.

13 Our BIA regional and agency offices are capable  
14 and experienced with fee-to-trust applications  
15 involving potential environmental liability and oil  
16 and gas development. In 2012, the director  
17 delegated authority to our regional and agency  
18 offices to approve a fee-to-trust application for  
19 lands that we are using to develop oil and gas  
20 refinery. The refinery property carried an even  
21 higher environmental liability than Figure Four  
22 Ranch. In addition, these offices have been on the  
23 front lines of the oil and gas boom on our  
24 reservation for more than a decade. They understand  
25 these issues and the EA was developed with their

1 insight into these critical matters.

2 We also note that the BIA's visual inspection  
3 of oil and gas facilities on the Figure Four Ranch  
4 did not identify any spills, leaks, stressed  
5 vegetation or any condition that would be considered  
6 an eminent threat of a release. All the companies  
7 with facilities located within the property are  
8 insured and bonded to address any release and  
9 remediation of incidents that occur as a result of  
10 their operations. The potential for the Federal  
11 Government to expend funds associated with a release  
12 is unlikely under these conditions.

13 As you know, the MHA Nation and our Fort  
14 Berthold Indian Reservation sits in the middle of  
15 the Bakken Formation, one of the most active oil and  
16 gas plays in the United States. Taking these lands  
17 into trust will provide certainty for ongoing uses  
18 and surrounding development. The lands will also be  
19 a significant addition to our land base. Taking  
20 these lands into trust will allow the MHA Nation to  
21 expand its base for economic development, preserve  
22 the culture of the MHA Nation, provide for our  
23 members, and maintain the homeland we reserved in  
24 treaty with the United States.

25 We respectfully request for your assistance in

1 seeing that immediate action is taken on this  
2 fee-to-trust application.

3 Sincerely, Mark Fox, Chairman, Three Affiliated  
4 Tribes.

5 On behalf of the chairman, as you can see, what  
6 I just read verbatim, we put this application in so  
7 many years ago. We are still -- we have followed  
8 all the regulations. Everything has been followed.  
9 The counties and -- the state and the county have  
10 been a part of the process and have agreed. And we  
11 are still waiting, since 2011, to get this done.

12 And the chairman wanted to stress that this  
13 process, it does need improvement but there are  
14 areas that we don't agree with. And we will submit  
15 this as part of it.

16 And as you'll see on the land, we have the  
17 legal description of all the land in the area and  
18 how it affects it and with the EA. So we will  
19 submit that into there. But Chairman Fox wanted to  
20 convey that.

21 Although we do stand in solidarity with our  
22 fellow Great Plains tribes on the issues and the  
23 stances that they have brought up also and that we  
24 feel that this process at this point in time the MHA  
25 Nation stands opposed.

1           With that, again, my name is Roger White Owl,  
2           Intergovernmental Affairs liaison for the MHA  
3           Nation, Office of Chairman Fox.

4           MR. JOHN TAHSUDA III: I think I have a way out  
5           of this bog for us. It's really been about the  
6           environmental concerns and potential liability, the  
7           potential liability. So anyway, sometimes it helps  
8           to actually be a lawyer and you can talk to the  
9           Solicitor's Office. So I think I have a way out for  
10          us on that and we can start getting the ball  
11          rolling. Thank you.

12          We are only 30 minutes short of our allotted  
13          time anyway, so unless there's another comment for  
14          the good of the order, I will close out this  
15          consultation.

16          Thank you all for coming here, and I hope you  
17          all have a safe journey home, and we look forward to  
18          seeing you at the next consultation.

19                           \* \* \* \* \*

20                   (The proceedings concluded at 12:30 p.m.,  
21                   May 31, 2018.)

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24  
25

1 STATE OF SOUTH DAKOTA )  
2 COUNTY OF PENNINGTON ) ss.

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I, CINDY K. PFINGSTON, hereby certify that the foregoing pages numbered from 1 to 95, inclusive, constitute a full, true and accurate record of the proceedings had in the above matter, all done to the best of my skill and ability.

DATED this 10th day of July, 2018.

/S/ CINDY K. PFINGSTON

CINDY K. PFINGSTON  
Registered Professional Reporter

My commission expires:  
February 4, 2022



<b>CHAIRMAN BOYD</b>	77/3 77/17 78/3	<b>10:33 [1]</b> 40/10
<b>GOURNEAU: [2]</b> 4/22	78/15 78/19 78/23	<b>10th [1]</b> 96/10
5/3	80/4 81/13 81/21	<b>11 [3]</b> 35/20 36/8
<b>CHAIRMAN CEDRIC</b>	81/25 82/20	55/10
<b>CROMWELL: [1]</b> 6/17	<b>THE COURT REPORTER:</b>	<b>11 million acres [1]</b>
<b>CHAIRMAN HAROLD</b>	[1] 40/24	26/3
<b>FRAZIER: [1]</b> 49/25	<b>UNIDENTIFIED</b>	<b>11:02 [1]</b> 40/10
<b>MR. DAVID POURIER:</b>	<b>SPEAKER: [13]</b>	<b>12 [3]</b> 6/1 59/6
[1] 30/2	49/18 67/20 75/18	61/3
<b>MR. JOHN TAHSUDA</b>	77/16 81/20 82/23	<b>1251 [1]</b> 66/5
<b>III: [41]</b> 2/1 4/25	83/8 83/22 84/1	<b>12:30 [1]</b> 95/20
6/15 10/17 11/19	84/8 84/15 84/23	<b>14 million acres [1]</b>
13/8 13/12 19/12	85/4	54/12
30/1 32/18 32/20	<b>VICE-CHAIRMAN</b>	<b>15 [1]</b> 5/23
40/3 40/10 49/7	<b>DOUGLAS YANKTON:</b>	<b>150 [2]</b> 5/25 72/20
49/20 54/1 66/12	[1] 11/22	<b>151 [10]</b> 54/6 63/4
66/20 66/23 67/21		64/11 65/3 65/7
72/21 76/24 77/25	<b>\$</b>	65/13 67/6 67/18
78/4 78/17 78/21	<b>\$115 [1]</b> 79/12	67/22 70/20
80/2 80/6 81/24	<b>\$115 million [1]</b>	<b>151.10 [2]</b> 75/23
82/3 82/22 83/5	79/12	76/7
83/17 83/25 84/4	<b>\$145 [1]</b> 46/9	<b>16 [5]</b> 19/22 54/17
84/14 84/22 84/25	<b>\$20 [1]</b> 55/17	55/9 55/9 59/7
85/5 90/21 95/3	<b>\$20 million [1]</b>	<b>160 acres [1]</b> 46/5
<b>MR. LAWRENCE</b>	55/17	<b>17 [1]</b> 87/23
<b>WALKER, JR.: [1]</b>	<b>\$40 [1]</b> 58/1	<b>18 [2]</b> 62/6 62/7
34/8	<b>\$40 million [1]</b>	<b>1805 [1]</b> 22/11
<b>MR. MARIO GONZALES:</b>	58/1	<b>1851 [10]</b> 22/23
[3] 54/2 66/14	<b>\$6 [1]</b> 60/9	24/19 24/20 41/6
72/9	<b>\$6 million [1]</b> 60/9	41/9 54/8 54/11
<b>MR. MARK VAN</b>	'	55/1 55/16 91/17
<b>NORMAN: [2]</b> 21/17	<b>'60s [1]</b> 68/3	<b>1854 [1]</b> 24/8
85/19	<b>'70s [3]</b> 67/19	<b>1860 [1]</b> 24/25
<b>MR. ROGER WHITE</b>	67/23 68/4	<b>1868 [9]</b> 25/25 41/9
<b>OWL: [1]</b> 90/23	<b>'90s [1]</b> 6/2	54/15 54/16 55/1
<b>MS. GAY KINGMAN:</b>	<b>/</b>	55/4 56/1 59/7
[1] 19/13	<b>/S [1]</b> 96/11	64/15
<b>MS. JEANNIE</b>	<b>1</b>	<b>1870 [1]</b> 91/16
<b>HOVLAND: [1]</b> 11/10	<b>1,200 [1]</b> 30/22	<b>1877 [1]</b> 59/24
<b>MS. SASHEEN THIN</b>	<b>1,200 acres [1]</b>	<b>1889 [3]</b> 25/7 26/2
<b>ELK: [2]</b> 13/11	31/7	61/8
13/13	<b>1,500 [1]</b> 46/8	<b>1904 [1]</b> 61/8
<b>PRESIDENT TROY</b>	<b>10 [2]</b> 42/16 47/18	<b>1906 [1]</b> 62/15
<b>(SCOTT) WESTON:</b>	<b>10 million acres [1]</b>	<b>1948 [1]</b> 64/3
[13] 40/16 40/25	20/15	<b>1978 [1]</b> 55/22
		<b>1980 [1]</b> 27/21





























**F**  
**fort...** [3] 91/14  
91/17 93/13  
**forward** [8] 11/14  
24/6 24/17 24/24  
27/13 71/19 86/17  
95/17  
**foster** [1] 38/5  
**fought** [2] 61/7  
61/8  
**foundation** [1] 67/7  
**four** [5] 39/16 91/6  
91/11 92/21 93/3  
**fourths** [3] 61/24  
61/25 62/9  
**Fox** [4] 91/4 94/3  
94/19 95/3  
**fractionated** [8]  
64/7 64/8 78/14  
82/6 83/20 85/11  
85/14 85/16  
**frame** [1] 91/22  
**fraud** [2] 56/18  
62/18  
**fraudulent** [1]  
62/18  
**Frazier** [4] 19/19  
40/7 40/16 50/1  
**free** [2] 4/13 52/22  
**friends** [1] 6/23  
**friendship** [1]  
22/17  
**frog** [1] 67/1  
**front** [3] 21/5  
21/19 92/23  
**frozen** [1] 63/1  
**frustrating** [1]  
32/11  
**full** [2] 19/24 96/7  
**full-service** [1]  
19/24  
**fully** [1] 88/22  
**functions** [2] 64/22  
65/1  
**fund** [2] 82/13  
84/20

**fundamental** [3]  
16/10 71/1 74/11  
**funded** [1] 29/10  
**funds** [9] 78/14  
80/13 80/15 81/1  
81/4 81/8 82/13  
84/6 93/11  
**further** [5] 16/8  
60/24 68/10 68/11  
69/4  
**future** [2] 26/14  
76/20

**G**  
**gaming** [6] 3/1 5/24  
20/22 29/13 29/16  
73/13  
**gap** [1] 21/20  
**gas** [7] 73/14 92/8  
92/16 92/19 92/23  
93/3 93/16  
**gave** [1] 67/5  
**Gay** [4] 19/13 19/14  
21/18 33/24  
**gear** [1] 53/14  
**Geez** [1] 48/15  
**general** [6] 13/24  
19/17 55/24 64/21  
84/20 89/21  
**generated** [1] 77/22  
**generations** [1]  
26/15  
**gentleman** [1] 17/7  
**get** [57] 3/19 3/19  
4/16 5/7 6/8 13/4  
13/5 13/7 17/14  
17/24 20/10 21/1  
31/17 31/18 33/12  
33/13 33/21 37/8  
38/4 38/11 38/18  
40/11 46/20 47/24  
47/25 48/12 48/13  
48/15 48/24 52/23  
53/17 59/1 59/2  
60/8 60/19 60/24  
65/21 68/8 69/11  
70/16 70/18 74/24

75/22 77/12 78/21  
79/11 80/10 80/12  
81/7 81/7 81/8  
82/10 85/13 85/16  
85/18 85/19 94/11  
**gets** [7] 11/16 12/9  
32/11 55/14 61/18  
70/15 80/13  
**getting** [14] 21/15  
41/24 45/3 45/4  
46/18 59/19 60/15  
60/20 69/18 70/1  
70/25 77/1 89/7  
95/10  
**Gillette** [1] 58/2  
**give** [15] 17/22  
21/22 35/10 40/15  
43/15 43/24 51/21  
54/5 54/25 56/5  
56/9 58/5 80/5 82/2  
90/7  
**given** [7] 12/5 15/1  
18/4 31/9 43/9  
46/21 48/20  
**giving** [7] 14/18  
17/25 48/22 55/25  
56/2 56/3 78/13  
**glad** [1] 67/5  
**glue** [1] 10/2  
**go** [39] 3/25 11/14  
17/1 20/16 31/8  
31/16 34/8 34/19  
35/24 36/17 37/25  
39/14 42/4 42/5  
42/6 47/16 47/21  
47/22 47/24 47/25  
48/15 49/5 50/8  
55/1 55/9 55/15  
55/15 55/18 57/9  
59/11 59/12 60/24  
62/16 63/19 65/17  
73/19 75/15 75/16  
85/12  
**go-around** [1] 63/19  
**goal** [3] 45/6 82/15  
82/23

**G**

**goals [2]** 16/10  
 81/6  
**God [2]** 51/2 52/9  
**goes [8]** 2/24 16/25  
 22/6 37/23 38/2  
 64/13 65/20 90/12  
**going [53]** 6/5 6/8  
 17/2 17/3 27/8 28/6  
 30/11 31/11 31/17  
 32/10 34/16 36/7  
 37/25 39/10 40/15  
 41/13 42/8 44/3  
 46/20 47/13 47/18  
 47/19 47/21 48/23  
 50/3 50/11 51/7  
 51/19 52/22 53/1  
 53/12 53/24 58/2  
 59/14 60/10 72/7  
 73/23 75/8 77/14  
 77/25 78/8 78/21  
 79/20 81/10 81/18  
 81/23 82/2 82/3  
 83/14 83/16 84/9  
 89/25 90/3  
**gold [4]** 27/17  
 42/13 47/15 47/17  
**gone [3]** 79/15  
 79/16 85/24  
**Gonzales [1]** 54/3  
**good [24]** 6/23  
 11/23 13/15 23/14  
 30/3 33/25 34/11  
 34/12 34/22 35/4  
 40/18 40/18 69/23  
 71/14 73/19 73/19  
 73/22 75/12 79/9  
 85/6 89/8 90/17  
 90/24 95/14  
**got [22]** 5/15 10/2  
 36/9 41/18 43/16  
 44/14 44/14 44/15  
 44/17 45/4 46/7  
 51/18 53/24 55/19  
 56/16 57/12 58/13  
 58/14 61/25 62/4

62/8 78/10  
**gotta [5]** 51/15  
 51/20 52/23 53/8  
 65/21  
**Gourneau [2]** 4/21  
 70/2  
**governance [1]**  
 14/11  
**government [75]**  
 12/6 12/12 12/20  
 15/3 15/12 15/22  
 16/14 16/17 18/12  
 18/13 18/16 18/22  
 18/24 22/7 22/21  
 23/25 24/1 24/12  
 24/18 28/17 28/20  
 29/9 29/11 31/2  
 31/10 31/11 32/13  
 34/24 34/24 40/20  
 40/23 41/7 41/22  
 42/1 43/19 45/9  
 45/10 47/7 49/19  
 49/22 50/15 50/24  
 57/10 57/24 58/10  
 60/2 60/19 61/19  
 63/25 64/18 64/19  
 64/20 64/23 67/11  
 67/11 68/2 68/8  
 68/12 68/14 68/20  
 69/2 69/8 69/21  
 69/22 75/6 76/4  
 76/4 79/24 83/24  
 87/19 90/9 90/9  
 90/11 90/11 93/11  
**government's [5]**  
 12/18 18/21 47/3  
 64/9 68/17  
**government-to-govern  
 ment [2]** 90/9 90/11  
**governments [21]**  
 14/20 14/22 14/24  
 15/8 17/20 17/23  
 18/1 18/24 19/2  
 19/25 28/18 32/11  
 53/6 64/21 65/1  
 69/19 70/16 74/20

