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TRIBAL CONSULTATION

ON

CONSULTATION POLICY/PROCEDURES DMs

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MEETING

DATE: Thursday, December 16, 2021

TIME: 2:07 p.m. - 2:53 p.m.

LOCATION: Zoom, Washington D.C.

Videoconference

REPORTED BY: Shondra Dawson, Notary Public

JOB NO: 4987626

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

1 DEPARTMENT OF THE INTERIOR

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10 ALSO PRESENT:

11 SCOTT AIKIN, Prairie Band Potawatomi, National

12 Native American Liaison for the U.S. Fish and

13 Wildlife Service.

14 KATHRYN ISOM CLAUSE, Taos Pueblo, Assistant

15 Secretary for Indian Affairs for Policy and Economic

16 Development

17 TRACY GOODLUCK, White House Council on Native

18 American Affairs and also the Secretary's Indian

19 Water Rights Office

20 CHRIS HAMMOND, Head of the Office of Tribal

21 Relations for the U.S. Geological Survey

22 BYRON LOOSLE, Acting BLM, Bureau of Land Management,

23 Tribal Liaison Officer

24 D.J. MONETTE, U.S. Fish and Wildlife Service,

25 Associate Native American Liaison Advisor

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

2 MS. ISOM CLAUSE: Welcome to the  
3 consultation on the Department of the  
4 Interior's draft update to its Tribal  
5 consultation policy and procedures. My name is  
6 Kathryn Isom Clause and I'm the Deputy  
7 Assistant Secretary for Indian Affairs for  
8 Policy and Economic Development and I am Taos  
9 Pueblo so I'm really happy to join you all  
10 today on this important topic. We have some  
11 opening comments, just setting the stage here,  
12 and then I will invite our Tribal liaison to  
13 this process to introduce himself as well. As  
14 Regina stated, we will be recording today's  
15 session. To help with audio quality, please  
16 stay on mute with your cameras off until the  
17 discussion begins. On November 12, 2021, we  
18 sent you a dear Tribal leader letter providing  
19 you with draft updates to the Department of  
20 Interior's consultation policy including a new  
21 figure showing a consensus seeking model and in  
22 just a moment I'll provide you with some  
23 background on how the draft came to be, pose  
24 some questions for your consideration, and then  
25 open it up for a discussion and comments. But

1 before we do that, I would at this time like to  
2 invite our Tribal liaisons to unmute and  
3 introduce yourselves. Thank you.

4 MR. AIKIN: Scott Aikin. I'm Prairie Band  
5 Potawatomi and I serve as the National Native  
6 American Liaison for the U.S. Fish and Wildlife  
7 Service. Great to have you here today.

8 MS. GOODLUCK: My name is Tracy Goodluck  
9 and I am with the White House Council on Native  
10 American Affairs and also the Secretary's  
11 Indian Water Rights Office. We're grateful to  
12 have you all on this consultation today.

13 MR. HAMMOND: Hi, I'm Chris Hammond. I'm  
14 the head of the Office of Tribal Relations for  
15 the U.S. Geological Survey.

16 MS. ISOM CLAUSE: Welcome, glad to have  
17 you with us today.

18 MR. LOOSLE: I'm Byron Loosle, Acting BLM,  
19 Bureau of Land Management, Tribal Liaison  
20 Officer. Thank you for participating.

21 MR. MONETTE: Good afternoon, D.J.  
22 Monette, U.S. Fish and Wildlife Service,  
23 Associate Native American Liaison Advisor.  
24 Welcome to this session.