75/4 75/13 76/16  
**governors [1]** 3/8  
**granted [2]** 31/15  
 87/8  
**great [25]** 11/12  
 11/12 19/15 19/18  
 19/21 19/22 21/25  
 31/24 32/1 32/4  
 32/6 32/8 32/15  
 33/7 34/6 48/25  
 50/14 50/17 53/21  
 55/5 72/4 80/25  
 87/21 91/12 94/22  
**greatly [1]** 14/8  
**greedy [1]** 51/11  
**greet [2]** 13/16  
 34/13  
**Grijalva [1]** 8/18  
**grocery [1]** 5/16  
**ground [3]** 31/8  
 46/6 53/11  
**growing [1]** 51/17  
**guarantee [1]** 64/17  
**Guard [1]** 31/9  
**guess [6]** 5/4 16/23  
 19/7 21/10 53/22  
 64/5  
**guests [1]** 20/8  
**guidance [2]** 69/7  
 87/10  
**guide [1]** 4/7  
**guilt [3]** 52/7 52/7  
 52/8  
**guilty [1]** 52/8  
**guinea [1]** 15/23  
**guy [1]** 5/15  
**guy's [1]** 5/16  
**guys [14]** 33/23  
 50/8 50/11 50/21  
 51/13 51/15 52/15  
 52/25 53/9 53/18  
 53/23 67/2 67/14  
 85/12

**H**

**had [29]** 4/15 4/15  
 7/13 13/19 15/25



**H**

**had...** [24] 17/8  
 22/20 25/7 34/19  
 35/3 35/25 36/18  
 36/23 36/25 41/22  
 43/15 43/17 43/22  
 58/7 58/17 59/22  
 61/12 62/2 62/20  
 64/12 83/12 86/17  
 87/1 96/8  
**half** [1] 46/18  
**hall** [1] 79/19  
**hallway** [2] 11/8  
 79/19  
**halt** [1] 15/4  
**hand** [3] 10/15  
 78/25 80/12  
**handing** [1] 10/13  
**handle** [2] 3/12 4/4  
**handled** [1] 75/8  
**handling** [1] 80/15  
**hands** [1] 78/22  
**handshake** [1] 13/16  
**happen** [3] 50/18  
 53/11 54/24  
**happened** [7] 30/16  
 35/16 36/8 41/20  
 56/12 61/12 62/2  
**happening** [3] 8/8  
 43/6 57/18  
**happens** [2] 62/24  
 74/21  
**happiness** [1] 23/20  
**happy** [5] 21/23  
 21/24 33/24 34/3  
 34/5  
**hard** [3] 28/3 76/1  
 81/11  
**harder** [1] 31/15  
**hardships** [1] 17/11  
**Harold** [2] 19/19  
 50/1  
**has** [34] 3/1 6/25  
 7/16 7/18 8/2 8/6  
 8/13 8/15 8/19 9/7  
 9/11 9/16 16/4

18/12 25/22 27/13  
 29/23 39/6 58/20  
 58/23 67/12 67/16  
 69/2 71/23 72/12  
 72/16 79/14 79/16  
 85/3 88/5 89/16  
 90/15 91/20 94/8  
**hasn't** [1] 59/15  
**have** [188]  
**have advocacy** [1]  
 65/15  
**haven't** [2] 77/23  
 88/22  
**having** [3] 13/6  
 35/6 43/13  
**Hawk** [1] 13/19  
**he** [9] 13/19 19/20  
 44/2 44/2 51/25  
 52/14 56/3 56/3  
 61/20  
**He's** [2] 52/2 52/2  
**head** [2] 53/10 85/7  
**heads** [2] 46/16  
 74/11  
**healthcare** [1]  
 45/12  
**hear** [9] 7/3 43/4  
 48/3 48/4 48/17  
 63/10 73/5 75/3  
 75/4  
**heard** [9] 17/6 31/6  
 32/2 43/8 51/16  
 54/7 77/23 79/22  
 83/7  
**hearing** [2] 11/14  
 89/12  
**Heart** [1] 58/6  
**heartfelt** [1] 13/16  
**held** [2] 25/12  
 74/17  
**help** [18] 5/12 9/9  
 12/25 29/19 29/20  
 31/11 31/12 38/25  
 39/6 39/9 50/9  
 50/15 51/6 51/8  
 53/16 74/8 84/21

89/19  
**helpful** [1] 33/3  
**helps** [2] 39/25  
 95/7  
**her** [1] 10/22  
**here** [66] 2/4 8/24  
 10/1 11/18 19/6  
 20/5 20/10 21/8  
 21/23 21/24 22/3  
 29/19 30/7 31/7  
 31/21 32/5 32/22  
 33/7 33/20 34/2  
 34/12 34/22 35/15  
 37/22 38/24 39/25  
 40/7 40/12 41/16  
 43/18 44/16 44/17  
 45/3 45/4 45/5  
 46/24 47/1 47/4  
 47/4 47/7 47/8  
 47/15 48/13 48/13  
 50/10 51/4 51/5  
 51/7 52/15 52/21  
 53/2 53/3 54/16  
 55/24 57/18 62/14  
 63/24 66/10 67/1  
 76/20 77/15 79/19  
 80/24 84/10 91/3  
 95/16  
**here's** [1] 85/8  
**hereby** [1] 96/5  
**hey** [2] 42/10 56/15  
**Hidatsa** [1] 91/8  
**hiding** [1] 36/14  
**high** [1] 52/4  
**higher** [2] 60/13  
 92/21  
**Hills** [11] 20/6  
 20/11 21/16 25/24  
 27/22 28/4 59/2  
 59/5 59/11 59/20  
 64/16  
**him** [3] 51/24 52/1  
 61/14  
**hire** [1] 89/21  
**his** [6] 19/19 21/4  
 52/15 53/9 53/10

<b>H</b>	<b>House [3]</b> 8/13 8/15 8/17	<b>idea [3]</b> 25/17 44/7 75/11
<b>his... [1]</b> 87/4	<b>housekeeping [2]</b> 2/5 6/7	<b>identify [1]</b> 93/4
<b>historic [2]</b> 68/7 73/4	<b>houses [1]</b> 48/1	<b>ignorant [1]</b> 47/24
<b>historical [7]</b> 21/22 25/19 41/20 57/19 70/25 86/19 86/25	<b>housing [2]</b> 20/3 45/12	<b>ignored [1]</b> 27/12
<b>historically [3]</b> 47/9 75/14 86/9	<b>Hovland [1]</b> 11/5	<b>II [1]</b> 55/5
<b>history [9]</b> 3/17 16/21 35/14 35/19 58/24 66/8 67/5 85/23 88/10	<b>how [25]</b> 2/15 3/11 4/18 12/1 17/7 26/12 26/16 37/22 38/2 49/12 49/17 50/24 51/3 51/7 51/7 51/11 52/13 72/16 75/8 77/16 80/18 85/13 85/17 88/23 94/18	<b>ILCA [4]</b> 77/6 82/2 83/15 83/19
<b>Ho [5]</b> 34/18 35/10 35/17 36/11 39/21	<b>However [2]</b> 16/6 92/7	<b>illegal [2]</b> 64/13 64/15
<b>Ho-Chunk [5]</b> 34/18 35/10 35/17 36/11 39/21	<b>humbly [1]</b> 8/23	<b>immediate [1]</b> 94/1
<b>hold [1]</b> 35/7	<b>hung [1]</b> 56/24	<b>immediately [1]</b> 80/2
<b>holding [1]</b> 12/12	<b>hunt [2]</b> 54/20 55/11	<b>immemorial [1]</b> 7/2
<b>holdup [1]</b> 13/6	<b>hunting [1]</b> 54/21	<b>immigrate [1]</b> 24/4
<b>Holiday [1]</b> 43/18	<b>hurt [1]</b> 53/8	<b>immigrated [1]</b> 24/5
<b>home [14]</b> 5/17 11/12 11/19 26/11 26/12 29/6 35/24 40/14 47/24 47/25 48/15 50/8 86/11 95/17	<b>I</b>	<b>impact [3]</b> 15/15 27/8 91/24
<b>homeland [5]</b> 22/3 54/16 54/23 88/20 93/23	<b>I'd [7]</b> 4/20 12/20 13/3 21/14 34/11 40/12 51/23	<b>impacts [4]</b> 27/18 75/4 75/7 75/9
<b>homelands [5]</b> 28/24 29/21 45/8 45/17 87/16	<b>I'll [6]</b> 2/4 43/15 66/24 67/1 78/5 85/18	<b>implement [4]</b> 15/10 16/6 18/5 88/12
<b>honor [1]</b> 56/25	<b>I'm [29]</b> 6/19 6/21 13/17 32/14 34/2 34/2 34/3 34/17 42/25 43/11 44/1 45/3 45/3 48/8 48/23 50/3 50/6 50/12 52/10 54/3 67/5 78/18 80/18 83/4 83/9 83/13 84/9 84/10 85/17	<b>implemented [3]</b> 58/10 62/1 78/11
<b>honoring [2]</b> 29/24 29/24	<b>I've [9]</b> 16/24 40/15 45/4 50/7 51/4 52/3 52/17 79/15 83/6	<b>implementing [1]</b> 59/24
<b>hope [2]</b> 8/7 95/16		<b>implications [1]</b> 90/8
<b>hopeful [1]</b> 78/5		<b>import [1]</b> 71/17
<b>hopefully [1]</b> 4/16		<b>important [4]</b> 22/1 73/10 73/16 85/22
<b>hopes [1]</b> 37/7		<b>impose [3]</b> 41/8 41/13 53/1
<b>Horns [1]</b> 53/20		<b>imposed [2]</b> 41/21 41/24
<b>Hot [1]</b> 30/23		<b>imposition [1]</b> 28/19
<b>HOTEL [1]</b> 1/23		<b>impossible [1]</b> 18/5
<b>hour [1]</b> 6/1		<b>improve [3]</b> 74/12 74/13 90/3
		<b>improvement [1]</b> 94/13
		<b>inadequate [3]</b> 59/22 60/7 60/18
		<b>incidents [1]</b> 93/9
		<b>included [5]</b> 16/2

<b>I</b>		
<b>included...</b> [4]		<b>introduced</b> [1] 8/13
24/12 28/23 63/13	<b>individuals</b> [2]	<b>invaded</b> [1] 23/16
91/15	18/19 18/20	<b>invalid</b> [1] 62/1
<b>includes</b> [2] 7/25	<b>information</b> [1]	<b>involved</b> [1] 44/20
25/1	33/2	<b>involvement</b> [1]
<b>including</b> [4] 8/16	<b>informational</b> [2]	15/3
8/22 45/11 45/14	13/25 14/3	<b>involving</b> [1] 92/15
<b>inclusive</b> [1] 96/6	<b>Inn</b> [1] 43/18	<b>Iowa</b> [1] 86/1
<b>inconsistent</b> [2]	<b>input</b> [2] 18/10	<b>IRA</b> [19] 41/21
9/23 10/3	18/24	41/24 62/25 63/5
<b>increase</b> [1] 17/19	<b>inside</b> [2] 36/17	63/6 63/8 63/9
<b>incredible</b> [1] 9/13	46/6	63/11 63/12 63/17
<b>incumbent</b> [1] 2/13	<b>insight</b> [1] 93/1	63/18 63/19 67/18
<b>indefinitely</b> [1]	<b>inspection</b> [1] 93/2	68/2 70/5 70/22
63/15	<b>instability</b> [1] 5/7	71/2 72/11 88/15
<b>Independence</b> [1]	<b>instead</b> [1] 31/14	<b>is</b> [175]
23/19	<b>insured</b> [1] 93/8	<b>isn't</b> [3] 38/23
<b>Indian</b> [56] 8/8	<b>intended</b> [4] 4/7	39/1 64/9
8/17 8/20 9/1 9/7	62/2 74/23 88/15	<b>isolation</b> [1] 87/13
9/20 9/21 9/24	<b>intent</b> [1] 74/13	<b>issuance</b> [2] 91/21
10/24 11/9 20/4	<b>intention</b> [1] 56/8	91/22
20/22 23/1 23/8	<b>interest</b> [11] 14/21	<b>issue</b> [5] 2/23 13/2
24/2 24/11 24/13	14/22 68/4 68/11	29/13 62/16 76/19
24/14 24/22 25/3	69/24 77/22 82/6	<b>issues</b> [11] 3/15
25/12 25/14 25/16	82/7 82/14 85/2	4/11 27/15 28/7
25/21 26/9 28/15	85/3	29/8 29/15 29/20
28/22 45/7 45/8	<b>interested</b> [2] 3/9	48/7 67/10 92/25
50/23 50/25 51/5	70/14	94/22
52/2 53/4 55/2 55/3	<b>interests</b> [6] 15/1	<b>it</b> [222]
55/14 55/20 55/21	15/13 71/17 82/10	<b>it's</b> [70] 2/13 3/21
55/23 61/1 62/25	83/21 83/22	5/10 6/5 6/7 6/20
68/22 86/6 86/14	<b>interfere</b> [1] 25/2	11/12 11/12 11/18
86/21 87/16 87/20	<b>Intergovernmental</b>	12/8 12/10 12/19
87/24 88/17 89/5	[2] 91/2 95/2	13/1 17/5 17/12
90/10 90/18 91/10	<b>INTERIOR</b> [14] 1/15	17/12 20/18 20/18
91/14 93/14	8/2 8/6 10/25 14/20	22/1 22/25 27/7
<b>Indians</b> [21] 16/16	26/23 27/13 29/19	31/1 31/19 31/22
16/18 23/15 25/12	61/14 67/24 71/10	32/12 34/12 34/21
47/19 51/12 51/22	89/9 89/13 89/22	34/22 35/4 39/10
52/16 52/22 53/2	<b>international</b> [1]	40/17 51/13 51/18
53/3 53/17 56/9	23/7	52/7 52/20 52/20
62/4 62/17 64/17	<b>intertribal</b> [1]	52/24 54/17 55/18
64/18 78/7 84/11	87/24	56/21 57/16 58/5
86/7 86/8	<b>intervened</b> [2]	58/18 58/19 60/8
<b>individual</b> [1] 8/21	56/12 56/13	60/16 60/17 61/25
	<b>introduce</b> [2] 10/21	64/9 64/15 65/23
	10/22	

**I**  
**it's...** [19] 71/3  
71/15 72/8 73/6  
73/13 73/15 74/1  
74/15 75/14 76/7  
76/8 76/13 77/19  
84/24 85/11 88/23  
88/24 89/23 95/5  
**its** [5] 7/25 15/17  
58/10 71/1 93/21  
**itself** [4] 17/4  
19/10 76/4 83/19

**J**  
**Jackson** [2] 30/12  
46/5  
**jail** [3] 47/21  
47/22 53/12  
**James** [1] 54/13  
**jealous** [1] 51/11  
**Jeanie** [3] 10/22  
11/8 11/20  
**Jeannie** [1] 11/5  
**jeopardy** [1] 88/7  
**Jim** [1] 51/14  
**job** [3] 45/24 48/12  
69/23  
**jobs** [1] 44/12  
**John** [2] 10/23  
81/20  
**joining** [1] 11/5  
**joint** [1] 33/15  
**jokingly** [1] 44/2  
**journey** [1] 95/17  
**Jr** [2] 34/10 34/17  
**judge** [2] 58/9  
58/15  
**Judgment** [1] 58/12  
**July** [1] 96/10  
**jump** [1] 74/15  
**jurisdiction** [3]  
25/14 25/16 25/22  
**jurisdictional** [1]  
15/19  
**just** [66] 2/4 4/2  
5/9 6/7 6/11 12/1

13/15 13/23 17/12  
19/5 19/21 20/18  
21/10 21/22 24/18  
30/24 32/9 32/14  
33/12 34/21 35/10  
35/12 37/11 39/23  
41/21 43/25 44/1  
44/10 44/12 44/23  
47/15 48/20 49/23  
50/6 50/12 50/20  
52/15 52/20 52/25  
53/22 54/25 56/23  
59/9 59/13 60/4  
60/18 61/24 65/23  
66/10 67/24 70/5  
71/19 73/14 76/8  
76/17 77/8 79/4  
80/5 80/19 82/24  
85/20 85/22 89/12  
89/24 90/20 94/6  
**justify** [1] 55/13

**K**  
**Kansas** [1] 24/9  
**Kansas/Nebraska** [1]  
24/9  
**keep** [7] 5/5 5/9  
6/13 46/25 65/10  
86/13 90/14  
**keeping** [1] 63/14  
**kept** [3] 36/7 36/8  
41/23  
**kick** [3] 2/3 4/20  
4/24  
**killers** [1] 47/11  
**killing** [1] 41/18  
**kind** [14] 4/7 11/9  
33/10 37/24 45/3  
67/8 69/11 70/14  
70/18 72/2 72/18  
75/9 84/17 86/13  
**kinds** [2] 56/6 83/5  
**Kingman** [2] 19/13  
19/14  
**knee** [1] 53/10  
**knew** [1] 57/20  
**know** [99]

**knows** [1] 10/20

**L**  
**Lacrosse** [1] 1/24  
**lady** [1] 53/12  
**lady's** [1] 53/10  
**Lake** [3] 11/25 12/4  
61/9  
**Lakes** [2] 50/17  
53/21  
**Lakota** [3] 22/24  
86/3 89/1  
**LaMalfa** [1] 8/17  
**land** [132]  
**land-poor** [1] 10/7  
**landless** [3] 7/10  
7/24 10/7  
**landlessness** [1]  
7/14  
**lands** [61] 12/4  
12/5 12/17 16/16  
16/19 17/8 17/17  
24/5 24/18 25/16  
25/18 25/20 25/21  
25/21 25/24 26/5  
26/6 26/10 26/24  
26/25 27/2 27/7  
27/18 27/18 27/24  
27/25 27/25 28/1  
28/5 28/5 29/9  
30/15 30/16 34/15  
35/13 36/25 37/10  
38/4 41/6 46/1  
46/21 52/9 52/10  
53/19 70/25 79/7  
83/11 85/23 85/25  
86/11 86/12 86/14  
86/16 86/18 88/18  
89/6 91/15 92/19  
93/16 93/18 93/20  
**language** [10] 6/10  
6/18 11/11 13/14  
34/9 50/4 55/6  
56/10 57/6 90/25  
**Laramie** [3] 41/10  
54/8 91/17  
**large** [4] 2/23

**L**

**large...** [3] 35/13  
36/16 37/16

**larger** [1] 72/25

**largest** [2] 20/3  
42/20

**last** [9] 2/8 5/15  
6/21 21/3 26/13  
26/14 26/16 33/6  
80/17

**lasted** [1] 79/9

**lasting** [1] 41/23

**late** [1] 48/6

**later** [6] 14/4  
33/21 55/20 62/24  
64/2 83/16

**latter** [1] 68/9

**Laughter** [2] 66/12  
83/8

**law** [9] 3/4 9/24  
20/21 28/12 41/12  
66/17 86/24 88/11  
89/22

**Lawrence** [2] 34/10  
34/17

**laws** [3] 7/9 52/23  
67/10

**lawyer** [1] 95/8

**lay** [1] 52/9

**lead** [3] 4/24 15/6  
31/18

**leader** [3] 4/6  
10/12 51/20

**leaders** [4] 8/23  
21/21 48/4 51/19

**leadership** [1] 2/7

**leading** [3] 13/25  
51/18 86/19

**leaks** [1] 93/4

**learned** [2] 49/16  
51/4

**lease** [2] 89/18  
89/22

**leasing** [1] 89/14

**least** [6] 2/16 4/8  
37/7 72/5 73/1 73/2

**leave** [4] 50/18  
52/23 53/22 66/17

**Leave-Us-Alone** [1]  
66/17

**left** [3] 31/25  
36/21 48/21

**legal** [4] 3/5 18/18  
90/1 94/17

**legals** [1] 13/20

**legislation** [4]  
8/10 8/24 9/2 24/22

**legislator** [1]  
34/18

**legitimate** [2]  
18/16 72/23

**less** [2] 18/10 61/2

**let** [16] 30/19  
45/25 47/3 47/4  
47/6 47/7 47/17  
56/20 56/23 56/23  
56/25 60/5 60/24  
74/15 77/24 80/1

**let's** [3] 42/5  
60/11 64/6

**letter** [5] 4/6  
61/15 61/18 91/5  
92/2

**letters** [3] 8/21  
10/12 10/14

**letting** [2] 19/11  
42/2

**level** [3] 5/14 5/20  
21/9

**liability** [5] 92/8  
92/15 92/21 95/6  
95/7

**liaison** [1] 95/2

**liberty** [7] 23/15  
23/17 23/17 23/19  
23/24 23/25 24/17

**liens** [4] 78/3  
78/12 80/11 83/1

**life** [2] 23/19  
55/21

**like** [58] 4/20 5/17  
11/15 12/20 13/3

21/10 21/14 25/20  
26/23 27/23 28/10  
29/4 29/8 29/13  
31/24 32/13 32/14  
33/4 33/11 34/4  
34/11 35/12 37/6  
37/11 40/13 44/2  
47/8 47/15 48/11  
48/11 48/16 50/8  
50/21 51/15 51/23  
53/19 54/5 56/6  
56/21 58/4 60/14  
61/9 61/24 62/2  
65/25 66/4 73/5  
74/7 76/3 79/4  
79/21 88/1 88/6  
88/14 88/15 89/11  
89/23 90/17

**likewise** [2] 15/2  
66/9

**limb** [1] 31/5

**limit** [1] 14/17

**limitation** [3] 71/4  
71/6 71/7

**limited** [1] 18/25

**lines** [3] 21/5 80/1  
92/23

**lineup** [1] 21/20

**list** [5] 4/9 4/21  
11/21 13/10 85/9

**listen** [4] 39/23  
48/14 53/24 66/11

**listened** [1] 71/16

**listening** [4] 12/3  
19/11 34/25 43/7

**litigation** [3] 7/18  
68/25 69/20

**little** [18] 10/2  
11/6 17/3 19/2  
21/20 21/22 35/10  
41/25 42/1 44/1  
54/5 54/25 60/12  
60/18 60/24 66/4  
67/5 85/21

**live** [5] 31/20  
38/19 42/3 47/4

<b>L</b>	62/20	<b>manner [1]</b> 70/12
<b>live... [1]</b> 60/22	<b>lot [22]</b> 4/1 4/2	<b>many [8]</b> 9/11 27/15
<b>living [1]</b> 50/21	12/4 12/7 17/11	44/11 85/13 87/19
<b>loan [1]</b> 89/17	34/4 35/14 35/18	88/23 89/24 94/7
<b>local [26]</b> 3/7 5/14	35/19 52/1 62/7	<b>map [2]</b> 85/13 92/2
5/19 6/4 7/13 14/19	62/17 64/4 68/2	<b>maps [1]</b> 33/10
14/21 14/24 15/2	74/16 74/21 86/11	<b>marching [1]</b> 53/24
15/8 15/12 17/19	88/23 88/25 89/11	<b>Mario [5]</b> 54/3
17/22 18/1 18/13	90/2 90/5	66/13 66/21 67/6
18/16 18/24 18/24	<b>loud [1]</b> 48/9	79/4
19/2 28/18 69/18	<b>Louisiana [2]</b> 23/4	<b>Mark [8]</b> 19/17
70/16 74/20 75/3	23/5	20/11 21/14 30/2
75/6 75/13	<b>loving [1]</b> 47/9	74/3 90/22 91/4
<b>located [3]</b> 18/7	<b>Lower [5]</b> 5/22 70/3	94/3
58/6 93/7	85/21 86/16 90/15	<b>Mashpee [5]</b> 6/19
<b>locations [2]</b> 33/5	<b>lump [1]</b> 60/4	6/24 7/12 8/10 10/5
33/9		<b>mass [3]</b> 81/3 82/16
<b>log [1]</b> 67/1	<b>M</b>	85/13
<b>logical [2]</b> 73/2	<b>ma'am [1]</b> 13/13	<b>Massachusetts [2]</b>
73/3	<b>made [7]</b> 34/22	6/20 7/1
<b>long [11]</b> 2/24 3/22	39/14 45/19 57/2	<b>matter [8]</b> 3/2 5/10
13/6 26/13 26/16	57/14 65/9 73/21	48/18 48/19 53/23
38/15 43/25 54/24	<b>Madison [1]</b> 36/4	86/23 86/24 96/8
55/12 77/16 81/20	<b>magnitude [1]</b> 48/19	<b>matters [1]</b> 93/1
<b>longer [1]</b> 79/8	<b>main [1]</b> 3/20	<b>may [7]</b> 1/25 15/20
<b>longstanding [2]</b>	<b>mainly [1]</b> 82/9	72/4 72/9 85/16
27/3 29/20	<b>maintain [1]</b> 93/23	92/10 95/21
<b>look [19]</b> 2/8 2/14	<b>make [21]</b> 3/13 4/14	<b>May 27 [1]</b> 92/10
2/19 3/11 11/13	7/24 9/5 11/16 12/2	<b>maybe [7]</b> 4/24 17/3
25/24 26/2 33/11	18/1 18/4 26/22	40/6 60/13 76/15
38/16 38/25 39/5	39/25 43/5 49/10	88/24 89/13
42/25 43/12 49/11	51/25 57/18 71/11	<b>me [18]</b> 10/20 11/5
49/18 55/4 72/18	78/9 78/17 80/4	11/15 19/11 19/17
87/9 95/17	80/7 82/20 90/7	41/2 42/25 43/25
<b>looked [2]</b> 55/3	<b>makes [3]</b> 31/15	46/13 48/22 49/16
79/15	39/7 75/25	60/24 61/3 66/14
<b>looking [16]</b> 2/9	<b>making [6]</b> 14/19	66/15 74/15 80/5
3/17 4/3 17/2 29/22	19/8 31/14 45/16	84/14
29/23 37/13 39/1	73/25 79/1	<b>mean [12]</b> 5/7 17/4
43/2 43/21 45/18	<b>males [1]</b> 61/24	19/24 21/19 43/25
65/4 72/3 72/6	<b>man [7]</b> 47/7 48/11	53/22 58/19 64/19
86/17 88/9	50/21 52/2 52/2	64/19 73/11 78/19
<b>looks [1]</b> 34/4	52/14 53/7	80/11
<b>loss [2]</b> 25/23	<b>man's [1]</b> 47/12	<b>meanest [1]</b> 46/19
32/15	<b>Mandan [1]</b> 91/8	<b>meaning [2]</b> 23/22
<b>lost [2]</b> 62/17	<b>mandate [1]</b> 28/20	87/10
	<b>mandatory [1]</b> 61/5	

**M**  
means [1] 4/10  
meant [1] 42/7  
mechanism [1] 18/18  
meet [1] 57/9  
meeting [4] 4/25  
13/25 14/2 21/3  
meetings [1] 48/25  
members [3] 9/4  
13/11 93/23  
members' [1] 30/18  
men [4] 23/21 23/22  
61/6 62/3  
mention [2] 16/9  
61/22  
mentioned [3] 14/23  
59/9 76/11  
mere [1] 67/25  
message [1] 65/5  
met [2] 7/2 57/24  
MHA [7] 91/2 91/8  
93/13 93/20 93/22  
94/24 95/2  
middle [1] 93/14  
might [5] 2/17  
14/10 28/7 66/3  
67/20  
miles [1] 72/20  
military [1] 42/21  
million [16] 16/18  
20/15 26/3 41/6  
47/19 54/11 54/12  
55/17 56/11 57/8  
57/25 58/1 58/18  
60/9 61/1 79/12  
millions [2] 3/21  
35/12  
mind [3] 4/8 14/12  
90/14  
minds [1] 74/22  
minerals [2] 30/17  
76/22  
mining [4] 27/17  
27/17 42/13 47/15  
Minneapolis [2]  
32/3 32/6

Minnesota [2] 21/12  
86/1  
minute [2] 40/9  
40/9  
minutes [2] 40/9  
95/12  
misplaced [1] 25/18  
Mississippi [1]  
23/12  
Missouri [3] 54/13  
54/13 86/4  
mitigated [1] 71/16  
MOAs [2] 6/4 77/5  
modified [1] 75/25  
money [17] 41/25  
60/19 60/22 77/12  
77/21 78/22 78/23  
78/24 80/20 81/15  
81/17 81/24 82/7  
82/19 83/25 84/3  
84/21  
Montana [1] 33/16  
months [1] 80/17  
mony [1] 82/2  
mood [1] 6/2  
moon [1] 84/4  
moral [1] 10/2  
more [41] 10/6  
11/14 12/16 15/2  
16/17 17/3 18/2  
18/25 20/13 26/18  
27/4 27/13 39/1  
39/8 39/24 40/8  
41/8 43/1 44/20  
48/24 48/25 49/1  
49/2 53/1 53/15  
59/4 60/15 61/2  
67/20 68/25 69/6  
69/7 69/10 70/13  
71/9 77/23 89/4  
89/5 90/7 91/21  
92/24  
morning [9] 6/23  
11/23 13/15 30/3  
34/11 34/13 40/18  
40/18 40/19

mortgage [1] 89/19  
most [7] 9/11 10/21  
20/4 30/8 48/14  
52/11 93/15  
mother [1] 51/2  
Motion [1] 58/12  
MOU [4] 75/6 75/15  
75/19 75/22  
MOUs [3] 6/4 74/19  
77/5  
move [3] 24/24  
44/16 75/9  
moved [1] 7/19  
moving [1] 36/9  
Mr. [2] 40/4 43/1  
Mr. Tahsuda [1]  
43/1  
Mr. Walker [1] 40/4  
much [12] 5/8 6/13  
12/22 18/14 18/17  
30/1 32/18 76/8  
76/9 78/25 88/16  
88/17  
must [2] 15/1 71/6  
mutual [1] 23/9  
my [35] 4/21 5/2  
6/10 6/23 7/15  
10/15 10/23 11/21  
11/24 13/10 13/15  
13/16 16/24 30/3  
30/6 32/24 34/17  
40/19 41/1 43/25  
44/23 45/4 46/24  
48/6 48/7 49/1 49/3  
49/12 77/24 78/25  
85/7 91/1 95/1 96/9  
96/16  
myself [1] 10/21

---

**N**  
name [12] 6/21  
10/23 11/24 13/16  
30/3 30/18 30/24  
34/17 40/25 41/1  
91/1 95/1  
nation [29] 6/22  
7/5 11/25 22/8 22/8

N		
<b>nation...</b> [24]	12/25 20/19 31/12 43/4 50/18 75/24	<b>no-brainer</b> [1] 6/11
22/11 22/13 22/25	<b>needy</b> [1] 9/11	<b>nobody</b> [2] 52/18
23/2 23/2 23/2	<b>negative</b> [1] 48/14	52/19
23/24 28/12 28/12	<b>negotiate</b> [2] 28/17	<b>non</b> [6] 16/16 54/12
34/18 39/21 45/8	28/18	84/11 86/7 86/8
50/15 53/21 66/6	<b>negotiations</b> [1]	86/14
77/24 91/3 91/8	28/22	<b>non-Indian</b> [1]
91/9 93/13 93/20	<b>neighborly</b> [1] 38/9	86/14
93/22 94/25 95/3	<b>neighbors</b> [1] 28/14	<b>non-Indians</b> [4]
<b>nation's</b> [1] 47/20	<b>NEPA</b> [4] 29/2 29/8	16/16 84/11 86/7
<b>nation-to-nation</b> [3]	69/16 74/8	86/8
22/8 23/2 28/12	<b>never</b> [21] 7/19 8/2	<b>non-treaty</b> [1]
<b>National</b> [2] 31/9	23/16 25/23 27/6	54/12
78/6	27/19 31/3 34/2	<b>normal</b> [2] 49/11
<b>nations</b> [19] 13/1	36/21 51/18 52/17	75/17
13/4 15/24 18/19	56/8 58/23 61/25	<b>Norman</b> [1] 19/17
18/20 22/3 22/19	62/1 62/8 62/12	<b>north</b> [3] 36/2
22/20 23/1 23/9	63/24 64/10 74/23	54/18 54/18
24/3 24/11 24/14	83/6	<b>not</b> [87] 4/2 4/9
25/4 28/22 44/23	<b>nevertheless</b> [1]	4/18 9/7 9/14 11/3
44/24 87/24 90/10	56/7	12/11 12/18 13/6
<b>native</b> [12] 6/18	<b>new</b> [11] 2/7 2/13	14/1 16/9 17/19
11/11 13/14 16/1	11/7 12/15 33/10	18/23 20/18 21/7
22/3 22/19 34/9	33/11 40/12 65/12	22/5 24/3 24/11
40/21 42/16 47/20	89/21 89/21 89/25	25/2 25/15 28/8
50/4 90/24	<b>Newman</b> [1] 58/15	28/20 30/19 31/17
<b>nature</b> [1] 28/21	<b>news</b> [1] 31/6	32/6 32/13 32/15
<b>navigate</b> [1] 38/17	<b>next</b> [5] 11/21	35/5 37/15 37/19
<b>navigating</b> [1] 37/7	33/23 78/6 80/8	38/4 38/10 39/1
<b>near</b> [5] 72/13	95/18	39/6 39/21 41/5
72/14 72/15 72/17	<b>nice</b> [2] 11/19 48/1	42/18 43/7 44/23
72/25	<b>nickels</b> [1] 46/18	45/25 47/11 47/18
<b>nearly</b> [2] 16/19	<b>NIGA</b> [2] 5/24 8/22	47/21 47/22 48/8
18/5	<b>no</b> [34] 5/8 5/10	49/12 51/1 51/5
<b>Nebraska</b> [2] 24/9	6/11 9/19 9/20 10/8	51/9 51/13 55/25
24/23	14/23 18/12 18/15	56/2 56/21 58/7
<b>necessary</b> [2] 16/12	21/11 33/18 40/22	58/24 59/18 60/16
59/15	42/25 51/20 52/13	60/17 60/20 60/22
<b>need</b> [11] 5/9 6/13	53/4 53/15 53/23	61/5 61/19 61/23
21/11 42/4 42/8	59/4 59/16 61/10	62/5 63/11 63/20
45/18 51/19 72/18	64/9 64/24 65/21	64/23 65/11 66/1
89/4 89/5 94/13	66/23 70/21 70/21	67/1 67/23 69/5
<b>needed</b> [3] 22/8	71/4 71/13 75/9	71/13 71/17 72/4
49/4 68/13	79/8 84/13 84/18	73/6 73/21 78/25
<b>needs</b> [7] 12/15	91/24	85/11 85/15 85/16
		85/17 86/7 86/8