25 MS. ISOM CLAUSE: I think that may be

1 everyone. Any federal participants that would  
2 like to introduce yourselves, please feel free  
3 to do so at any time but I think -- I know we  
4 started a few minutes late, so in the interest  
5 of time, I'll go ahead and begin with the  
6 background on this effort to update the DM.  
7 So, at the beginning of his tenure, President  
8 Biden issued a memorandum emphasizing the  
9 importance of consultation with tribes. That's  
10 the January 26, 2021 Presidential Memorandum on  
11 Tribal Consultation and Strengthening  
12 Nation-to-Nation Relationships. In accordance  
13 with that memorandum, Interior consulted with  
14 tribes on how it could improve its  
15 implementation of Executive Order 13175 on  
16 Coordination and Consultation with Tribal  
17 Governments. That consultation culminated in a  
18 detailed plan with action items that Interior  
19 committed to taking. One of these action items  
20 was to update Interior's consultation policy  
21 and procedure. Interior's consultation policy  
22 and procedures are codified in our departmental  
23 manual or DM which is the primary compilation  
24 of all of Interior Department's -- of  
25 Interior's department-wide policies and there

1 are two DM chapters on consultation with  
2 tribes, 512DM4 which sets out the consultation  
3 policy and 512DM5 which sets out the  
4 consultation procedures. These DM chapters  
5 were put into place approximately seven years  
6 ago to codify the freestanding 2011 Tribal  
7 consultation policy that was jointly developed  
8 by tribes and Interior officials. Based on  
9 input from tribes through consultation on the  
10 present memorandum and other input we've heard  
11 over the years from tribes, the Department has  
12 prepared a draft of changes to these two DM  
13 chapters for your input. And thank you,  
14 Regina, for continuing to keep us updated in  
15 the chat box there. Feel free to access the  
16 chat box. She's put the DM policies there as  
17 well as links to all the information. All  
18 right. So the goals of the draft DM updates  
19 are -- well there's seven of them so I  
20 apologize for all the reading. We'll get to  
21 all of these overarching comments and then  
22 hopefully have more of an interaction here.  
23 But, the attention of these draft updates and  
24 we encourage your input on whether the draft  
25 language reflects this intention is to do seven

1 things. First and foremost, to bolster  
2 Interior's consultation policy to encourage  
3 early robust interactive pre-decisional  
4 informative and transparent consultation.  
5 Second, to establish a model for seeking Tribal  
6 consensus that's included in the DM as Figure  
7 1. Third, require that DOI staff undergo  
8 training before participating in consultation.  
9 Fourth, codify the Secretary's Tribal Advisory  
10 Committee or STAC. Fifth is to address  
11 flexibility for Tribal waivers. Sixth is to  
12 clarify the Interior decision makers must  
13 invite tribes to engage in consultation. And  
14 finally, require a record of consultation. In  
15 the November 12th, 2021 dear Tribal leader  
16 letter inviting you to this consultation, we  
17 also included some questions for your  
18 consideration which I'll go through now. The  
19 first question is, the draft defines actions  
20 with Tribal implications based on the  
21 definition of policies with Tribal implications  
22 in E013175 but incorporates tribe's past input  
23 of the definition should include actions that  
24 may have substantial direct effects rather than  
25 the more definitive have substantial effects.

1           Should actions with Tribal implications be  
2           defined different or in more detail and if so  
3           how. Thank you again for keeping us updated in  
4           the chat. Second question, are there different  
5           thresholds for what constitutes a substantial  
6           direct effect that the policy should  
7           articulate. And a few sub-questions under  
8           that. Should the policy list categories of  
9           departmental actions that may cause a  
10          substantial direct effect. Should the policy  
11          list categories of land status or treaty rights  
12          such as those listed in a draft  
13          consensus-seeking model that would incur  
14          substantial direct effects. And should the  
15          policy provide examples of thresholds of  
16          substantial direct effect combining categories  
17          of departmental actions with categories of land  
18          status or treaty rights. For example,  
19          non-earth disturbing activities on non-  
20          reservation lands. Third question, is the  
21          draft consensus-seeking model in Figure 1  
22          workable? Are there impacts that are not  
23          included in the model that should be? Should  
24          any of the items be in a different ring than  
25          shown? And fourth, how might the policy better



1 contribute to Interior's effort in protecting  
2 sacred sites under Executive Order 13007 and  
3 other laws. And do you have any  
4 recommendations regarding the Tribal  
5 consultation annual report identified in Draft  
6 512DM4.7? Related to that, now that the  
7 Department is now listing its national and  
8 regional Tribal consultation sessions on the  
9 website, would a website showing an archive of  
10 those past sessions be a sufficient replacement  
11 for the annual report? If not, what should the  
12 annual report contain? And what should  
13 Interior's Tribal Governance Officer (TGO) do  
14 with the annual report? And finally, are there  
15 other provisions from the 2011 policy that have  
16 not been incorporated into DM chapters and  
17 should be? So at this time, I think we've gone  
18 through all of the framing questions. So I'd  
19 now like to open the floor for input from  
20 Tribal leaders and please keep in mind that  
21 this is a formal government to government  
22 Tribal consultation so we ask that only those  
23 individuals who are Tribal leaders or  
24 officially designated representatives of their  
25 federally recognized tribes participate at this

1 point. And to make a comment or ask a  
2 question, please press the raised hand icon at  
3 the bottom of your screen. If you're joining  
4 us by phone, please press \*9 to raise your hand  
5 and then \*6 to unmute yourself. All right.  
6 And we have the questions posted on the screen  
7 for reference, too. Thank you. Okay. I'm  
8 looking for any hands raised. I don't see any.  
9 If I'm missing anyone, please Regina jump in.  
10 Give the folks a minute to get unmuted or raise  
11 their hands, sorry. Raise their hands, then  
12 unmute.

13 MS. GILBERT: This is Regina. Again, for  
14 those participants, if you'd like to provide a  
15 verbal comment, please raise your virtual hand.  
16 You can go to the reactions and select raised  
17 hand and we will call upon you. We would also  
18 invite comments in the chat box. For those  
19 individuals who are calling by phone, you can  
20 hit \*9 to raise your virtual hand and \*6 to  
21 unmute yourself.

22 MS. ISOM CLAUSE: We're at the third  
23 session so some folks may have already  
24 commented but okay. There we see a hand. So a  
25 phone number. I don't have the name so I'm

1 going to ask you to unmute and then please  
2 introduce yourself and your Tribal affiliation.  
3 Thank you. So, it's an area code 702 number.  
4 Please go ahead.

5 MR. LATHOURIS: Are you able to hear me?

6 MS. ISOM CLAUSE: Yes, we can hear you  
7 now.

8 MR. LATHOURIS: Perfect. I apologize  
9 about that. I was trying to go on to the Zoom  
10 so that we would be able to see each other as  
11 well but for whatever reason my computer's  
12 saying that link is invalid so that's why I'm  
13 calling by phone. My name is Kostan Lathouris.  
14 I'm a Tribal council member for the Chemehuevi  
15 Indian Tribe and I had a question regarding --  
16 well I guess question number one regarding the  
17 substantial direct effects. I do agree with  
18 the language that it should include, that may  
19 have substantial direct effects, but I guess my  
20 question is more so who gets to determine that  
21 and how does that process play out? For  
22 example, if the tribe was to say that we  
23 believe that this has substantial direct  
24 effects and the federal agency for one reason  
25 or another says no we disagree, what happens

1 then underneath this policy?

2 MS. ISOM CLAUSE: Great. Thank you for  
3 that question. I don't know that I have an  
4 answer, but off the top of my head I think  
5 that's important point and that's something  
6 that I will put in my notes to clarify. Thank  
7 you for raising that.

8 MR. LATHOURIS: Of course. And if I may  
9 follow up unless there's another hand raised?

10 MS. ISOM CLAUSE: Go right ahead.

11 MR. LATHOURIS: Thank you. I know it's  
12 not so much included within these questions but  
13 just as another comment regarding this policy.  
14 Is there any way that this policy can address  
15 interplay with other federal laws that might  
16 require consultation and whether or not these  
17 can be done conjunctively or to kind of clearly  
18 identify the tribe's separate rights in  
19 addition to other rights under other laws, for  
20 example, MIFA or the National Historic  
21 Preservation Act or NAGPRA?

22 MS. ISOM CLAUSE: Okay. Thank you for  
23 those points. I just want to ask you again for  
24 the court reporter if you could please spell  
25 your name and tribe for the record?

1 MR. LATHOURIS: Absolutely. My name is  
2 Kostas Lathouris. K-O-S-T-A-N. Last name  
3 L-A-T-H-O-U-R-I-S. I am a Tribal council  
4 member for the Chemehuevi Indian Tribe  
5 C-H-E-M-E-H-E-U-V-I.