**N**

**not...** [3] 88/2  
88/7 93/4

**note** [1] 93/2

**notes** [1] 45/5

**nothing** [12] 20/22  
31/17 31/25 32/4  
52/4 52/5 53/11  
53/22 79/22 79/23  
79/23 80/14

**notice** [1] 69/18

**notices** [1] 70/16

**notification** [2]  
80/9 80/10

**notified** [2] 82/25  
83/16

**November** [1] 91/5

**November 30th** [1]  
91/5

**now** [41] 5/6 7/1  
7/16 12/12 16/20  
28/3 31/12 35/17  
35/18 36/23 37/1  
44/8 44/13 44/14  
45/16 45/23 46/12  
48/16 51/17 58/22  
60/6 60/9 60/24  
62/10 62/14 63/23  
64/6 64/11 66/2  
67/21 69/17 71/4  
72/2 72/5 73/6  
73/11 73/22 79/13  
87/22 88/21 91/22

**number** [3] 28/25  
37/16 42/7

**numbered** [2] 35/11  
96/6

**numbers** [1] 35/16

**nuts** [1] 71/9

**O**

**Oacoma** [2] 5/23 6/2

**object** [1] 28/8

**objectives** [1]  
88/21

**observed** [1] 23/15

**obtain** [5] 19/9  
37/9 38/1 38/8 39/8

**obviously** [5] 33/4  
73/8 88/21 89/4  
89/5

**occupied** [1] 17/9

**occur** [2] 76/1 93/9

**occurred** [1] 59/15

**occurs** [1] 13/24

**off** [34] 2/3 2/4  
3/2 3/9 3/12 3/18  
4/11 4/20 4/25 5/20  
7/19 11/15 15/13  
29/15 30/6 37/2  
37/14 47/19 66/3  
67/8 70/19 70/22  
71/3 71/8 71/15  
71/20 71/22 72/14  
72/24 73/12 74/6  
75/20 77/22 85/7

**off-reservation** [13]  
3/9 3/12 3/18 4/11  
15/13 29/15 66/3  
70/19 71/20 71/22  
73/12 74/6 75/20

**offer** [3] 58/10  
66/24 67/2

**offered** [1] 18/12

**office** [8] 21/1  
43/16 44/16 89/13  
91/6 92/12 95/3  
95/9

**Officer** [1] 91/2

**offices** [5] 52/4  
92/6 92/13 92/18  
92/22

**officials** [1] 67/9

**offsets** [3] 55/18  
55/19 57/11

**often** [3] 3/18  
44/20 68/25

**oftentimes** [1] 72/3

**Oglala** [12] 30/5  
30/8 30/25 41/3  
54/9 56/13 56/16  
57/1 57/12 58/22

66/8 89/1

**Oh** [3] 5/1 60/3  
89/22

**oil** [7] 58/4 92/8  
92/15 92/19 92/23  
93/3 93/15

**Okay** [3] 58/22 60/8  
82/21

**Oklahoma** [1] 34/3

**old** [1] 79/14

**olds** [1] 62/8

**on-reservation** [4]  
10/8 15/13 29/4  
76/1

**once** [3] 16/19  
62/14 64/12

**one** [41] 2/10 12/3  
24/7 31/8 31/23  
33/1 33/7 34/12  
34/13 34/21 35/11  
35/22 37/20 42/7  
42/17 42/17 43/20  
43/21 43/21 51/8  
51/20 58/14 58/23  
58/24 65/18 66/1  
68/14 70/3 73/18  
74/17 76/24 81/6  
81/16 82/13 82/24  
85/3 85/3 85/11  
86/19 87/12 93/15

**one-way** [2] 65/18  
66/1

**onerous** [1] 9/22

**ones** [2] 38/12  
85/15

**ongoing** [3] 71/25  
89/3 93/17

**only** [15] 13/25  
35/5 42/11 45/1  
50/23 51/2 51/21  
62/5 75/11 79/21  
83/18 84/19 85/3  
85/11 95/12

**ooh** [1] 42/17

**open** [1] 47/8

**operates** [1] 68/8

**O**  
**operating** [1] 52/21  
**operations** [1]  
93/10  
**opinion** [2] 58/14  
90/1  
**opportunities** [1]  
15/5  
**opportunity** [5]  
14/6 34/19 36/24  
39/18 70/17  
**oppose** [1] 43/5  
**opposed** [2] 72/9  
94/25  
**opposition** [3] 40/2  
71/19 77/1  
**oranges** [1] 77/6  
**order** [5] 45/8  
78/11 81/7 91/16  
95/14  
**orderly** [3] 64/18  
64/19 64/23  
**orders** [1] 53/24  
**organizations** [1]  
8/22  
**organized** [1] 24/24  
**original** [13] 7/17  
22/2 22/2 22/24  
26/5 26/8 29/7 33/8  
33/8 72/21 85/25  
86/21 91/16  
**originally** [6] 12/5  
22/5 45/21 45/22  
46/12 81/17  
**OST** [4] 54/4 76/12  
76/19 80/15  
**other** [35] 4/11  
12/25 13/4 13/4  
13/5 13/5 13/11  
13/19 14/11 15/1  
20/14 22/25 34/19  
35/2 37/6 37/11  
37/22 39/14 40/21  
49/11 54/10 56/4  
56/22 59/8 60/13  
60/13 66/8 69/14

69/15 69/16 69/23  
71/18 73/8 73/13  
86/12  
**others** [2] 17/21  
51/8  
**otherwise** [1] 70/9  
**ought** [4] 29/1  
29/16 88/18 88/19  
**our** [213]  
**ourselves** [2] 39/11  
46/16  
**out** [67] 2/25 4/1  
4/5 6/14 7/24 8/1  
8/6 8/25 10/13  
10/16 20/8 22/7  
22/10 22/12 22/18  
28/7 31/5 31/21  
31/25 32/22 33/20  
33/23 34/2 34/3  
35/2 36/14 36/20  
39/17 42/23 46/17  
54/7 55/12 55/12  
56/1 56/5 56/14  
56/15 56/20 56/23  
56/24 56/25 58/2  
59/2 59/17 60/19  
62/11 62/14 63/25  
71/22 73/1 75/17  
80/9 80/19 82/10  
82/17 83/5 83/7  
83/14 84/19 84/20  
85/12 86/8 89/16  
90/4 95/4 95/9  
95/14  
**outright** [1] 29/10  
**outside** [4] 35/6  
46/7 69/23 71/18  
**over** [28] 3/17 12/4  
12/7 12/17 15/1  
20/14 22/14 22/21  
25/14 25/16 25/18  
34/14 34/22 40/16  
44/16 44/17 48/11  
48/21 52/3 54/22  
58/19 85/25 86/2  
86/16 88/22 89/9

89/10 89/15  
**overpromise** [2]  
80/4 81/12  
**owed** [2] 14/24  
14/25  
**owes** [1] 18/22  
**Owl** [2] 91/1 95/1  
**own** [17] 12/19 17/7  
19/25 20/1 20/2  
23/8 23/24 23/24  
28/14 38/12 41/21  
42/24 46/22 46/23  
47/5 76/15 89/17  
**owner** [3] 84/18  
85/4 85/11  
**owners** [3] 83/11  
84/13 85/14  
**ownership** [3] 25/22  
55/16 55/16  
**owning** [1] 84/11  
**owns** [1] 29/9

**P**

**P-U-P-P-E-T** [1]  
40/24  
**p.m** [1] 95/20  
**pages** [2] 10/1 96/6  
**paid** [2] 48/13  
48/13  
**paper** [2] 39/19  
48/23  
**parcels** [1] 85/15  
**pardon** [1] 6/10  
**part** [27] 11/16  
21/16 22/5 32/22  
34/4 38/1 38/18  
39/8 43/10 49/3  
56/18 67/13 68/9  
68/10 69/9 71/1  
71/23 73/4 73/5  
74/10 75/2 75/10  
80/16 80/16 84/6  
94/10 94/15  
**partake** [1] 34/15  
**participating** [1]  
83/15  
**particular** [2]

<b>P</b>	54/6 54/20 60/15	<b>pissed [1]</b> 47/19
<b>particular...</b> [2]	60/23 61/10 62/19	<b>place [14]</b> 2/25
22/23 84/13	65/18 70/13 72/9	8/12 9/23 23/11
<b>particularly [1]</b>	74/16 74/17 78/7	29/7 33/25 42/7
69/16	79/17 82/25 88/19	42/17 44/8 67/19
<b>parties [1]</b> 69/24	89/8	68/18 86/7 86/19
<b>parts [1]</b> 11/1	<b>people's [1]</b> 48/7	86/20
<b>passage [1]</b> 54/21	<b>peoples [4]</b> 16/1	<b>placed [2]</b> 17/24
<b>passed [1]</b> 56/16	17/13 17/16 37/22	19/3
<b>passes [1]</b> 62/25	<b>per [1]</b> 42/19	<b>places [2]</b> 35/21
<b>passing [1]</b> 49/1	<b>perceived [1]</b> 66/25	36/23
<b>past [2]</b> 12/7 88/22	<b>perfect [1]</b> 43/11	<b>placing [1]</b> 14/6
<b>patent [2]</b> 30/16	<b>perfectly [1]</b> 72/23	<b>plain [1]</b> 39/11
65/19	<b>performing [1]</b>	<b>Plains [19]</b> 19/15
<b>patents [2]</b> 62/16	64/25	19/18 19/22 19/22
64/2	<b>period [1]</b> 68/1	21/25 31/24 32/1
<b>pay [6]</b> 43/23 45/5	<b>permanent [6]</b> 26/11	32/4 32/6 32/8
53/18 62/20 89/18	26/12 29/5 54/16	32/15 33/7 34/6
89/19	54/23 86/11	48/25 55/14 80/25
<b>paying [1]</b> 5/16	<b>permission [2]</b>	87/22 91/12 94/22
<b>peace [2]</b> 22/17	52/23 65/21	<b>planning [4]</b> 33/22
22/20	<b>perpetuate [1]</b> 9/15	77/20 77/21 78/9
<b>peaceful [2]</b> 42/15	<b>perpetuated [1]</b>	<b>Platte [1]</b> 54/18
47/16	56/18	<b>play [2]</b> 50/3 74/7
<b>peas [1]</b> 77/5	<b>person [3]</b> 21/15	<b>played [1]</b> 50/4
<b>penalizing [1]</b> 51/8	43/4 84/19	<b>playing [1]</b> 43/20
<b>pending [2]</b> 91/20	<b>persons [3]</b> 24/14	<b>plays [1]</b> 93/16
92/7	24/16 25/3	<b>please [3]</b> 43/2
<b>PENNINGTON [1]</b> 96/2	<b>petition [1]</b> 57/20	43/12 92/1
<b>penny [1]</b> 46/18	<b>PFINGSTON [3]</b> 96/5	<b>pledge [1]</b> 10/4
<b>people [63]</b> 5/7	96/11 96/13	<b>pledged [1]</b> 23/14
5/17 6/1 7/6 22/22	<b>phone [1]</b> 43/21	<b>plenty [1]</b> 15/9
23/22 25/10 26/19	<b>picture [4]</b> 42/22	<b>plight [1]</b> 5/22
26/20 29/22 35/3	46/13 46/14 53/8	<b>plus [3]</b> 30/22
35/6 35/7 35/11	<b>pictures [1]</b> 43/22	74/24 88/24
35/14 35/18 36/11	<b>piece [3]</b> 48/23	<b>podium [1]</b> 43/22
36/21 37/4 38/3	84/3 84/13	<b>point [8]</b> 11/4
38/19 38/22 38/25	<b>piggybacked [1]</b>	21/15 37/12 45/19
39/9 39/24 39/24	29/11	59/1 85/24 88/8
40/19 40/19 41/18	<b>pigs [1]</b> 15/23	94/24
42/18 42/20 43/19	<b>pile [1]</b> 79/7	<b>pointed [1]</b> 56/14
44/22 46/22 46/25	<b>Pilgrims [1]</b> 7/3	<b>points [1]</b> 9/5
47/10 47/20 49/11	<b>Pine [4]</b> 60/25	<b>poised [1]</b> 7/23
49/18 50/6 50/16	61/13 61/15 84/11	<b>police [1]</b> 45/12
50/24 52/4 52/9	<b>Pipeline [2]</b> 27/5	<b>policies [6]</b> 15/24
52/11 53/2 53/16	53/7	15/25 16/2 16/9

<b>P</b>	<b>preserve [2]</b> 19/8 93/21	37/14 38/8 38/17 39/5 39/7 39/22
<b>policies... [2]</b> 16/14 16/22	<b>president [6]</b> 41/3 42/1 49/8 51/15 66/4 77/3	40/20 40/22 41/5 42/5 42/13 43/10 43/14 44/10 44/21
<b>policy [3]</b> 16/5 38/12 42/2	<b>President's [1]</b> 10/4	45/23 46/2 47/15 47/16 49/4 55/19
<b>political [4]</b> 3/6 15/17 15/23 58/20	<b>presume [1]</b> 33/23	68/19 69/11 70/13
<b>politicians [1]</b> 51/18	<b>pretty [2]</b> 6/5 80/22	71/10 72/5 74/9 74/12 74/14 74/21
<b>poor [1]</b> 10/7	<b>prevent [1]</b> 44/12	74/25 75/10 75/17
<b>poorest [2]</b> 88/25 89/3	<b>previous [1]</b> 12/3	76/12 76/13 77/6
<b>pop [1]</b> 82/16	<b>primarily [2]</b> 2/25 64/4	77/7 77/11 77/14 77/19 78/10 78/12
<b>population [1]</b> 61/6	<b>Principal [1]</b> 10/24	78/13 79/6 79/10
<b>position [5]</b> 27/3 39/19 40/1 57/19 58/15	<b>prior [3]</b> 22/4 79/9 86/21	79/13 79/18 79/20 80/8 81/16 81/23
<b>positions [1]</b> 35/8	<b>prioritize [3]</b> 60/9 60/11 60/12	90/6 92/1 92/11 94/10 94/13 94/24
<b>possible [1]</b> 6/14	<b>prioritizes [1]</b> 60/14	<b>processed [1]</b> 3/19
<b>pot [6]</b> 82/4 82/6 82/9 82/19 84/21 84/21	<b>prioritizing [1]</b> 60/18	<b>processes [9]</b> 2/15 29/17 38/15 41/14 55/15 58/25 68/15 79/3 79/5
<b>potential [8]</b> 15/4 15/19 27/11 92/7 92/15 93/10 95/6 95/7	<b>priority [6]</b> 15/1 48/7 60/6 60/8 60/16 60/17	<b>proclaimed [1]</b> 7/12
<b>pots [1]</b> 82/3	<b>private [1]</b> 28/5	<b>produced [1]</b> 46/10
<b>Pourier [1]</b> 30/4	<b>privilege [1]</b> 40/15	<b>Professional [1]</b> 96/13
<b>pout [1]</b> 50/8	<b>probably [10]</b> 10/21 13/2 22/10 32/23 33/1 33/21 53/12 57/21 66/9 69/13	<b>program [9]</b> 45/7 80/24 81/2 81/9 81/19 82/5 82/9 82/16 83/13
<b>power [3]</b> 18/17 22/20 22/20	<b>problem [5]</b> 9/14 65/3 83/23 89/7 89/14	<b>programs [2]</b> 44/11 45/11
<b>powerful [1]</b> 19/10	<b>problems [1]</b> 15/19	<b>projects [1]</b> 29/10
<b>powers [1]</b> 22/21	<b>proceedings [2]</b> 95/20 96/8	<b>promise [1]</b> 14/25
<b>prayer [2]</b> 4/24 5/3	<b>process [80]</b> 2/22 2/25 4/19 5/25 13/1 14/19 15/9 15/11 16/12 17/2 18/2 18/5 18/10 18/15 18/18 26/7 26/21 29/3 29/14 33/19 36/25 37/3 37/5	<b>promote [1]</b> 45/8
<b>prayerful [2]</b> 42/15 47/17		<b>proof [1]</b> 53/20
<b>precedence [1]</b> 22/6		<b>proper [1]</b> 5/19
<b>precedent [2]</b> 9/1 23/13		<b>properly [1]</b> 27/19
<b>preliminary [1]</b> 14/2		<b>properties [1]</b> 85/9
<b>prepared [1]</b> 92/6		<b>property [11]</b> 23/16 24/14 24/16 25/3 84/12 85/13 91/13 91/18 92/3 92/20 93/7
<b>present [3]</b> 8/23 30/11 87/5		
<b>preservation [2]</b> 17/16 45/14		