6 MS. ISOM CLAUSE: Thank you. And I'm  
7 taking lots of notes here. I know we have the  
8 court reporter so I have a very good record of  
9 this. So I want to emphasize again these are  
10 in draft so we have the opportunity to  
11 incorporate all of this kind of feedback and  
12 make sure we are including anything that's  
13 (unintelligible) so thank you.

14 MR. LATHOURIS: Thank you.

15 MS. ISOM CLAUSE: Is there any other  
16 comments or questions? Please feel free to  
17 raise your hand or put it in the chat box.  
18 I'll try to monitor that a little more closely,  
19 too. I think Regina you have the chat box.  
20 Not seeing any hands at this time.

21 MR. LATHOURIS: I have another question if  
22 my hand's still raised.

23 MS. ISOM CLAUSE: Go ahead.

24 MR. LATHOURIS: I appreciate you having  
25 these consultation meetings and so I want to

1 make sure I make the most of it especially on  
2 behalf of the tribe and if there's other people  
3 with questions, of course, I will yield to them  
4 cause I've already asked a couple. But one of  
5 my questions was, just for the purposes of  
6 consistency, when we talk about the  
7 notifications, I know that the spirit of the  
8 policy is that, you know, we get the tribe's  
9 engagement and the tribes will have an  
10 opportunity to provide that. Is there any way  
11 that we can clarify the periodic efforts. I  
12 know that within some of the bureau handbooks  
13 or manuals they kind of get more specific on  
14 that. But for purposes of consistency, you  
15 know, just so that we don't get that one letter  
16 and done kind of situation if we don't respond  
17 for whatever reason, what is exactly periodic  
18 efforts? What consists good faith for those  
19 purposes in a situation where the agency  
20 doesn't get the feedback or the response from  
21 the tribe?

22 MS. ISOM CLAUSE: Good point. Thank you.  
23 I'm inviting folks again to raise their hand if  
24 you'd like to add any comments or questions to  
25 the record.

1 MS. GILBERT: This is Regina. Again, if  
2 you'd like to provide a verbal comment, you can  
3 raise your virtual hand by going to reactions  
4 and select the raised hand option and we will  
5 call upon you. Also we're inviting comments in  
6 the chat box. For those of you who are joining  
7 via phone, if you could hit \*9 to raise your  
8 virtual hand and \*6 to unmute yourself.

9 MS. ISOM CLAUSE: All right. Keila  
10 Eckelman (ph), if your hand is raised, please  
11 go ahead. And you're still on mute. I don't  
12 know if you're having any technical issues but  
13 floor is yours, Ms. Eckelman. Okay. You're  
14 still on mute if you're speaking right now.  
15 You can also feel free to put any --

16 MS. GILBERT: This is Regina. Kathryn, if  
17 you can unmute yourself. I apologize for that.

18 MS. ISOM CLAUSE: Okay. No, I thought you  
19 muted me because I was talking over someone  
20 maybe.

21 MS. GILBERT: No, I'm sorry.

22 MS. ISOM CLAUSE: Ms. Eckelman, we can  
23 come back to you if you're able to resolve  
24 maybe some tech issues and if not I would also  
25 remind folks that the written comment period is

1 open until December 31st so that's another  
2 opportunity to submit comments.

3 MS. GILBERT: This is Regina again. If  
4 you'd like to provide a verbal comment, please  
5 raise your virtual hand by going to reactions  
6 and selecting the raise hand option and we will  
7 call upon you. We also welcome comments into  
8 the chat box. For those joining by phone,  
9 please hit \*9 to raise your hand and \*6 to  
10 unmute yourself. Not seeing any raised hands  
11 at this time.

12 MR. LATHOURIS: Can I ask another  
13 question?

14 MS. ISOM CLAUSE: Sure, go ahead. Thank  
15 you for breaking the silence here.

16 MR. LATHOURIS: No absolutely, I  
17 understand how it is and yeah with tech issues  
18 and everything it can be a little difficult. I  
19 guess kind of a clarification request if  
20 possible. I know when we talk about  
21 consultations, it's government to government  
22 but sometimes it is kind of hey, this is your  
23 opportunity to be heard, be there, kind of like  
24 this, right. There's three different options.  
25 So underneath the draft language here. If the



1 notice of announcing a scheduled Tribal  
2 consultation session. So the clarification  
3 would be, what exactly triggers a scheduled  
4 Tribal consultation session rather than  
5 announcing an opportunity to consult?

6 MS. ISOM CLAUSE: I appreciate your close  
7 read of this and how this will actually play  
8 out. These are really helpful comments. And  
9 then, you know, I feel like I'm not answering  
10 them but that's just because, you know, I know  
11 this is a particular discussion, so not to not  
12 be responsive.

13 MR. LATHOURIS: That's what I'm wondering.  
14 Sometimes, you know, we get like hey, there's  
15 an opportunity to consult and then hopefully we  
16 can work out a time to do so. And then  
17 sometimes it's just hey, there's these  
18 listening sessions and I assume that one of the  
19 reasons is because the scheduled consultation  
20 sessions deal with a large number of tribes or  
21 it's dealing with a specific issue rather than  
22 a specific tribe. And so that way it's just  
23 kind of like a more general consultation  
24 session. But I've been curious about that. At  
25 what point is it scheduled and what point is it

1 asking the tribe what works for it.

2 MS. ISOM CLAUSE: Good point for us to  
3 make sure we incorporate. Also, I thought I  
4 saw we did get a comment in the chat. Right  
5 now I lost it. Yeah, I'm just going to read  
6 the comment that was in the chat in case -- for  
7 those who aren't able to see that. This is  
8 from Cindee Cultee (ph) on behalf of the Lummi  
9 Nation in regards to the purpose, Section 4.1.  
10 The statement of consultation between  
11 appropriate Tribal officials. We recommend not  
12 eliminating the word appropriate. Or sorry, we  
13 recommend eliminating the word appropriate as  
14 the tribe determines who their official is.  
15 Thank you for that comment.

16 MS. GILBERT: This is Regina. If you  
17 would like to provide a verbal comment, please  
18 raise your virtual hand by going to the  
19 reactions and selecting your raise hand option.  
20 We will call upon you. We also welcome  
21 comments in the chat box and for those joining  
22 via phone, if you could hit \*9 to raise your  
23 virtual hand and \*6 to unmute yourself.

24 MS. ISOM CLAUSE: Rachel, if you want to  
25 scroll down to the consensus model. Maybe we

1 can take a look at that. If folks have any  
2 thoughts on this or any other topic of course.

3 MR. LATHOURIS: Underneath record of  
4 consultation, it sounds like this is talking  
5 about when the consultation has completed. But  
6 for each consultation session, if notes are  
7 being kept, I guess can they be clarifying  
8 language that this record consultation is  
9 talking about post-consultation and not the  
10 actual record during consultation? If that  
11 makes sense. For example, if the tribe and the  
12 bureau or the agency is meeting and they're  
13 keeping records of their meetings with each  
14 other, how those meetings are kept I imagine  
15 would be based on agreed upon protocol and that  
16 the record of consultation is more so just a  
17 formal record post-consultation that the agency  
18 has probably for reporting purposes.

19 MS. ISOM CLAUSE: Yep, that makes sense.  
20 Thank you.

21 MS. GILBERT: I'll pause here on the  
22 language about the consensus seeking model to  
23 give folks a few minutes to review it and then  
24 I will scroll down to the model visual.

25 MR. LATHOURIS: This is Kostan Lathouris

1 again if I may.

2 MS. ISOM CLAUSE: Yes, go ahead. Thank  
3 you.

4 MR. LATHOURIS: So the consensus seeking  
5 model sounds good because it's addressing a lot  
6 of important impacts to tribes to the extent  
7 that's impacting the tribe in these areas and  
8 of course the other tribes should be consulted  
9 on. The language almost sounds like how do we  
10 get the tribe on board with these impacts which  
11 kind of seems like we're steering the path  
12 towards hey, we're going to do this and  
13 hopefully the tribe agrees. Is there any way  
14 to include language in here referring to the  
15 trust responsibility and how that's an option  
16 for an agency or a bureau to decide to as  
17 rationale for maybe deviating from past  
18 practices or for taking a certain position on  
19 an action or one of it's alternatives? In  
20 other words, letting the agency, the bureau  
21 know as part of the policy that you know it's  
22 not just hopefully the tribe will agree with  
23 whatever you're doing but you can agree with  
24 the tribe and side to the trust responsibility  
25 if the federal government owes tribes as a

1 reason for agreeing with the tribe's proposed  
2 alternative or recommended alternative.