**P**

**proposals [2]** 9/15  
27/16

**proposed [15]** 3/10  
7/25 9/6 14/9 14/15  
15/3 16/7 17/21  
18/11 19/1 35/9  
37/13 39/7 40/2  
76/25

**proposing [1]** 14/20

**prospective [2]**  
65/8 65/11

**prosper [1]** 51/12

**prosperity [1]** 15/6

**protect [9]** 7/7  
29/21 53/5 65/6  
69/3 71/24 71/25  
73/16 75/2

**protected [1]** 7/9

**protects [1]** 9/2

**protest [2]** 42/15  
47/17

**protocols [1]** 12/14

**provide [6]** 9/4  
38/21 59/14 60/23  
93/17 93/22

**provided [1]** 70/13

**provides [3]** 61/3  
69/6 87/21

**providing [2]** 15/2  
29/6

**provision [3]** 8/1  
23/5 74/19

**provisions [8]** 25/7  
69/14 69/15 69/17  
70/19 71/8 71/21  
86/6

**proxy [1]** 13/18

**Pte [3]** 20/12 21/17  
28/4

**public [1]** 69/18

**pulled [1]** 50/14

**puppet [1]** 40/24

**puppets [1]** 51/16

**purchase [9]** 12/17  
17/8 23/4 23/5 63/2

81/4 81/24 82/2  
84/22

**purchased [3]** 65/24  
77/7 91/18

**purchases [2]** 79/1  
82/18

**purchasing [1]**  
79/12

**purpose [3]** 2/6  
57/18 64/21

**purposes [5]** 29/6  
71/2 73/12 87/14  
87/15

**pursuit [1]** 23/19

**pushing [2]** 32/9  
53/10

**put [25]** 6/7 14/21  
30/12 30/14 30/15  
30/19 30/24 31/2  
33/16 39/6 57/5  
63/3 65/20 65/22  
65/23 68/18 71/19  
72/12 72/16 72/19  
76/6 76/18 85/9  
91/7 94/6

**putting [4]** 21/4  
58/4 63/13 71/9

**Q**

**quarter [1]** 46/6

**question [14]** 5/5  
11/1 30/6 31/23  
32/22 65/7 71/5  
72/6 72/9 72/23  
74/12 74/18 82/24  
85/6

**questioned [1]** 71/3

**questioning [3]**  
70/10 70/10 71/20

**questions [9]** 4/6  
4/11 4/15 4/18 9/13  
12/2 66/10 66/14  
73/18

**quickly [1]** 80/23

**quo [1]** 72/7

**R**

**race [1]** 51/3

**racist [1]** 41/19

**raise [2]** 4/12 4/13

**raised [3]** 49/12  
51/11 74/18

**raises [1]** 72/6

**RAMKOTA [1]** 1/23

**Ranch [4]** 91/6  
91/11 92/22 93/3

**Rapid [5]** 1/24  
21/25 31/7 31/10  
34/23

**rather [2]** 32/2  
51/23

**rations [3]** 60/11  
60/12 60/16

**Raul [1]** 8/18

**re [2]** 3/23 7/13

**re-creation [1]**  
7/13

**re-do [1]** 3/23

**reaching [1]** 33/20

**reacquire [3]** 28/1  
28/5 28/24

**reacquired [1]**  
37/10

**read [4]** 87/13 88/1  
88/14 94/6

**ready [2]** 4/24 92/6

**reaffirm [1]** 8/14

**Reaffirmation [1]**  
8/11

**real [1]** 70/21

**reality [2]** 12/10  
31/20

**realized [1]** 88/22

**really [36]** 2/6  
2/18 3/17 12/10  
12/22 19/10 29/8  
29/22 29/22 42/6  
42/6 45/5 45/5  
51/17 52/6 52/16  
53/3 59/18 62/1  
65/14 65/15 66/5  
73/6 73/15 75/24

<b>R</b>	<b>refer</b> [3] 59/25 91/10 92/11	28/11 50/14 52/13 53/1 53/17 63/4
<b>really...</b> [11] 76/14 76/19 83/6 84/17 84/24 87/9 88/2 88/9 88/22 89/23 95/5	<b>referenced</b> [1] 74/3	65/11 68/13 68/18 69/3 69/8 69/17 69/20 70/6 70/20 73/20 75/1 90/16 94/8
<b>realty</b> [2] 13/17 16/23	<b>referring</b> [1] 24/17	<b>regulatory</b> [3] 10/4 14/9 20/22
<b>reason</b> [8] 18/16 33/17 42/11 67/17 73/7 79/21 83/3 83/9	<b>refers</b> [1] 87/17	<b>reiterate</b> [1] 21/13
<b>reasonable</b> [4] 67/17 68/19 70/12 73/24	<b>refined</b> [1] 76/13	<b>related</b> [3] 74/16 79/4 87/20
<b>reasoned</b> [2] 18/12 71/13	<b>refinery</b> [2] 92/20 92/20	<b>relation</b> [1] 92/3
<b>reasons</b> [4] 21/16 35/7 39/13 73/8	<b>refused</b> [1] 7/16	<b>relations</b> [1] 38/9
<b>recall</b> [1] 72/11	<b>regain</b> [1] 5/12	<b>relationship</b> [8] 13/2 28/12 28/13 29/12 37/24 38/2 90/9 90/11
<b>received</b> [2] 27/6 91/25	<b>regard</b> [1] 14/10	<b>relationships</b> [2] 38/6 75/13
<b>recently</b> [2] 27/4 89/12	<b>regarding</b> [2] 9/5 29/15	<b>relatively</b> [1] 2/22
<b>Recess</b> [1] 40/10	<b>regardless</b> [1] 39/9	<b>relatives</b> [9] 13/15 34/11 35/22 36/14 36/17 36/20 36/22 37/11 38/24
<b>recognition</b> [1] 54/8	<b>regards</b> [3] 12/2 35/8 39/20	<b>release</b> [4] 83/1 93/6 93/8 93/11
<b>recognize</b> [5] 22/13 25/13 25/19 40/13 88/16	<b>region</b> [8] 20/4 20/13 20/14 20/15 21/25 22/1 33/17 87/25	<b>Relief</b> [1] 58/12
<b>recognized</b> [4] 6/25 10/11 22/19 23/1	<b>regional</b> [8] 6/13 21/1 21/8 91/12 92/5 92/12 92/13 92/17	<b>relieve</b> [1] 9/10
<b>recognizes</b> [1] 22/23	<b>regions</b> [4] 3/1 33/11 33/12 33/15	<b>religious</b> [1] 73/9
<b>reconstructed</b> [1] 7/21	<b>Registered</b> [1] 96/13	<b>relinquish</b> [1] 55/7
<b>record</b> [5] 11/17 57/14 57/19 90/20 96/7	<b>regs</b> [11] 54/6 64/11 65/3 65/7 65/12 65/13 67/6 67/18 67/22 68/24 70/13	<b>relinquishment</b> [1] 55/6
<b>recover</b> [1] 89/6	<b>regular</b> [1] 81/9	<b>remain</b> [2] 24/13 55/11
<b>recovering</b> [1] 28/8	<b>regulation</b> [5] 12/15 28/24 42/3 68/15 69/10	<b>remanded</b> [1] 87/9
<b>recovery</b> [1] 45/14	<b>regulations</b> [35] 3/4 7/25 9/6 9/8 12/13 14/8 14/16 15/4 15/7 15/10 16/7 16/9 17/10 18/9 18/11 21/11	<b>remark</b> [1] 41/19
<b>red</b> [3] 56/2 61/9 76/9		<b>remedial</b> [1] 88/15
<b>reduce</b> [2] 10/4 86/15		<b>remediation</b> [1] 93/9
		<b>remember</b> [8] 42/10 42/11 47/2 51/24 62/3 66/17 67/8 67/20
		<b>remind</b> [1] 44/9
		<b>reminded</b> [1] 10/19

<b>R</b>	28/15	<b>resolving</b> [1] 58/20
<b>reminds</b> [1] 66/15	<b>research</b> [1] 31/7	<b>resources</b> [2] 52/21
<b>remiss</b> [1] 10/19	<b>reservation</b> [87]	59/18
<b>removal</b> [1] 15/18	2/19 2/22 3/2 3/9	<b>respect</b> [3] 42/23
<b>removed</b> [3] 35/20	3/12 3/13 3/18 4/11	47/5 52/1
35/23 36/6	5/20 7/12 7/14 7/21	<b>respected</b> [1] 24/15
<b>removing</b> [1] 36/8	7/23 8/3 8/7 8/11	<b>respectfully</b> [2]
<b>rendered</b> [1] 9/17	8/14 8/25 9/2 10/8	91/9 93/25
<b>renewed</b> [1] 68/4	10/11 12/6 15/13	<b>respond</b> [1] 85/20
<b>rent</b> [1] 89/19	15/13 16/13 16/16	<b>response</b> [1] 66/23
<b>reorg</b> [1] 49/4	16/20 16/21 17/15	<b>responsibilities</b> [4]
<b>reorganization</b> [12]	25/18 25/21 26/1	2/11 4/5 67/9
9/24 28/16 31/25	27/25 29/4 29/5	88/13
32/17 32/24 33/16	29/15 30/13 31/19	<b>responsibility</b> [12]
42/5 62/25 68/22	37/2 37/15 52/24	9/25 12/10 14/14
87/20 89/6 90/19	55/5 61/1 61/4 61/6	14/23 14/25 15/21
<b>Rep</b> [3] 8/16 8/17	61/16 61/20 62/11	18/21 18/23 20/24
8/18	62/22 63/25 64/14	27/14 29/25 31/4
<b>Reporter</b> [1] 96/13	65/14 65/16 65/25	<b>responsible</b> [1]
<b>represent</b> [1] 71/10	66/3 70/19 70/22	16/17
<b>representation</b> [1]	70/22 71/1 71/4	<b>rest</b> [2] 63/21
35/5	71/9 71/15 71/18	87/13
<b>representative</b> [1]	71/20 71/22 72/13	<b>restoration</b> [2]
30/4	72/14 72/14 72/15	16/13 45/7
<b>representatives</b> [4]	72/15 72/17 72/20	<b>restore</b> [1] 87/16
34/25 37/22 39/14	72/24 72/24 72/25	<b>restored</b> [1] 88/18
39/24	73/4 73/12 74/6	<b>restoring</b> [2] 68/4
<b>representing</b> [2]	75/20 75/23 76/1	71/2
30/7 32/13	81/2 83/12 91/14	<b>restricted</b> [1]
<b>Republicans</b> [1]	92/3 92/24 93/14	83/20
8/16	<b>reservations</b> [11]	<b>restrictions</b> [2]
<b>repugnant</b> [1] 57/14	16/20 26/3 45/17	82/8 82/12
<b>request</b> [4] 4/24	45/17 52/5 62/5	<b>result</b> [2] 63/5
8/23 21/10 93/25	64/9 64/24 68/5	93/9
<b>requests</b> [1] 91/9	71/2 80/23	<b>resulting</b> [1] 15/17
<b>required</b> [5] 3/4	<b>Reserve</b> [1] 61/19	<b>results</b> [1] 2/17
15/14 25/10 69/15	<b>reserved</b> [4] 86/11	<b>retroactive</b> [3]
83/19	86/12 91/17 93/23	65/8 65/9 65/12
<b>requirement</b> [2]	<b>residing</b> [1] 36/12	<b>return</b> [3] 21/16
74/23 84/8	<b>resistance</b> [2] 37/8	27/1 36/5
<b>requirements</b> [3]	37/25	<b>returned</b> [2] 36/1
37/9 67/12 71/21	<b>resolutions</b> [3]	45/20
<b>requires</b> [2] 15/11	49/2 56/16 57/1	<b>returning</b> [1] 26/24
61/17	<b>resolve</b> [2] 57/7	<b>reversal</b> [2] 57/4
<b>requiring</b> [1] 30/23	57/11	57/12
<b>requisition</b> [1]	<b>resolved</b> [1] 27/19	<b>Reverse</b> [1] 17/1

**R**  
**reversed** [1] 57/5  
**review** [1] 92/11  
**revised** [2] 15/3  
16/7  
**revisions** [5] 14/7  
14/15 17/21 19/1  
21/7  
**revitalization** [1]  
45/10  
**revitalize** [1]  
87/16  
**rid** [1] 53/17  
**Ridge** [4] 60/25  
61/14 61/15 84/11  
**right** [32] 13/10  
25/11 26/22 34/21  
35/17 35/17 35/18  
45/16 53/1 53/7  
54/20 54/21 55/11  
57/16 58/22 62/10  
66/2 69/10 71/7  
73/4 73/6 73/8  
73/11 74/21 74/25  
75/5 76/5 81/25  
82/9 82/11 82/14  
83/22  
**righteous** [1] 52/11  
**rights** [12] 23/20  
24/2 24/13 25/3  
26/18 27/6 27/8  
27/10 53/3 53/5  
54/21 54/21  
**rigidly** [1] 24/10  
**rigorous** [1] 15/10  
**river** [11] 23/12  
26/5 30/21 50/2  
54/13 54/14 54/18  
58/6 66/16 86/4  
86/22  
**road** [3] 13/3 73/20  
75/15  
**roads** [1] 31/18  
**Robert** [1] 13/19  
**Rock** [2] 60/14  
63/21

**Rockies** [1] 50/17  
**Roger** [2] 91/1 95/1  
**role** [2] 11/7 17/19  
**rolling** [2] 74/10  
95/11  
**rolls** [1] 15/18  
**room** [1] 48/4  
**root** [2] 2/18 3/16  
**round** [5] 33/5 33/9  
33/22 33/23 80/23  
**rounds** [1] 32/23  
**routine** [2] 2/22  
2/25  
**rules** [3] 10/8  
12/13 41/8  
**rumor** [1] 83/4  
**rumors** [1] 83/5  
**run** [5] 19/24 33/10  
52/8 83/12 89/11

## S

**sacred** [5] 14/25  
27/18 28/3 28/8  
45/14  
**sad** [1] 31/20  
**safe** [1] 95/17  
**said** [18] 44/2 44/2  
51/16 55/4 55/6  
55/23 55/25 56/4  
56/7 56/22 57/14  
60/2 66/5 66/16  
70/20 70/24 76/3  
85/2  
**sale** [2] 16/15 64/5  
**sales** [2] 62/18  
64/3  
**same** [9] 13/4 23/17  
46/10 46/11 48/17  
64/22 64/22 64/25  
83/17  
**Samsonite** [1] 5/25  
**Sanborn** [1] 55/24  
**sanitation** [1]  
45/13  
**Sasheen** [1] 13/17  
**savages** [1] 47/11  
**say** [35] 12/17