3 MS. ISOM CLAUSE: Thank you again for  
4 those comments. Yeah, certainly it's not the  
5 intention here to get tribes on board with a  
6 certain alternative but it's not the spirit in  
7 which we want to approach with which I know  
8 you've mentioned earlier so that's really good  
9 points to make sure that we're being clear on  
10 that. Thank you.

11 MR. LATHOURIS: And I understand the  
12 intent is good. I just want to make sure that,  
13 you know, any future administrations that we  
14 really capture the spirit of this policy if  
15 we're making these changes at this time.

16 MS. ISOM CLAUSE: Yes, absolutely. This  
17 is our opportunity to get the best language  
18 incorporated toward the onset will outlive many  
19 of us here so very much appreciated to have  
20 those kinds of comments that make sure we are  
21 capturing the ideas we want to capture.

22 MR. LATHOURIS: Thank you again. So my  
23 comment there would be that there also be  
24 inclusion of the trust responsibility and its  
25 role in the decision-making process along with

1 the consensus model. Thank you.

2 MS. BROWN: I'll now scroll down to the  
3 visual model to give people a moment to  
4 consider and provide any comments. Again, if  
5 people would like to submit written comments,  
6 we can provide that information, or will  
7 provide that information in the chat and we are  
8 open to any comments related to specific  
9 thoughts you have on adjustments in language as  
10 this is the draft. Thank you.

11 MS. ISOM CLAUSE: And again, just in case  
12 folks aren't able to see the chat we've put in,  
13 provide your written input to  
14 consultation@bia.gov by December 31st and  
15 please include Tribal Consultation Policy and  
16 Procedure in the subject line.

17 MR. LATHOURIS: This is Kostan Lathouris.  
18 Clarification on Figure 1. So what exactly is  
19 this model trying to show us? Is it that you  
20 know if you're in the first circle for sure  
21 let's do consultation and let's definitely  
22 address the tribe's concerns. The farther out  
23 the circle you get, the less consensus you need  
24 to seek or?

25 MS. ISOM CLAUSE: Yeah, that's a good

1 question. I think we should clarify that a  
2 little more because, you know, as I think  
3 you've cited, a lot of folks are going to be  
4 looking to this and we want to make sure it's  
5 very clear what we want to say so certainly if  
6 you have suggestions on language that would be  
7 helpful to clarify this, we welcome that.

8 MR. LATHOURIS: Yeah, and so if it's a  
9 statutorily mandated federal action policy no  
10 federal discretion contained consensus, I mean  
11 it sounds like something that Congress passed  
12 in that situation and, you know, it doesn't  
13 matter what the agency really wants to do, the  
14 law's the law. So I can understand why that  
15 one would kind of fall towards the outlier of  
16 consensus seeking but it opens up a lot of  
17 potential arguments for gray area here and my  
18 concern here is just like looking at this  
19 model, you're asking for something that impacts  
20 off reservation and not impacting treaty rights  
21 or sacred rights or cultural resources. And so  
22 since that's farther out, we don't need to  
23 really consult with you on that, or that's not  
24 something that triggers consultation or if your  
25 concerns are less, have less weight than if it

1 was something that was people on reservation  
2 like the center circle. And so I guess that's  
3 my concern is this opens up gray areas or a lot  
4 of ambiguity about exactly what the process  
5 will be and what is the goal depending on what  
6 ring of the circle you're in.