13/23 19/5 20/13  
22/7 24/16 28/18  
31/20 34/11 35/1  
41/19 41/19 43/3  
44/22 48/15 49/9  
49/23 53/19 53/23  
53/23 58/22 60/8  
60/10 60/11 63/6  
64/14 67/3 68/12  
69/13 73/23 73/24  
79/14 81/20 85/22  
89/22  
**saying** [3] 37/11  
62/16 67/1  
**says** [21] 23/5 24/9  
25/2 26/12 26/12  
26/15 45/6 55/9  
55/10 59/4 59/4  
59/12 61/4 61/15  
61/18 61/23 63/1  
63/2 64/16 71/4  
75/7  
**scared** [2] 32/8  
34/2  
**scheduled** [3] 9/19  
32/1 32/7  
**scheduling** [1]  
48/24  
**school** [4] 49/17  
49/20 49/21 49/22  
**schools** [1] 20/5  
**Scott** [1] 41/2  
**scrap** [1] 46/20  
**scraps** [1] 46/19  
**second** [4] 9/16  
20/3 63/19 80/23  
**second-class** [1]  
9/16  
**secretarial** [2]  
78/11 81/7  
**Secretary** [23] 9/20  
10/24 11/2 11/4  
11/9 15/14 20/24  
21/3 21/8 26/23  
27/23 29/23 33/6  
61/14 63/2 70/4



<b>S</b>		
<b>Secretary...</b> [7]		
70/23 71/5 71/25		
72/12 72/12 77/10		
86/12		
<b>section</b> [15]	20/23	
46/6 59/7 61/23		
63/1 63/2 63/5		
63/15 72/10 87/11		
87/13 87/23 88/2		
88/5 88/7		
<b>Sections</b> [2]	61/3	
62/13		
<b>security</b> [1]	14/11	
<b>see</b> [26]	2/15 3/12	
5/20 6/6 11/12 12/1		
12/21 13/3 20/17		
32/8 34/12 35/4		
43/2 48/5 50/10		
51/17 58/1 62/22		
66/7 73/4 74/1		
82/18 83/23 83/24		
94/5 94/16		
<b>see a</b> [1]	6/6	
<b>seed</b> [1]	58/7	
<b>seeded</b> [4]	46/3	
46/5 46/11 58/23		
<b>seeing</b> [2]	94/1	
95/18		
<b>seek</b> [1]	28/24	
<b>seems</b> [1]	65/25	
<b>seen</b> [3]	16/24 53/6	
79/23		
<b>sees</b> [2]	8/8 18/15	
<b>seized</b> [1]	58/3	
<b>self</b> [16]	14/11	
14/15 14/17 16/4		
16/5 16/11 22/21		
23/25 24/1 24/18		
39/4 45/9 45/9		
52/11 68/5 87/19		
<b>self-determination</b>		
[6]	14/15 14/17	
16/4 16/5 16/11		
45/9		
<b>self-determinations</b>		
[1]	68/5	
<b>self-governance</b> [1]		61/4
14/11		
<b>self-government</b> [6]		
22/21 23/25 24/1		
24/18 45/9 87/19		
<b>self-righteous</b> [1]		
52/11		
<b>self-sustaining</b> [1]		
39/4		
<b>sellers</b> [2]	79/2	
79/8		
<b>Senate</b> [1]	8/13	
<b>senators</b> [1]	3/8	
<b>send</b> [1]	91/5	
<b>sending</b> [1]	10/14	
<b>sends</b> [1]	61/14	
<b>sense</b> [4]	33/12	
33/13 73/1 82/20		
<b>sent</b> [3]	4/5 53/9	
80/9		
<b>separate</b> [2]	29/3	
76/21		
<b>serious</b> [2]	9/10	
70/4		
<b>served</b> [1]	42/21	
<b>service</b> [2]	19/24	
42/13		
<b>services</b> [4]	38/21	
45/11 45/13 60/9		
<b>session</b> [2]	14/3	
43/7		
<b>sessions</b> [1]	12/3	
<b>set</b> [5]	8/25 29/5	
82/17 87/22 91/15		
<b>setting</b> [1]	12/6	
<b>settle</b> [1]	86/8	
<b>settlement</b> [1]		
58/10		
<b>settlers</b> [1]	86/14	
<b>several</b> [6]	2/9 4/6	
32/23 50/7 68/25		
84/12		
<b>sewer</b> [1]	45/13	
<b>Shakopee</b> [1]	12/3	
<b>shall</b> [5]	20/23	
24/11 25/2 26/15		
<b>she</b> [2]	11/6 33/24	
<b>She'll</b> [1]	10/15	
<b>She's</b> [1]	11/5	
<b>shit</b> [1]	53/15	
<b>shooting</b> [1]	81/13	
<b>short</b> [2]	40/6	
95/12		
<b>should</b> [50]	5/11	
5/13 5/14 5/19 6/10		
6/12 7/9 18/14		
18/17 18/25 21/7		
25/20 26/7 26/21		
26/23 26/25 27/9		
27/10 27/23 27/24		
27/25 28/11 41/5		
41/14 43/8 43/8		
43/9 44/10 45/7		
45/20 45/20 46/21		
52/13 61/22 64/10		
65/7 65/15 65/15		
65/17 65/25 66/5		
74/19 74/19 75/21		
76/5 76/10 76/14		
76/15 76/16 84/2		
<b>shouldn't</b> [7]	5/20	
28/23 29/11 46/24		
46/24 50/14 62/10		
<b>show</b> [1]	68/19	
<b>showing</b> [1]	92/3	
<b>shown</b> [1]	65/11	
<b>shows</b> [1]	55/24	
<b>shuffled</b> [1]	5/8	
<b>sides</b> [1]	86/4	
<b>sign</b> [2]	41/17 62/3	
<b>signatures</b> [1]	62/9	
<b>signed</b> [4]	42/12	
44/25 56/3 62/8		
<b>significant</b> [4]		
8/19 24/8 91/24		
93/19		
<b>significantly</b> [1]		
18/25		
<b>signing</b> [1]	10/14	
<b>similar</b> [3]	27/15	
83/12 87/3		

**S**

**similarities [1]**  
3/13

**simple [4]** 5/5 5/9  
39/12 70/23

**simpler [1]** 5/13

**simplified [2]**  
76/10 76/14

**simplify [1]** 76/24

**simply [1]** 9/2

**since [12]** 7/1 8/5  
9/17 10/10 16/1  
27/20 68/24 79/10  
88/5 90/16 91/19  
94/11

**Sincerely [1]** 94/3

**single [4]** 58/14  
63/12 66/7 83/10

**Sioux [41]** 13/18  
14/5 16/20 17/18  
22/11 22/13 22/25  
30/5 30/8 30/25  
35/22 41/3 50/2  
50/15 50/16 53/21  
54/6 54/9 54/19  
55/5 56/8 56/13  
56/16 56/22 56/23  
57/1 57/13 58/23  
63/10 63/12 63/16  
63/16 63/18 63/22  
64/17 64/18 66/6  
66/8 66/8 86/17  
87/18

**sir [2]** 4/22 34/8

**sit [2]** 48/13 48/13

**site [3]** 28/3 28/9  
73/15

**sites [2]** 45/15  
73/9

**sits [1]** 93/14

**sitting [8]** 38/24  
43/19 43/20 63/24  
77/15 79/2 79/17  
84/10

**situation [3]** 42/14  
63/23 64/6

**six [2]** 26/3 79/9

**size [1]** 51/8

**skill [1]** 96/9

**Sla [3]** 20/12 21/17  
28/4

**slam [1]** 43/22

**sleep [1]** 39/4

**slowly [1]** 35/16

**slows [1]** 76/17

**small [1]** 20/17

**smaller [2]** 82/5  
82/10

**smoothly [2]** 16/25  
17/4

**Snelling [1]** 22/15

**snuck [1]** 56/9

**Snyder [1]** 60/1

**so [198]**

**social [1]** 60/9

**sold [2]** 28/6 62/21

**sole [1]** 84/18

**Solicitor [1]** 9/20

**Solicitor's [2]**  
89/13 95/9

**solidarity [1]**  
94/21

**solitary [1]** 85/2

**solution [1]** 58/20

**some [53]** 4/15 4/16  
4/17 9/10 12/2  
12/15 13/5 13/19  
18/5 19/20 29/20  
30/15 30/22 33/2  
34/19 35/2 35/22  
36/2 36/15 36/16  
38/9 38/11 39/23  
39/25 40/8 45/4  
46/3 46/3 46/5 53/9  
59/20 60/13 60/13  
62/19 63/10 65/6  
67/17 68/16 69/13  
69/16 71/6 73/13  
73/22 74/5 75/12  
75/13 76/2 77/1  
78/7 79/15 87/1  
89/14 89/20

**somebody [4]** 45/24  
56/9 66/16 76/11

**someone [2]** 51/9  
89/21

**something [18]** 2/23  
8/2 12/25 19/7 19/9  
28/23 31/13 39/2  
43/20 44/18 67/3  
72/4 73/14 73/24  
79/25 84/10 89/9  
90/4

**sometimes [7]** 3/6  
3/21 3/22 3/24  
75/14 90/4 95/7

**somewhat [1]** 25/18

**somewhere [2]** 13/3  
35/12

**song [2]** 50/3 50/4

**sorry [3]** 10/1  
42/25 78/18

**sort [6]** 2/18 3/5  
33/3 67/7 68/7  
74/24

**South [14]** 1/24 6/5  
12/23 18/6 25/10  
26/4 31/15 32/3  
53/14 54/17 54/22  
55/7 86/2 96/1

**southeastern [1]**  
7/1

**sovereign [1]** 22/14

**sovereignty [3]** 9/3  
22/21 24/1

**spanked [1]** 49/17

**sparks [1]** 67/3

**speak [3]** 20/11  
21/19 43/13

**speaking [2]** 49/14  
49/16

**speaks [1]** 17/4

**Special [1]** 44/17

**specific [2]** 32/21  
84/7

**specifically [5]**  
2/19 17/11 37/14  
71/8 78/2

<b>S</b>		
<b>speed</b> [1]	74/9	49/21 53/5 59/19
<b>spend</b> [2]	53/12	87/3 92/1 94/9 96/1
	84/3	<b>stated</b> [3] 36/10
<b>spending</b> [1]	11/6	54/17 57/6
<b>spent</b> [1]	79/11	<b>statehood</b> [3] 25/7
<b>spills</b> [1]	93/4	25/8 25/15
<b>spirit</b> [3]	9/24	<b>statement</b> [1] 49/10
	11/25 12/4	<b>statements</b> [2] 3/23
<b>spiritual</b> [1]	21/16	87/2
<b>split</b> [2]	25/6 44/3	<b>states</b> [40] 1/15
<b>Springs</b> [1]	30/23	7/7 14/19 14/21
<b>ss</b> [1]	96/1	18/4 18/6 18/16
<b>stability</b> [1]	16/4	19/1 20/21 22/4
<b>stake</b> [1]	19/2	22/5 22/10 22/12
<b>stances</b> [1]	94/23	22/18 23/4 23/6
<b>stand</b> [5]	21/4	23/11 23/13 23/18
	51/21 57/15 62/14	24/3 24/4 24/4
	94/21	24/15 24/23 24/24
<b>standards</b> [1]	47/12	25/7 26/9 26/20
<b>standing</b> [5]	13/18	26/22 27/20 28/13
	52/19 60/14 63/21	41/11 41/15 47/3
	90/17	59/6 72/11 88/13
<b>stands</b> [2]	58/16	90/12 93/16 93/24
	94/25	<b>States'</b> [1] 22/13
<b>stare</b> [2]	49/13	<b>station</b> [1] 73/14
	49/15	<b>statue</b> [1] 71/24
<b>start</b> [17]	2/4 5/25	<b>status</b> [7] 8/14
	19/21 30/6 33/22	12/9 12/10 37/10
	37/23 42/9 42/10	38/5 51/1 72/7
	64/25 65/1 77/20	<b>statute</b> [8] 42/2
	78/12 78/13 79/1	69/3 69/4 69/6 70/9
	81/19 81/23 95/10	70/11 75/3 87/14
<b>started</b> [5]	36/7	<b>statutes</b> [3] 67/12
	40/11 44/18 54/7	69/16 88/15
	64/1	<b>statutory</b> [6] 68/22
<b>starting</b> [1]	68/3	84/7 84/8 86/6
<b>state</b> [33]	6/4 13/1	87/14 87/15
	13/7 14/24 15/2	<b>stay</b> [4] 6/12 11/10
	15/8 15/12 15/16	36/12 36/18
	17/12 17/19 17/22	<b>step</b> [3] 31/10
	18/1 18/9 18/13	31/11 55/19
	18/23 18/24 20/9	<b>stick</b> [1] 4/10
	25/9 25/15 25/17	<b>still</b> [21] 9/19
	28/17 30/7 30/10	12/11 12/14 12/19
	32/13 34/4 37/17	30/18 37/2 37/3
		38/16 40/18 42/22
		47/8 52/22 58/19
		59/16 59/20 62/12
		75/17 76/20 88/11
		94/7 94/11
		<b>stipulate</b> [1] 57/10
		<b>stipulated</b> [1]
		57/25
		<b>stipulation</b> [2]
		83/18 83/19
		<b>stipulations</b> [3]
		83/2 83/14 83/16
		<b>stole</b> [1] 59/13
		<b>stop</b> [3] 44/4 45/1
		49/4
		<b>stopped</b> [1] 79/10
		<b>stories</b> [1] 36/19
		<b>street</b> [4] 1/24
		65/18 66/1 66/1
		<b>stress</b> [1] 94/12
		<b>stressed</b> [1] 93/4
		<b>strictly</b> [1] 38/13
		<b>strong</b> [3] 7/13
		8/15 86/18
		<b>structure</b> [2] 4/19
		84/7
		<b>struggle</b> [1] 12/22
		<b>stuck</b> [2] 10/1
		57/17
		<b>stuff</b> [3] 63/11
		83/1 89/11
		<b>Subcommittee</b> [1]
		8/18
		<b>subdivisions</b> [1]
		15/17
		<b>subject</b> [2] 16/7
		88/2
		<b>submit</b> [6] 39/19
		39/20 48/23 92/4
		94/14 94/19
		<b>submits</b> [1] 14/12
		<b>subsistence</b> [3]
		60/11 60/12 60/15
		<b>substantial</b> [1]
		17/22
		<b>substantially</b> [2]
		18/9 70/7

<b>S</b>	36/18	38/7
<b>subsurface [1]</b> 30/17	<b>T</b>	<b>tell [7]</b> 27/8 43/9 46/13 51/14 52/14 77/20 84/9
<b>subtle [1]</b> 52/23	<b>table [1]</b> 13/23	<b>telling [3]</b> 17/5 83/24 89/16
<b>such [4]</b> 13/6 17/25 18/6 23/7	<b>Tahsuda [2]</b> 10/23 43/1	<b>tells [1]</b> 40/23
<b>sudden [5]</b> 60/2 60/10 62/15 62/22 89/25	<b>take [29]</b> 2/8 2/14 3/11 3/18 7/17 7/23 10/10 17/1 20/24 26/8 33/10 37/6 39/3 40/6 40/8 42/8 42/24 50/16 51/20 67/14 67/15 67/25 70/1 70/5 71/12 72/1 84/20 89/16 90/3	<b>ten [6]</b> 8/20 9/13 40/9 40/9 46/6 77/19
<b>sued [1]</b> 69/20	<b>taken [8]</b> 1/23 8/6 8/25 28/19 40/10 88/19 91/19 94/1	<b>ten-minute [1]</b> 40/9
<b>sufficiency [1]</b> 70/8	<b>takes [3]</b> 2/25 3/22 11/6	<b>ten-year [1]</b> 77/19
<b>suggested [1]</b> 9/9	<b>taking [20]</b> 2/21 8/1 16/17 26/2 27/21 28/1 29/3 41/21 48/11 53/15 58/17 59/17 68/2 68/20 68/21 69/8 73/3 88/17 93/16 93/19	<b>termination [4]</b> 8/6 10/10 16/3 16/15
<b>suggestion [1]</b> 67/4	<b>talk [5]</b> 19/12 33/24 44/6 46/2 95/8	<b>terms [3]</b> 54/8 61/11 65/12
<b>suggests [1]</b> 28/19	<b>talked [4]</b> 23/18 28/6 29/24 77/4	<b>territorial [6]</b> 23/10 24/7 24/8 24/12 86/5 86/10
<b>sum [1]</b> 60/4	<b>talking [8]</b> 23/17 33/13 44/1 48/9 52/10 70/19 78/2 88/9	<b>territories [2]</b> 24/21 25/2
<b>summer [1]</b> 33/21	<b>tape [1]</b> 76/9	<b>territory [18]</b> 20/5 22/2 22/22 22/24 24/11 24/23 24/25 24/25 25/5 25/6 29/7 54/19 54/22 55/10 56/2 57/16 64/22 72/21
<b>superintendent [2]</b> 44/13 44/14	<b>target [1]</b> 8/4	<b>test [1]</b> 33/10
<b>superintendent's [1]</b> 21/9	<b>taught [1]</b> 47/6	<b>testified [1]</b> 21/12
<b>supervised [2]</b> 64/2 64/5	<b>tax [5]</b> 15/18 62/18 64/14 65/5 65/6	<b>testimony [1]</b> 56/6
<b>support [8]</b> 7/13 8/15 8/19 8/21 10/13 31/4 38/20 39/21	<b>taxes [2]</b> 53/18 62/20	<b>Teton [1]</b> 54/10
<b>supporting [2]</b> 8/24 39/20	<b>taxing [1]</b> 65/1	<b>than [16]</b> 16/18 18/10 18/25 20/13 32/2 33/5 38/23 39/1 51/23 60/13 60/16 69/14 72/25 91/21 92/21 92/24
<b>supposed [5]</b> 26/13 26/13 26/16 62/6 77/13	<b>tedious [2]</b> 37/3	<b>thank [37]</b> 5/1 6/15 6/16 10/18 11/13 11/18 11/24 13/8 13/9 19/5 19/11 21/18 30/1 30/2 31/22 32/18 32/19 34/7 34/14 34/24 40/3 40/4 48/22
<b>supreme [8]</b> 27/20 41/12 57/13 57/16 57/19 68/10 87/6 88/5		
<b>sure [4]</b> 4/15 11/16 19/8 85/17		
<b>surplus [1]</b> 88/18		
<b>surround [1]</b> 30/9		
<b>surrounding [2]</b> 91/25 93/18		
<b>survive [3]</b> 47/12 47/13 50/20		
<b>sustaining [1]</b> 39/4		
<b>swamps [2]</b> 36/16		

**T****thank...** [14] 49/649/8 49/23 49/24  
53/25 54/2 66/13  
66/19 66/21 82/22  
90/21 90/22 95/11  
95/16**thankful** [1] 16/6**Thanks** [1] 11/20**Thanksgiving** [1]

7/3

**that** [503]**that's** [85] 2/175/17 5/18 6/11  
13/10 16/25 17/3  
17/13 19/9 23/17  
24/2 24/8 24/16  
24/17 24/18 24/19  
24/20 24/23 25/4  
26/11 27/2 28/23  
29/21 31/20 32/12  
34/15 39/11 42/8  
42/11 42/15 42/18  
43/6 43/10 43/11  
44/1 44/4 45/18  
46/15 47/22 48/5  
48/12 49/12 49/15  
50/5 50/5 50/18  
51/3 51/4 51/10  
51/11 53/18 53/21  
55/10 58/1 58/4  
58/6 58/16 60/5  
60/21 63/3 64/23  
65/3 65/4 65/5 66/1  
71/1 72/2 72/22  
73/5 74/10 76/19  
77/21 77/22 78/8  
79/21 79/25 81/6  
81/12 81/13 82/23  
83/13 83/23 84/12  
85/6 90/2**their** [22] 15/2319/25 20/1 20/2  
22/14 23/8 25/8  
25/8 28/7 38/12  
51/10 52/9 57/6

60/14 60/15 62/20

65/18 72/17 76/15

86/19 92/25 93/10

**them** [26] 4/10 6/8

10/14 17/10 30/17

36/2 38/9 38/9

38/10 38/14 40/13

43/19 43/23 45/25

57/24 61/9 65/9

75/5 79/1 79/5

79/15 82/10 83/2

83/13 83/16 83/21

**then** [49] 12/9 19/6

23/3 23/11 24/24

35/6 36/6 36/13

37/20 38/8 40/7

41/14 44/15 44/16

44/17 46/2 48/15

50/16 54/15 54/22

55/14 55/18 56/7

57/2 57/6 57/22

59/1 59/11 62/15

62/24 63/19 63/23

64/3 67/2 68/24

68/24 71/3 72/20

73/23 74/6 75/9

76/21 78/13 80/15

81/23 82/25 88/13

89/20 90/16

**there** [91] 2/11

2/23 3/6 3/24 4/6

4/7 5/6 5/25 12/15

12/24 13/11 13/23

14/23 16/4 21/10

23/10 25/8 26/7

26/21 27/7 27/16

29/1 29/15 30/23

31/5 31/12 33/18

35/25 36/5 36/16

36/18 36/19 36/20

37/9 37/16 37/19

38/3 39/17 43/3

43/18 43/19 43/20

47/13 48/12 48/19

52/13 52/24 55/12

55/12 56/1 56/5

56/6 56/10 57/17

58/3 58/5 58/19

62/7 63/7 63/17

64/13 65/13 67/10

67/16 68/4 68/7

68/12 68/16 68/19

70/2 70/24 71/6

73/7 73/8 74/18

75/5 75/9 76/9 78/9

78/10 79/2 79/6

79/17 86/16 86/20

87/1 87/2 89/8

89/10 94/13 94/19

**there's** [37] 2/15

3/9 5/8 28/15 31/25

32/4 46/3 46/4

47/13 52/22 53/8

53/20 53/22 55/6

55/12 57/7 59/16

59/20 60/22 70/21

70/21 71/4 73/2

74/16 76/17 81/23

83/4 83/4 84/12

84/17 85/3 85/10

89/13 89/20 90/5

90/8 95/13

**these** [51] 3/15 4/1

9/7 10/14 12/13

14/7 16/2 16/22

17/8 17/9 17/16

17/21 21/7 21/11

25/20 26/9 27/18

29/20 30/15 31/5

35/8 41/17 45/15

50/13 50/13 50/22

53/17 54/6 56/22

60/3 61/4 62/4

62/16 62/17 63/11

65/7 67/12 68/18

69/23 70/15 84/6

84/22 86/5 86/10

88/14 92/22 92/25

93/1 93/12 93/16

93/20

**they** [120]**they're** [21] 23/21

**T**

**they're... [20]**  
 29/22 35/5 44/3  
 47/21 48/7 49/13  
 51/4 51/5 59/5 59/8  
 59/16 59/17 59/21  
 60/17 65/4 65/11  
 75/8 79/13 79/14  
 83/15

**they've [2]** 33/1  
 52/8

**Thin [1]** 13/17

**thing [2]** 42/17  
 84/19

**things [15]** 2/5 4/1  
 13/20 14/12 26/22  
 31/5 38/25 39/5  
 42/23 44/5 48/14  
 68/13 72/18 74/7  
 88/10

**think [54]** 2/13  
 4/20 6/11 12/15  
 12/24 17/9 21/20  
 22/1 25/25 26/5  
 26/18 26/19 26/21  
 29/1 29/21 31/12  
 32/1 47/5 52/13  
 54/7 61/16 65/8  
 65/13 65/14 67/7  
 67/19 67/24 70/3  
 70/24 72/22 73/18  
 73/25 74/4 74/15  
 75/19 75/23 75/24  
 75/24 76/2 76/3  
 76/7 76/12 76/12  
 76/18 78/7 85/12  
 85/16 85/22 86/5  
 87/6 90/14 90/17  
 95/4 95/9

**thinking [1]** 84/10

**thinks [1]** 73/15

**third [1]** 47/2

**thirds [1]** 16/19

**this [113]**

**those [79]** 4/13  
 4/18 10/15 12/17

12/21 14/10 14/21  
 23/20 26/5 26/6  
 26/8 26/24 27/1  
 27/7 27/10 27/15  
 27/25 28/7 28/22  
 28/25 29/16 30/13  
 33/5 33/12 35/25  
 36/1 36/4 36/13  
 36/17 36/20 36/22  
 36/24 36/24 37/4  
 37/7 37/10 37/21  
 37/21 38/4 38/5  
 38/12 38/15 38/24  
 39/4 43/5 44/5 58/4  
 58/20 59/22 59/25  
 60/6 64/8 64/23  
 68/14 71/20 72/18  
 73/8 73/25 76/2  
 78/14 79/8 79/8  
 79/13 81/1 81/4  
 82/12 82/18 82/18  
 83/3 83/15 85/9  
 85/14 86/16 86/18  
 88/12 88/14 89/23  
 90/12 90/13

**though [3]** 56/8  
 57/12 85/18

**thought [5]** 33/8  
 33/19 49/3 67/8  
 74/20

**thoughts [2]** 33/2  
 66/25

**threat [1]** 93/6

**three [12]** 9/5 17/1  
 24/18 55/19 57/24  
 61/24 61/25 62/9  
 62/16 63/20 91/3  
 94/3

**three-fourths [3]**  
 61/24 61/25 62/9

**three-step [1]**  
 55/19

**throats [1]** 58/18

**through [28]** 3/25  
 5/25 17/1 24/6  
 26/14 29/16 31/16

33/1 33/21 35/14  
 35/15 35/18 35/19  
 36/4 37/8 37/25  
 38/8 41/24 44/9  
 47/6 58/24 62/18  
 62/18 69/7 75/10  
 79/6 81/4 82/15

**throughout [3]** 8/20  
 34/20 59/23

**time [29]** 4/2 6/6  
 7/1 8/5 10/17 11/6  
 18/2 21/1 23/7 30/8  
 31/8 31/22 35/11  
 35/19 35/22 36/10  
 42/17 48/22 48/24  
 49/6 52/25 53/12  
 68/1 80/1 83/17  
 89/10 91/22 94/24  
 95/13

**timeline [4]** 78/17  
 78/19 80/11 80/20

**times [3]** 35/20  
 36/8 68/25

**timing [1]** 28/21

**tired [7]** 36/9  
 41/18 43/13 50/6  
 50/12 50/21 60/3

**title [4]** 25/11  
 29/9 29/14 86/9

**titled [1]** 22/25

**titles [1]** 53/19

**today [15]** 9/5 11/5  
 11/10 13/21 26/14  
 26/18 30/21 34/16  
 36/22 37/12 39/6  
 52/18 58/16 69/12  
 70/15

**Todd [1]** 89/2

**together [2]** 55/2  
 88/1

**told [6]** 42/12  
 47/21 49/18 77/8  
 80/18 83/10

**Tom [1]** 8/16

**too [11]** 5/21 37/6  
 70/11 72/18 75/25

<b>T</b>	44/24 46/12 54/9	3/21 3/22 4/17 5/12
<b>too... [6]</b> 76/8	54/11 54/12 54/15	8/21 9/12 9/16 9/23
76/9 79/4 79/14	54/16 55/1 55/1	10/7 10/13 12/16
88/16 88/17	55/4 55/15 55/16	12/23 13/4 13/5
<b>took [5]</b> 5/23 7/11	56/1 56/4 58/24	14/1 14/22 14/25
56/13 58/11 60/7	59/6 59/7 59/25	15/22 16/5 16/7
<b>top [2]</b> 81/15 85/7	61/25 64/15 66/5	18/23 19/3 19/6
<b>topic [1]</b> 45/4	86/14 88/12 91/17	19/22 19/23 19/24
<b>totaling [1]</b> 16/18	93/24	20/8 20/16 20/17
<b>totally [2]</b> 59/21	<b>tribal [52]</b> 1/13	21/5 21/24 22/8
60/7	4/6 6/22 6/23 8/21	22/11 25/12 26/7
<b>tough [1]</b> 6/5	8/23 10/12 12/19	26/25 27/2 27/3
<b>towards [2]</b> 15/25	12/25 13/2 14/10	27/6 27/11 28/16
23/15	14/14 14/16 14/17	29/12 31/1 31/13
<b>tract [1]</b> 85/3	15/5 15/6 15/24	31/16 32/1 32/14
<b>traditional [2]</b>	16/10 16/19 17/7	32/15 32/25 33/13
41/22 47/6	18/19 18/19 18/20	37/6 44/19 44/20
<b>traditionally [1]</b>	19/15 19/18 19/25	44/25 45/24 50/16
47/9	21/20 30/4 30/18	54/10 56/22 63/6
<b>transactions [1]</b>	31/8 32/11 44/23	63/7 63/11 63/18
63/1	44/24 45/9 45/10	63/20 63/22 63/22
<b>transfer [1]</b> 13/6	46/9 48/4 48/6	66/9 68/1 74/22
<b>transferred [1]</b>	48/25 56/17 57/1	75/12 76/14 77/23
64/4	60/6 60/17 61/10	78/13 81/16 83/15
<b>transportation [2]</b>	65/1 76/4 77/24	86/3 88/17 91/3
20/2 45/12	83/25 84/3 87/18	94/4 94/22
<b>traveling [1]</b> 32/2	87/22 89/14	<b>tribes' [1]</b> 13/24
<b>treat [1]</b> 15/22	<b>tribe [52]</b> 6/8 6/20	<b>tried [2]</b> 8/2 69/2
<b>treated [1]</b> 73/6	6/24 6/25 7/2 7/5	<b>Troy [1]</b> 41/1
<b>treaties [27]</b> 22/9	7/10 7/15 8/11 10/5	<b>true [3]</b> 45/17
22/16 22/17 22/18	10/11 13/18 14/5	45/22 96/7
23/7 23/8 23/23	14/8 14/12 16/22	<b>truly [1]</b> 50/15
24/10 29/24 41/4	17/10 17/18 17/25	<b>trust [107]</b>
41/9 41/10 41/10	18/6 18/15 25/22	<b>try [9]</b> 3/15 4/7
41/17 42/2 42/4	28/20 30/5 30/9	4/14 17/15 43/11
42/6 42/12 44/9	30/25 41/3 44/23	69/4 70/7 85/18
44/25 49/5 53/20	48/18 49/1 49/13	90/3
60/20 86/10 88/10	50/2 54/9 56/13	<b>trying [16]</b> 17/14
88/11 90/12	57/13 58/23 60/13	20/10 30/15 41/8
<b>treats [1]</b> 50/24	60/14 63/3 63/10	46/16 46/25 64/14
<b>treaty [41]</b> 19/23	63/11 63/12 65/24	64/21 75/2 76/18
22/11 22/12 22/23	66/8 68/21 70/25	79/5 79/11 80/17
22/25 24/2 24/19	71/12 73/15 76/3	82/9 88/12 89/9
24/20 25/25 26/6	84/21 86/17 86/25	<b>tuning [1]</b> 40/1
26/12 26/15 27/6	<b>tribe's [1]</b> 12/11	<b>turn [5]</b> 36/24
27/7 29/12 41/6	<b>tribes [80]</b> 3/20	40/16 43/12 48/2