7 MS. ISOM CLAUSE: Yeah, those are good  
8 points. I mean I don't think that this is, you  
9 know, meant to relieve anyone of any  
10 consultation obligations. I think it's meant  
11 to kind of help visualize where it is. Focus  
12 our energies in terms of seeking consensus, you  
13 know, with of course the statutorily mandated  
14 federal action or policy. I think, you know,  
15 as you readily pointed out, it's a bit to the  
16 side cause there's no discretion there but, you  
17 know, again, would really appreciate if you  
18 have any suggested language or ways we should  
19 think about explaining this better in terms of  
20 the visual or in the text. It's really  
21 helpful. Thank you.

22 MR. LATHOURIS: Yeah, and I hate to be so  
23 critical but I do mean it in a very good way.  
24 I know that you're trying to do the right thing  
25 and so I want to help you with that. I guess



1 my question, I would love to offer substitute  
2 language or additional language. I just want  
3 to know what is the intent of this figure here  
4 and then maybe I can help with proposed  
5 language.

6 MS. ISOM CLAUSE: Yeah, thank you. And I  
7 appreciate that approach but also please, you  
8 know, bring the criticism on, that's what we're  
9 here for. I just want to get to a way that is  
10 constructive that we are able to make our  
11 products better too as part of that process. I  
12 hesitate to just like characterize it off the  
13 cuff here because I know that, you know,  
14 there's a lot of folks weighing into this and  
15 we've already been receiving a lot of comments  
16 of course, too. So I guess rather than  
17 directly answer your question, I just kind of  
18 want to say that, I apologize for the  
19 background noise, that this is just kind of a  
20 way to visualize where the impacts are most  
21 keenly felt and showing where the importance of  
22 Tribal consensus kind of hits most directly but  
23 I think I would, you know, in addition to just  
24 kind of specific textual edits, I think how we  
25 should think about this is like so you know,

1 again, (unintelligible) the question back I  
2 need a little bit. If you have that kind of  
3 input that you know we should look at it this  
4 way and this is the way to explain that. That  
5 kind of feedback is helpful, too.

6 MR. LATHOURIS: Yeah, cause the language  
7 here says that, I mean, we're using this figure  
8 to correlate the degree to which Tribal  
9 consensus should be sought based on the degree  
10 of impact on the tribe. This model illustrates  
11 the impact the DOI action closer to the center  
12 and that's increasingly dedicated efforts and  
13 possible to (unintelligible) Tribal standards.  
14 I guess my question is, if that's the intent  
15 here, increasingly dedicated efforts. So how  
16 do those efforts decrease in dedication or what  
17 from one ring to another. I understand that  
18 it's most important at the center there. I  
19 guess my concern is just how those efforts are  
20 going to decrease the farther out of the rings  
21 you get.

22 MS. ISOM CLAUSE: Yeah, that's a good  
23 point to look at it in the reverse. Yeah, I  
24 see what you're saying. And yeah --

25 MR. LATHOURIS: I'm sure that's concerning

1 treaty rights since that's the second circle  
2 out from -- in fact on reservation. Does that  
3 mean that the tribe with on-reservation  
4 concerns will now get more priority or more  
5 weight than a tribe with off- reservation  
6 treaty rights or sacred site cultural resource  
7 off the reservations? I'm just trying to think  
8 about me pragmatically like what the results  
9 might be and try to hopefully prevent any  
10 potential confusion.

11 MS. ISOM CLAUSE: Thank you. And that's  
12 much appreciated. We certainly want to be able  
13 to think through unintended effects of language  
14 so thank you.

15 MR. LATHOURIS: Thank you. I appreciate  
16 it.

17 MS. GILBERT: This is Regina. Again, if  
18 you would like to provide a verbal comment, you  
19 can -- we would ask you to raise your virtual  
20 hand and we will call upon you. We also will  
21 like to receive comments in the chat box. If  
22 you're calling by phone, hit \*9 to raise your  
23 virtual hand and \*6 to unmute yourself.

24 MS. ISOM CLAUSE: I certainly don't want  
25 to cut off any conversation. If folks do have

1 any other comments or questions, but also don't  
2 want to keep people on if people have already  
3 provided their input. So we'll leave the line  
4 open for a few more minutes and then if there  
5 aren't any more comments I think we may end  
6 early today.

7 MR. LATHOURIS: This is Kostan. One last  
8 thing. It's not about the text but I guess  
9 also one thing about the text. I do like what  
10 these are trying to do. I like the goals here.  
11 My question is, are we able to hear recordings  
12 of the prior two sessions just so we can hear  
13 maybe what other Tribal leaders are saying and  
14 maybe it might jog our minds to something new  
15 that we might want to include in written  
16 comments that are due by the 31st?

17 MS. ISOM CLAUSE: Rachel or Regina, are  
18 you able to answer that? I'm not sure when the  
19 timing of those becoming available is.

20 MS. GILBERT: Yeah, so this is Regina.  
21 For the prior two consultations, we do have a  
22 court reporter who is -- will be developing the  
23 transcripts and I believe those transcripts  
24 will be provided on the website for individuals  
25 to see.

1 MS. ISOM CLAUSE: Do we have any estimate  
2 of when those will be available?

3 COURT REPORTER: This is the court  
4 reporter. The transcript will be made  
5 available in ten days' time.

6 MS. ISOM CLAUSE: Okay. So that sounds  
7 like it would be before the deadline for  
8 written comments.

9 MR. LATHOURIS: I appreciate it. Thank  
10 you much. And who have I been speaking with  
11 directly?

12 MS. ISOM CLAUSE: This is Kathryn Isom  
13 Clause, Deputy Assistant Secretary for Policy  
14 and Economic Development.

15 MR. LATHOURIS: I just want to say it's  
16 been a pleasure.

17 MS. ISOM CLAUSE: Yes, I think we've met  
18 before, at least virtually but it's really nice  
19 to hear all your comments and really thoughtful  
20 input you've provided. And definitely  
21 encourage you to send in some written comments.  
22 I wasn't able to join the previous two  
23 sessions. I had a conflict but I did hear that  
24 there was some great discussion and input then  
25 so great idea also to see the transcripts of

1 those. I don't know if it's a recording or  
2 just the transcripts. Yeah, just the  
3 transcript it looks like will be available.

4 MR. LATHOURIS: Transcripts are fine by  
5 me. And I wasn't able to attend those either  
6 so it will be great. Thank you very much.

7 MS. ISOM CLAUSE: Okay well Regina or  
8 Rachel, are there any other housekeeping items  
9 we should cover or anything else in this  
10 session? Again, I don't want to close it off,  
11 the line is still open if there are other  
12 comments but if not, might give folks back an  
13 hour of your day.

14 MS. BROWN: I was just going to say that  
15 we will be sharing a redline version of the  
16 updates, draft updates. Those will be coming  
17 via email to the email you used to register for  
18 this session so we will be sending those out,  
19 redlines of the draft updates are also  
20 available currently on the website. The DOI  
21 consultation website if you'd like to see those  
22 along with the dear Tribal leader letter and we  
23 will welcome all comments. Again, this is a  
24 draft and we're seeking input on the draft.  
25 Thank you.

1 MS. GILBERT: This is Regina. With that,  
2 we can go ahead and close out the session.

3 MR. LATHOURIS: Thank you very much.

4 MS. ISOM CLAUSE: Thank you. And thanks  
5 everyone for joining us and we look forward to  
6 seeing written comments, too. Thank you.

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## 1 CERTIFICATE OF NOTARY PUBLIC

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

18  
19  
20  
21 *Shondra Dawson*

22 SHONDRA DAWSON

23 Notary Public in and for the Florida  
24  
25



## 1 CERTIFICATE OF TRANSCRIBER

2  
3 I, CHARITY RIVERA-GARCIA, do hereby  
4 Certify that this transcript was prepared from  
5 the digital audio recording of the foregoing  
6 proceeding, that said transcript is a true and  
7 accurate record of the proceedings to the best  
8 of my knowledge, skills, and ability; that I am  
9 neither counsel for, related to, nor employed  
10 by any of the parties to the action in which  
11 this was taken; and, further, that I am not a  
12 relative or employee of any counsel or attorney  
13 employed by the parties hereto, nor financially  
14 or otherwise interested in the outcome of this  
15 action.

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20 CHARITY RIVERA-GARCIA  
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