<b>T</b>	81/11 85/18	56/2 56/3 56/5 56/9
<b>turn...</b> [1] 77/11	<b>unilateral</b> [1] 59/3	56/14 56/21 58/3
<b>TV</b> [1] 48/2	<b>unintelligible</b> [33]	58/5 58/5 58/11
<b>two</b> [13] 16/19 17/1	2/19 7/4 7/4 7/20	59/1 59/2 61/20
25/6 44/3 56/16	8/12 20/9 25/1	67/4 68/16 70/8
63/7 64/21 65/25	25/12 55/8 56/11	70/12 74/9 74/24
76/22 77/17 77/18	56/15 57/4 57/15	79/15 80/22 86/9
82/3 91/22	57/20 59/10 59/16	87/22 94/23
<b>two-thirds</b> [1]	59/22 60/1 60/3	<b>updated</b> [1] 90/16
16/19	62/6 62/13 62/21	<b>upmost</b> [1] 23/14
<b>two-way</b> [1] 65/25	63/16 65/19 66/5	<b>upon</b> [1] 2/13
<b>type</b> [1] 32/7	66/6 66/16 75/22	<b>uranium</b> [1] 27/16
<b>types</b> [1] 17/9	75/25 76/7 78/3	<b>urges</b> [1] 10/5
	81/18 84/18	<b>us</b> [112]
<b>U</b>	<b>UNITED</b> [29] 1/15	<b>use</b> [14] 17/16
<b>U.S</b> [1] 12/6	7/7 22/4 22/5 22/10	61/11 61/11 69/5
<b>UFC</b> [1] 29/14	22/12 22/13 22/17	78/14 79/5 81/3
<b>uncertain</b> [1] 16/8	23/3 23/6 23/11	81/4 81/8 82/8
<b>unconstitutional</b> [1]	23/13 23/18 24/3	82/13 82/18 83/3
27/21	24/4 24/4 24/15	83/21
<b>under</b> [26] 3/4 3/4	26/9 26/20 26/22	<b>used</b> [4] 44/12 47/5
12/19 18/8 18/20	27/20 28/13 41/11	52/9 67/24
19/1 24/12 29/2	41/15 47/3 88/13	<b>useful</b> [1] 3/14
29/13 33/15 54/11	90/12 93/16 93/24	<b>useless</b> [1] 69/5
55/4 62/5 62/7 63/8	<b>unless</b> [2] 3/1	<b>uses</b> [2] 74/6 93/17
63/15 64/1 64/3	95/13	<b>USET</b> [1] 8/22
64/4 64/12 64/15	<b>unlikely</b> [1] 93/12	<b>using</b> [3] 17/7
68/21 70/5 76/23	<b>unoccupied</b> [2]	68/20 92/19
89/5 93/12	26/24 27/2	<b>utilize</b> [2] 36/25
<b>undermine</b> [2] 14/16	<b>unrestricted</b> [1]	37/4
16/10	15/16	<b>V</b>
<b>understand</b> [10]	<b>unseeded</b> [5] 54/19	<b>vacated</b> [3] 87/8
29/2 43/5 48/8	54/22 55/10 55/11	87/8 90/15
49/11 72/3 85/1	56/1	<b>vague</b> [1] 70/11
85/23 86/25 92/5	<b>until</b> [5] 23/7 37/1	<b>valid</b> [3] 61/24
92/24	67/19 67/23 86/9	62/10 62/12
<b>understandable</b> [1]	<b>untrue</b> [1] 83/7	<b>valuation</b> [3] 3/25
72/8	<b>up</b> [51] 3/8 4/22	85/13 85/17
<b>understanding</b> [2]	6/4 13/25 23/12	<b>valuations</b> [3] 81/3
24/20 25/4	26/14 27/4 27/6	82/16 85/10
<b>undertake</b> [1] 29/18	28/3 28/22 29/5	<b>value</b> [1] 79/15
<b>unfair</b> [3] 17/12	30/22 33/3 34/21	<b>valued</b> [1] 55/17
17/13 65/9	36/2 37/1 39/6 43/3	<b>Van</b> [1] 19/17
<b>unfortunate</b> [1]	44/1 45/3 47/8	<b>various</b> [2] 27/17
69/9	47/15 51/17 51/21	86/10
<b>unfortunately</b> [2]	52/19 53/14 55/25	<b>vegetation</b> [1] 93/5



**V**

**verbatim** [1] 94/6  
**verbiaged** [1] 41/10  
**very** [10] 22/1 28/3  
 30/1 32/18 34/5  
 54/24 70/5 73/9  
 87/15 90/6  
**veterans** [1] 42/19  
**VI** [1] 41/11  
**via** [1] 2/20  
**viable** [1] 88/20  
**vice** [2] 11/22  
 11/25  
**vice-chairman** [2]  
 11/22 11/25  
**view** [1] 85/24  
**villages** [5] 35/25  
 36/1 36/5 36/13  
 37/18  
**violation** [6] 15/21  
 59/5 60/20 61/16  
 61/21 62/23  
**visual** [1] 93/2  
**volumes** [1] 17/4  
**voluntary** [1] 28/19

**W**

**waiting** [3] 77/15  
 79/2 94/11  
**waive** [1] 84/8  
**waived** [1] 78/12  
**waiver** [2] 78/2  
 80/10  
**waivers** [1] 80/9  
**walk** [1] 51/23  
**walked** [1] 51/25  
**Walker** [3] 34/10  
 34/17 40/4  
**Wampanoag** [4] 6/20  
 6/24 7/5 8/10  
**want** [47] 4/12 9/5  
 13/15 19/5 21/1  
 33/1 39/3 39/9  
 39/23 42/10 42/22  
 42/25 43/1 45/5  
 48/8 48/16 48/22

48/24 49/2 50/9  
 50/19 50/20 51/12  
 51/14 53/16 54/25  
 56/15 56/18 58/22  
 59/1 61/7 61/9 61/9  
 66/17 66/25 75/15  
 79/25 80/3 81/4  
 81/12 82/7 82/19  
 84/4 84/18 85/20  
 90/6 90/7  
**wanted** [12] 2/8  
 4/14 13/23 19/21  
 20/13 41/17 49/23  
 57/18 82/14 90/20  
 94/12 94/19  
**wants** [3] 17/18  
 50/15 51/9  
**war** [4] 22/20 47/13  
 47/14 62/20  
**warm** [1] 48/1  
**wars** [1] 26/19  
**was** [116]  
**Washington** [1] 52/3  
**wasn't** [8] 45/24  
 51/10 52/18 56/3  
 59/3 68/2 69/22  
 73/3  
**waste** [2] 52/21  
 52/25  
**watch** [2] 29/19  
 43/12  
**water** [3] 27/8  
 27/10 45/13  
**Wausau** [1] 36/2  
**way** [36] 2/16 2/16  
 3/8 4/4 4/5 10/2  
 19/20 32/6 34/22  
 35/13 35/22 36/3  
 37/8 43/3 45/1 47/5  
 50/5 50/5 53/19  
 57/7 58/16 65/6  
 65/18 65/25 66/1  
 66/1 68/8 73/6 74/9  
 76/16 82/10 86/1  
 86/2 90/5 95/4 95/9  
**ways** [3] 2/12 47/6

50/22  
**we** [405]  
**we'd** [3] 73/5 84/20  
 88/13  
**we'll** [16] 2/3  
 10/22 11/15 32/23  
 33/19 33/20 38/18  
 38/19 40/8 40/11  
 60/4 62/16 80/4  
 80/7 82/4 82/17  
**we're** [58] 6/11  
 11/3 17/7 17/13  
 19/7 20/3 20/10  
 20/18 21/23 21/23  
 22/5 23/16 30/11  
 30/15 30/21 31/5  
 31/17 33/13 35/17  
 36/23 37/12 37/21  
 38/7 38/20 39/1  
 39/10 40/14 42/18  
 43/13 45/16 46/17  
 46/19 47/2 47/9  
 47/11 47/11 50/10  
 59/14 59/18 60/3  
 60/10 60/18 60/20  
 63/11 63/24 67/16  
 67/17 73/23 77/1  
 78/8 78/9 78/20  
 79/11 81/13 88/6  
 88/9 88/12 90/17  
**we've** [12] 2/8 12/7  
 56/16 74/17 75/7  
 75/7 76/25 77/15  
 78/10 81/18 89/12  
 89/15  
**wedding** [1] 87/4  
**week** [4] 21/3 33/6  
 78/6 80/8  
**weigh** [1] 3/7  
**weight** [1] 53/9  
**welcome** [2] 20/7  
 20/8  
**well** [30] 10/19  
 10/22 16/15 21/6  
 24/23 33/7 33/23  
 38/14 40/1 44/13

**W**

**well...** [20] 54/9  
 54/23 55/4 55/24  
 56/21 56/22 57/12  
 60/10 63/6 64/6  
 65/5 65/8 66/24  
 74/9 75/5 75/10  
 79/8 82/4 84/1 87/6  
**wells** [1] 58/4  
**went** [6] 6/3 32/5  
 55/2 55/22 58/8  
 79/22  
**were** [50] 4/7 7/19  
 16/19 22/3 22/16  
 23/10 23/10 25/9  
 27/7 28/5 33/6  
 35/13 35/19 36/2  
 36/6 36/11 36/12  
 36/19 37/4 37/11  
 39/15 39/16 39/17  
 41/20 41/24 47/6  
 48/20 53/19 62/5  
 62/7 63/4 63/17  
 63/17 67/22 68/16  
 69/25 70/6 70/10  
 79/5 79/7 83/10  
 84/6 86/2 86/3 86/3  
 86/7 86/7 86/8  
 86/12 92/1  
**weren't** [1] 69/25  
**west** [3] 20/16 35/3  
 50/17  
**western** [7] 1/23  
 23/11 26/4 34/3  
 54/17 54/22 55/7  
**Weston** [4] 40/14  
 41/2 49/9 51/16  
**what** [78] 2/18 3/12  
 3/14 3/14 5/18 6/25  
 8/8 9/9 16/23 16/24  
 17/13 20/21 23/11  
 26/11 28/7 29/21  
 29/23 33/10 33/13  
 36/10 37/1 39/2  
 39/9 40/23 40/25  
 41/25 42/3 42/6

42/8 44/19 45/18  
 46/17 47/23 48/10  
 48/18 48/21 50/18  
 51/14 52/8 52/10  
 52/14 53/13 53/23  
 56/12 58/8 60/5  
 60/18 60/21 61/1  
 61/12 62/2 62/24  
 63/23 64/18 67/3  
 69/25 70/8 71/6  
 72/5 72/7 72/15  
 72/20 73/5 75/4  
 75/18 76/8 78/18  
 80/11 81/13 81/20  
 82/8 83/2 83/24  
 87/7 87/10 87/11  
 88/9 94/5  
**what's** [10] 32/9  
 42/21 46/12 46/13  
 56/24 57/17 67/21  
 74/10 77/25 85/24  
**whatever** [5] 29/18  
 48/2 72/9 73/17  
 84/4  
**when** [60] 2/7 2/14  
 3/9 5/9 7/3 12/8  
 12/23 17/23 22/16  
 23/16 23/23 24/16  
 25/24 26/2 26/18  
 27/23 28/18 32/5  
 34/20 35/14 35/15  
 35/23 36/7 36/7  
 37/12 37/23 43/6  
 43/13 43/16 49/13  
 51/17 52/21 55/2  
 55/14 55/19 55/21  
 56/2 58/9 58/13  
 65/18 65/23 71/11  
 71/15 76/3 76/3  
 77/14 78/17 78/20  
 79/18 79/18 80/20  
 82/15 82/25 83/14  
 83/15 85/12 86/5  
 88/1 88/10 90/3  
**where** [39] 5/10  
 6/11 13/3 18/6 25/9

27/16 29/9 31/8  
 33/25 35/5 35/24  
 36/1 36/19 36/23  
 37/12 37/17 37/18  
 37/18 37/21 38/12  
 38/18 44/6 50/22  
 58/3 58/5 59/23  
 63/4 63/23 69/12  
 70/15 70/18 72/2  
 77/7 77/13 77/19  
 80/23 84/12 86/20  
 90/2  
**wherever** [3] 32/3  
 36/10 36/11  
**whether** [5] 38/3  
 45/25 70/11 73/13  
 74/18  
**which** [21] 2/10 7/9  
 9/16 18/9 21/5 31/3  
 34/4 41/12 46/11  
 58/14 59/2 59/15  
 61/17 61/19 69/15  
 72/19 80/14 87/15  
 88/15 91/21 92/4  
**while** [2] 9/19  
 49/15  
**white** [9] 35/14  
 41/18 47/7 47/11  
 52/14 53/1 62/3  
 91/1 95/1  
**whitling** [1] 42/2  
**who** [8] 3/8 10/7  
 41/7 45/1 51/1 51/2  
 69/24 70/14  
**who's** [1] 21/14  
**whole** [1] 74/13  
**Whose** [2] 44/7 64/7  
**why** [45] 5/20 18/13  
 18/16 31/24 32/7  
 32/12 32/15 35/7  
 39/13 40/6 41/7  
 42/12 42/18 43/11  
 44/1 44/8 44/19  
 44/20 46/15 46/20  
 46/20 48/5 48/15  
 49/15 50/10 53/18

**W**

**why...** [19] 64/11  
64/14 64/24 65/22  
65/22 67/16 67/17  
69/8 72/20 76/22  
76/22 76/23 79/21  
79/25 83/13 85/8  
89/16 89/17 89/17

**will** [50] 8/25  
10/12 10/20 11/16  
18/1 18/4 19/20  
20/11 21/13 23/6  
24/10 24/13 30/19  
32/22 33/1 33/3  
33/24 38/3 39/6  
40/7 44/8 47/14  
47/22 47/22 48/24  
49/1 51/3 51/13  
51/14 53/11 56/4  
61/23 75/4 76/19  
78/11 78/12 80/9  
80/11 80/25 82/6  
82/16 83/2 89/19  
92/4 93/17 93/18  
93/20 94/14 94/18  
95/14

**willing** [2] 79/2  
79/8

**Wisconsin** [6] 34/18  
35/11 35/20 36/3  
36/15 37/17

**wishes** [1] 9/22

**withdraw** [1] 56/17

**withdrawn** [1] 7/18

**within** [12] 5/13  
6/9 14/18 26/20  
30/13 37/17 60/14  
64/13 64/22 72/21  
91/16 93/7

**without** [4] 11/3  
57/23 61/5 61/24

**woman** [2] 48/11  
53/8

**women** [1] 61/6

**won** [1] 42/11

**word** [1] 78/8

**words** [3] 34/25  
49/24 59/8

**work** [12] 5/11  
20/25 22/8 28/3  
37/20 38/13 51/19  
67/11 75/17 79/20  
80/18 90/4

**worked** [2] 28/7  
80/19

**working** [7] 2/15  
6/1 11/8 26/25  
37/23 89/9 91/19

**world** [5] 47/2  
48/14 50/22 52/12  
62/19

**worsened** [1] 9/17

**worth** [1] 74/1

**worthwhile** [1]  
89/10

**would** [53] 5/5 5/24  
8/5 11/15 15/6  
15/16 16/7 16/9  
18/10 18/25 21/5  
21/10 23/14 23/16  
24/14 25/13 31/24  
32/5 32/14 33/4  
33/7 33/11 33/16  
33/25 35/23 36/17  
36/18 37/2 37/6  
37/9 39/2 43/2 54/5  
54/19 54/20 54/23  
57/20 64/5 65/9  
69/13 73/19 73/22  
74/23 75/17 75/19  
80/1 80/18 80/20  
84/5 84/21 87/3  
91/22 93/5

**wouldn't** [3] 56/20  
56/25 56/25

**wound** [1] 45/3

**wreaked** [1] 9/11

**writing** [1] 21/13

**written** [1] 28/11

**wrong** [5] 20/18  
42/21 46/13 46/13  
86/23

**Wyoming** [1] 58/2

**Y**

**Y-A-N-K-T-O-N** [1]  
11/24

**Yankton** [9] 11/22  
11/24 13/18 14/5  
16/20 17/18 54/10  
56/23 63/21

**Yanktons** [1] 86/2

**yeah** [4] 11/14  
81/21 85/1 85/5

**year** [6] 2/8 5/15  
43/16 62/7 77/19  
91/21

**years** [22] 3/18  
5/23 12/5 12/7 17/1  
24/19 30/17 35/22  
36/19 50/8 59/23  
77/17 77/18 79/10  
88/23 88/24 88/24  
88/24 88/25 89/24  
91/22 94/7

**Yep** [2] 82/21 84/15

**Yes** [6] 5/1 13/12  
13/13 63/7 78/1  
78/4

**yet** [6] 12/11 12/19  
30/18 51/3 52/11  
76/13

**yielded** [1] 46/10

**you** [300]

**you'll** [3] 80/10  
82/17 94/16

**you're** [18] 4/12  
17/2 21/23 21/24  
29/3 37/25 41/13  
47/18 47/19 49/15  
51/1 51/8 55/25  
66/10 72/7 78/1  
89/25 90/3

**you've** [3] 31/6  
44/15 89/24

**young** [1] 51/16

**your** [35] 9/9 9/25  
10/8 10/13 10/17  
11/13 29/19 32/21

**Y****your...** [27] 34/15

40/3 40/25 44/12

48/1 48/12 49/6

49/10 49/24 50/16

51/2 51/20 57/9

77/11 78/22 78/23

80/12 80/15 82/6

82/12 82/13 82/19

89/10 89/17 89/19

91/5 93/25

**yourself** [1] 53/3**Z****Ziebach** [1] 89/2**Zinke** [1] 77/10**zone** [1] 86/13